

In the High Court of Punjab and Haryana at Chandigarh

CR No. 2903 of 2015(O&M)

Date of Decision: 18.1.2019

M/s Sigma Machine Tools and another

---Petitioners

versus

Sushil Kumar Kaushik

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Adarsh Jain, Advocate
for the petitioners**

Rekha Mittal, J.

The present petition directs challenge against order dated 29.5.2014 whereby the Rent Controller, Faridabad has refused to restore the petition for ejectment, withdrawn by the respondent-landlord after provisional rent, assessed by the Rent Controller was tendered.

Sushil Kumar Kaushik, the respondent filed an application under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (in short “the Act”) for ejectment of the petitioners on the ground of arrears of rent. The Rent Controller assessed provisional rent and the same was tendered by the petitioners. The petitioners challenged the order of provisional assessment before this Court in CR No. 6569 of 2013 decided on 29.10.2013 (Annexure P-6).

Counsel for the petitioners would argue that after framing of issues, the respondent with a mala fide intention withdrew the application for ejectment whereby the petitioners were deprived of an opportunity to assert their claim that provisional rent assessed by the Rent Controller was

not payable by them. It is further argued that in order to decide the question of arrears of rent and correctness of provisional assessment made by the Rent Controller, the proceedings of eviction application are liable to be revived.

Apart from the fact that the petition has been re-filed after delay of 127 days, the same is devoid of merit and liable to be dismissed.

Be that as it may, it is undisputed position of the case that the respondent-landlord withdrew the eviction application at an intermediary stage after provisional rent assessed by the Rent Controller was tendered by the petitioners and framing of issues. Counsel has failed to cite any provision in law or a precedent that debars a landlord-respondent from getting the petition dismissed as withdrawn. Assuming though not admitting that the rent tendered by the petitioners is in excess of their liability due in the eviction application, the petitioners tenants cannot press for adjudication of their claim despite the respondent having withdrawn the eviction application. The petitioners can well take recourse to appropriate remedy in law for recovery of alleged excess payment. In this view of the matter, I do not find an error much less illegality in the order impugned, warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine.

(Rekha Mittal)
Judge

18.1.2019

PARAMJIT	Whether speaking/reasoned	: Yes
	Whether reportable	: Yes/No