

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

CR No. 7405 of 2018 (O&M)

Date of Decision:09.04.2019

Kashmiri Lal @ Kashmir Chand

.....Petitioner

Versus

Darshan Singh

..... Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Arjun Veer Sharma, Advocate
for the petitioner.

LISA GILL, J.

Petitioner is aggrieved of order dated 18.11.2017, passed by the learned Rent Controller, Ludhiana, as well as order dated 02.07.2018, passed by the learned Appellate Authority, Ludhiana. Eviction of the petitioner-tenant has been ordered on the ground that he failed to deposit the provisional rent as assessed by the learned Rent Controller, Ludhiana on 17.10.2017.

Brief facts necessary for the adjudication of the case are that a petition under Section 13 of the East Punjab Urban Rent Restriction Act (for short 'Act') was filed by the respondent-landlord, seeking eviction of the petitioner from the demised premises i.e., a shop as described in the petition. Eviction of the petitioner was sought on the ground of non-payment of arrears of rent w.e.f., May 2016 at the rate of ₹1700/- per month as well as on the ground of personal *bona fide* necessity of the landlord.

Learned Rent Controller assessed provisional rent at the rate of ₹1700/- per month vide order dated 17.10.2017 (Anneuxre P-3). Petitioner

was to deposit the said rent on or before 17.11.2017. Admittedly, the petitioner did not deposit the provisional rent on 17.11.2017 and the matter was adjourned to 18.11.2017 for payment of provisional rent, but the present petitioner failed to pay the rent. Accordingly, learned Rent Controller, Ludhiana, in terms of the judgement of the Hon'ble Supreme Court in **Rakesh Wadhawan and others Vs. M/s Jagadamba Industrial Corporation and others, AIR 2002 SC 2004** directed ejectment of the petitioner with a direction to handover vacant possession of the premises to the respondent within three months.

Appeal filed by the present petitioner has also been dismissed by the learned Appellate Authority, Ludhiana, vide impugned judgment dated 02.07.2018.

Aggrieved therefrom, present petition has been filed.

Learned counsel for the petitioner submits that there was a valid and genuine reason for non-deposit of the provisional rent as assessed by the learned Rent Controller, Ludhiana. Petitioner himself, was afflicted with dengue fever since 07.11.2017. Reference is made to a certificate issued by Dr. J.S.Kathuria of K.Deep Nursing Home (a Multispeciality Hospital & Hair Transplant Centre), Samrala Chowk, Ludhiana (Annexure P-4). Furthermore, petitioner's son met with an accident and was operated upon. Reference is made to certificate dated 09.12.2017 issued by Christian Medical College, Ludhiana (for short 'C.M.C.'). In these circumstances, the petitioner should have been afforded more time for deposit of provisional rent as assessed by the learned Rent Controller, Ludhiana.

I have heard learned counsel for the petitioner and have gone

through the record with his assistance.

It is a matter of record that order dated 17.10.2017 was passed in the presence of the petitioner's counsel. Petitioner was very much aware of his responsibility and liability to deposit the provisional rent on the stipulated date i.e., 17.11.2017. Though, there is no evidence to show that Rajesh Kumar is indeed the son of the petitioner, but even if the medical certificate dated 09.12.2017 (Annexure P-5) is accepted to be correct, the petitioner's son admittedly met with an accident much prior to the passing of the order assessing provisional rent as it is mentioned in the said certificate that one Rajesh Kumar (parentage not mentioned) was admitted in CMC, Ludhiana on 29.08.2017 with the problems as mentioned therein. The said certificate is of no avail to the petitioner.

Similarly, the petitioner may unfortunately have been affected with dengue fever on 07.11.2017, but the same cannot be a ground to extend the period for deposit of the provisional rent. No such pleas were ever raised before the learned Rent Controller, Ludhiana, at the time of passing of the impugned order dated 18.11.2017. In-fact, it is apparent that none had appeared on behalf of the respondent on the said date. Learned counsel for the petitioner, on a specific query, reveals that the petitioner is still in possession of the demised premises and execution proceedings are pending.

Keeping in view the facts and circumstances of the case, learned Rent Controller, Ludhiana, vide order dated 18.11.2017 has rightly directed ejectment of the petitioner from the demised premises i.e. a shop. The Hon'ble Supreme Court in **Rakesh Wadhawan's** case (Supra) has held as under:-

“on failure of the tenant to comply, nothing remains to be done and an order for eviction shall follow. If the tenant makes compliance, the inquiry shall continue for finally adjudicating upon the dispute as to the arrears of rent in the light of the contending plea raised by the landlord and the tenant before the controller.”

Learned Rent Controller, Ludhiana, in such a situation is indeed left with no other option, but to allow the petition under Section 13 of the Act. Learned Appellate Authority, Ludhiana has rightly upheld order dated 18.11.2017 passed by the learned Rent Controller, Ludhiana.

No other argument has been raised.

Learned counsel for the petitioner is unable to point out any illegality, infirmity or perversity in the impugned orders dated 18.11.2017, passed by the learned Rent Controller, Ludhiana and order dated 02.07.2018 passed by learned Appellate Authority, Ludhiana, which calls for interference by this Court in exercise of revisional jurisdiction.

Petition is accordingly dismissed with no order as to cost.

09.04.2019
s.khan

[LISA GILL]
Judge

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