

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

CR-6358-2013 (O&M)

Date of Decision: September 26, 2019

Paramjeet Singh

.....Petitioner

Ranjeet Singh

.....Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Ms. Kavita Arora, Advocate
for the petitioner.

Mr. Anupam Bhardwaj, Advocate
for the respondent.

JAISHREE THAKUR, J.(Oral)

1. The instant civil revision has been filed seeking to challenge the order of the Appellate Authority, Amritsar dated 12.09.2013 whereby he set aside the order of the Rent Controller who dismissed the eviction petition so filed vide order dated 08.02.2013.

2. In brief, the facts of the case are that an ejectment petition was filed by the respondent/landlord-Ranjit Singh under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (in short 'the Act') seeking ejectment of the petitioner-tenant on the grounds of non-payment of rent and for personal necessity.

3. In the eviction petition it was claimed that the premises was required so that it can be amalgamated with the rest of the building in the area for the landlord to start a departmental store from the building.

4. The eviction petition was contested and the petitioner took up a plea that he had been inducted as a tenant in the demised shop vide a rent note Ex.C-1 dated 11th February, 1982 for running a scooter repair business at a monthly rent of ₹250/- and the rented shop was having a dimension of merely 5'-3" x 18'- 6". It was further contended that the need projected to run the departmental store was not bona-fide.

5. The Rent Controller discarded the plea as set up by the landlord that he needed the premises to run a departmental store on the ground that the landlord had not carried on business even till the age of 50 years while taking note of the fact that the shop got vacated by him from Mehta Printing Press stood used for constructing a passage for a hotel of the landlord while further opining that till the age of 40 years the landlord found no necessity to carry on the business and suddenly finds that he needs the demised premises to be a part of the departmental store, which does not establish bona-fide requirement but is nothing other than the greed of the landlord.

6. The order of the Rent Controller was appealed before the Appellate Authority who on appreciation of the evidence reversed the order of the Rent Controller holding that the respondent-landlord herein had been able to prove through cogent and convincing evidence that the disputed shop was required by him for running a departmental store. It was held that it is not for the tenant to argue and assail the requirement of the landlord while further holding that the tenant cannot question the feasibility of a business which the landlord proposed to commence. In this regard, the Appellate Authority placed reliance upon the judgment rendered in **Pradeep**

Kumar and others vs. Amar Nath, 2007(2), Civil Court Cases, 810,
Surinder Singh vs. Dr. Devinder Mohan, 2008(4) Civil Court cases 178

wherein it had been held that in an ejectment petition under Section 13 of the Act, the tenant cannot dictate the terms to the landlord regarding his bona-fide requirement or the financial capacity of the landlord to commence business and also on *Madho Ram Garg vs. Baldev Singh, 2008(3) Civil Court Cases, 551* wherein it was held that it is not the Court's duty to examine whether the business to be set up would be successful or not in the tenanted premises, while further holding that choice of the premises, nature and extent thereof rests solely with the landlord.

7. Aggrieved against the order of ejectment, the present revision petition was filed in the year 2013 by the tenant-petitioner contending that the construction of the proposed departmental store is not possible and hence the projected personal necessity is not established.

8. The dispossession of the petitioner-tenant was stayed subject to clearance of arrears of rent. The matter has been pending in this Court since the year 2013. An application was preferred under Section 151 CPC by the respondent herein with a prayer to direct the tenant-petitioner to pay mesne profit at market rent prevalent in the area in the pending civil revision by the tenant-petitioner. In the application filed for mesne profit, it was pleaded that the petitioner had been inducted as a tenant @ ₹250/- per month in February 1982 and a considerable time of three decades had passed. The applicant-respondent annexed a rent note of the adjoining shop situated in the vicinity to show that the settled rent between the parties was ₹3500/- per month in the year 2016 and claimed mesne profit on parity.

9. The said application was contested by the petitioner stating that the mesne profit as sought for are highly excessive. Eventually, this Court heard the matter on 06.03.2019 and assessed that the current rate of rent would not be less than ₹1500/- per month. This view was taken keeping in mind that the disputed shop was located in a commercial area and situated within 100 yards of Rani Ka Bagh, Amritsar. The petitioner herein was directed to deposit the mesne profit of ₹1250/- from the date of eviction order within a period of three months and to continue to pay the same till the disposal of the present revision petition with a further direction that rent of ₹250/- per month would be paid over and above the mesne profit assessed, by each calendar month. The matter was then listed for 16.05.2019 on which date the matter was adjourned to 11.09.2019.

10. Learned counsel appearing on behalf of the respondent informed the Court that there had been non-compliance of the order dated 06.03.2019 to deposit the mesne profit and rent as assessed by the Court and therefore, he prayed for eviction by relying upon a judgment rendered in **Rakesh Wadhawan vs. M/s. Jagdamba Industrial Corporation, RCR (Rent)514.**

11. Learned counsel for the petitioner herein contends that the petitioner herein is a poor man and has not been able to clear the entire sum within the specified time of three months as ordered by the Court in its order dated 06.03.2019. It is submitted that with great difficulty a part payment of Rs. 1 Lac has been arranged.

12. I have heard learned counsel for the parties and perused the paper-book. The mesne profit had to be paid within a period of three

months for which there was non-compliance. The petitioner cannot be permitted to enjoy a property without making payment of rent for the same. In the judgment rendered in **Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation (supra)**, it has been held that once a tenant fails to comply with the provisional rent as assessed by the Rent Controller, nothing remains to be done but an order of eviction has to follow. In case the tenant is not happy with the assessment of rent of provisional rent, he has a remedy of challenging the same but must deposit the provisional rent so assessed under protest. In the instant case, there has been non-compliance of the order of making the deposit of mesne profit for arrears thereof within the stipulated period as allowed by this Court and therefore, the petitioner herein would not be entitled to any discretionary relief by this Court.

Consequently, the present revision petition stands dismissed.

September 26, 2019

seema

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.