

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

**CR No.745 of 2019 (O&M)
Date of Decision : 01.02.2019**

Raj Kumari and another

.....Petitioners

Versus

Mridula Gulati and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Vikas Gupta, Advocate
for the petitioners

SUDIP AHLUWALIA, J. (ORAL)

The Petitioner No.1 happens to be the tenant against whom an Eviction Application was filed on behalf of the respondent in the Court of Ld. Additional Civil Judge (Senior Division), Tarn Taran. On 19th September, 2015, the Ld. Trial Court determined the provisional rate of rent and directed the Petitioner No.1 to pay the same along with arrears w.e.f. 27th February, 2013 till the next date (17th October, 2015). She however did not pay the amount on the adjourned date and an Application was filed on her behalf to the effect that while she was willing to make the payment as ordered earlier, the respondents/ landlords had not appeared in Court, on account of which she was unable to make the payment, and therefore sought leave of the Court to deposit the said amount. The Ld. Rent Controller permitted her to deposit the rent on 7th November, 2015.

2. The Respondents/landlords challenged the aforesaid order dated 17th October, 2015, which was set aside by the Ld. Appellate Court on 11th April, 2017, and the Trial Court was directed to pass an appropriate order after holding that the order granting time to deposit the rent was wrong.

3. In compliance of the direction of the Appellate Court, the Ld. Rent Controller passed the impugned order on 3rd October, 2017 and held that since the Petitioner No.1 had failed to make payment of the assessed amount on the stipulated date i.e. 17th October, 2015, so under Section 13 of the East Punjab Urban Rent Restriction Act, he was liable to be evicted from the demised shop. Consequently, the Petitioner No.1 was directed to hand-over vacant possession of the shop to the landlords within three months of the impugned order, which in turn was challenged before the Appellate Court and dismissed on 15th December, 2018.

4. The Petitioner No.1 challenged that order of the Ld. Rent Controller, but her appeal was dismissed by the Ld. Additional District Judge, Tarn Taran vide his Judgment dated 15th October, 2018, in which it was observed *inter alia* -

“A bare reading of the same would reveal that the tenant deliberately avoided to comply with the direction passed by the court and avoided to pay the arrears of rent. The substance of the said application

is contrary to how the tenant understood the order dt. 19.9.2015 while moving application on 17.10.2015. The only conclusion that can be drawn from the aforesaid act is that the tenant is trying to mis-use the concession given to him by the court and is apparently avoiding to pay the arrears of rent. This to my mind is the default which is being talked about, for which the tenant is punished with the order of eviction in view of the law laid down in Sanjeev Kumar's, Rahul's and Sunder Lal's case (supra). Thus, there is no merits in the contentions raised by the learned counsel for the tenant. No other point of arguments or raised before me. The present appeal is accordingly dismissed. The parties are left to bear their own cost. The record of rent controller be sent back immediately. The file be consigned to the record room.”

5. It is further seen from the aforesaid judgment of the Ld. Additional District Judge that payment had not been deposited by the Petitioner even on the extended date i.e. 7th November, 2015, and she on the contrary filed another Application much later on 6th May, 2016, in which it was repeated that the Respondents/landlords deliberately did not come forward to collect payment of the rent, and therefore the Petitioners sought permission for acceptance of 'the arrears of rent' in view of the Order dated 19th September, 2015.

6. The Petitioners did not file copies of the earlier orders

dated 19th September, 2015 and 17th October, 2015 initially with the present revision.

7. But in answer to the Court's query, Ld. Counsel for the Petitioners has tendered copies of the aforesaid orders before this Court.

8. On perusal of the Order dated 17th October, 2015, it is seen that while there is a reference to the application having been moved on his behalf to deposit the amount of rent in Court, such order was passed by the Ld. Rent Controller in presence of Counsel for both sides, namely, Smt. Neelam Khanna, Advocate for the petitioner and Sh. H.S. Sandhawalia, Advocate for the respondent.

9. When seen in the backdrop of the fact that vide the earlier Order dated 19th September, 2015, the direction upon the Petitioners was to 'make payment' of the arrears of rent as determined that date on the next date of hearing, the Petitioner certainly was required to make such payment either to the Respondents/landlords, and in case they were unavailable, to their Ld. Counsel in the Trial Court, which was however, not done, and as already seen the payment was not made even for almost the next six months till 6th May, 2016, on which date the next application for permission to make the payment was moved before the Ld. Court below.

10. No merits.

11. Dismissed.

12. The Petitioners are however granted three months' time from today to vacate the demised premises, during which period Execution Proceedings, if any pending against them, shall remain stayed.

13. This Order shall automatically stand vacated on 1st May, 2019.

February 01, 2019

Dpr

**(SUDIP AHLUWALIA)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No