

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

C.R. No. 517 of 2019 (O&M)

Date of Decision: May 03, 2019

Rajinder Singh Verma

.....Petitioner

Vs.

Jatinder Kumar Sharma (deceased) through LRs and attorney Dhruv
Vashisht

.....Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Ravi Kant Sharma, Advocate,
for the petitioner.
Mr. Sanjiv Ghai, Advocate
for the respondent.

JAISHREE THAKUR, J. (ORAL)

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 15.01.2019 passed by the learned Rent Controller, Yamuna Nagar for not permitting the tenant to deposit the rent in Court in proceedings filed under Section 13 of the Haryana Urban (Control & Rent and Eviction) Act (for short, the Rent Act).

Mr. R.K. Sharma, learned counsel appearing on behalf of the petitioner contends that the petitioner was a tenant of Sh. Vishnu Swarup

Sharma in a shop situated at Jagadhri Road, Yamuna Nagar. After the death of Sh. Vishnu Swarup Sharma, his legal heirs became owners of the premises including his widow Mrs. Vidyawati and other sons. However, it was her son Jatinder Kumar who pursued the court cases and filed an eviction petition under Section 13 of the Rent Act on the ground of non-payment of rent from 01.09.2013 to 28.02.2015 claiming due arrears of rent amounting to ₹78,120/- along-with interest and cost.

Mr. R.K. Sharma, learned counsel appearing on behalf of the petitioner contends that earlier the petitioner had deposited rent under Section 6-A of the Rent Act in the name of Mrs. Vidyawati, the mother of the respondent-landlord. In the said rent petition, Mrs.Vidyawati had appeared and stated that the rent has been deposited in the name of a wrong person and an application filed under Section 6-A was disposed of. It is contended that the respondent Jatinder Kumar Sharma (now deceased) filed an eviction petition on the ground of non-payment of rent by the petitioner herein stating therein that the rent for the disputed period had already been deposited in the Court in proceedings under Section 6-A of the Rent Act in the name of Mrs. Vidyawati in which proceedings the petitioner had filed an application for deposit of rent and adjustment of rent.

It is also submitted that the petitioner herein is not denying the payment of rent but seeks permission of the adjustment of the rent that was deposited before the Rent Controller by the petitioner-tenant in proceedings under Section 6-A, which rent had been deposited in the name of Mrs.Vidyawati and the same be adjusted against the rent due under the petition filed under Section 13 (a) of the Rent Act seeking ejectment. It is

argued that the Rent Controller has erroneously dismissed the application seeking permission to deposit arrears of rent.

Per contra, learned counsel appearing on behalf of the respondent submits that the factual position has not been brought forward in the instant case. It is contended that the petitioner herein had instituted an application under Section 6-A of the Rent Act seeking to deposit rent in the name of Mrs. Vidyawati, one of the legal heirs of Sh. Vishnu Swarup, the original landlord, which petition had been consigned by the Rent Controller Jagadhri on 22.11.2013. While disposing of the said petition, the statement of Mrs. Vidyawati had been noted wherein she had submitted that the shop in dispute belong to Jatinder Kumar Sharma and the Rent Controller had consigned the application giving permission to Mrs. Vidyawati and her son Jatinder Kumar Sharma to withdraw the same. It is contended that in fact the rent that was deposited pertaining to the period 01.10.2012 to 31.08.2013 whereas in the instant ejectment application, rent has been claimed from 01.09.2013 to 28.02.2015, which is a period subsequent to the period for which the rent was deposited under Section 6-A. It is also contended that in the written statement filed, the petitioner herein had categorically taken an objection that there was no relationship of landlord and tenant between Sh. Jatinder Kumar Sharma and himself and therefore, the Rent Controller did not assess the provisional rent as envisaged under the Rent Act. It is argued that the petitioner herein is trying to get the benefit of judgment rendered in '**Rakesh Wadhawan vs. Jagdamba Industrial Corporation, 2002(1)RCR(Rent) 514**' wherein it has been held that it is for the Rent Controller to assess the provisional rent and give time

to the tenant to make deposit the rent. Therefore, the plea of depositing the rent after adjustment of the rent deposited with the Rent Controller Jagadhri in proceedings under Section 6-A would not be sustainable and that there is no infirmity with the order so passed.

I have heard learned counsel for the parties and have also perused the pleadings on the record. Admittedly, the petitioner herein had deposited arrears of rent for the period 01.10.2012 to 31.08.2013 @ ₹4340/- for 11 months including house tax in the name of Mrs. Vidyawati in proceedings under Section 6-A of the Rent Act. In the said proceedings, the petitioner was made aware that the shop in dispute was owned by Jatinder Kumar Sharma and that he would be entitled to receive the rent after the death of Mr. Vishnu Swarup Sharma, the original landlord. Thereafter Jatinder Kumar Sharma (deceased) now represented through his son-Sh. Dhruv Vashisht filed a petition under Section 13 of the Haryana Rent Act for ejectment of the petitioner on the grounds of arrears of rent. The petitioner had filed a written statement denying the relationship of landlord and tenant between the parties, while submitting that he had deposited rent in the name of Mrs. Vidyawati in proceedings under Section 6-A of the Rent Act, 1973. This written statement was filed on 05.02.2016. After evidence had started, an application came to be filed by the petitioner seeking permission to deposit arrears of rent as assessed by the Courts below. This application was contested on the ground that such application would not be maintainable as he had, at the very outset, denied the relationship of tenant and landlord and therefore, at this belated stage, the application would not be sustainable.

In the opinion of the Court, there is no infirmity with the order of the Rent Controller. Once the petitioner had denied the relationship of landlord and tenant, in such a case, there is no justification for the Rent Controller to have framed assessment order and to have allowed time to the tenant to make the deposit. The petitioner himself has run the risk of getting an eviction order on the ground of non-payment of rent. Reference may be made to the judgments rendered in *Arya Pritinidhi Sabha v. Jarnail Singh*, 2016 (2) Law Herald 1831, *Hukma Devi vs. Bhagwan Dass*, 2003 (1)RCR (Rent) 533, *Ramanand Shastri vs. Gian Singh*, 2003(1) RCR (Rent) 735, *Mrs. Preeti vs. Manmohan Singh*, 2008 (1) RCR (Rent) 307, *Jagdamba Tea Factory, Amritsar vs. Parshotam Kishan*, 2008 (1)RCR (Rent) 507 and *Trilok Singh Anand vs. M/s Prem Chand and sons*, 2013 (1) RCR (Civil) 488 etc. etc.

Moreover, the petitioner herein is seeking adjustment of the rent that was deposited with the Rent Controller for the period of 1.10.2012 to 31.08.2013 as against the non-payment of rent for the period 01.09.2013 to 28.02.2015, the proceedings in the present case, which is not sustainable.

Accordingly, in view of above the petition stands dismissed, being devoid of any merit.

May 03, 2019

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No