

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CR-1944-2019 (O&M)

Date of Decision: 20.03.2019

Vijay Sethi

...Petitioner

Versus

Nonihal Singh

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Suvir Sidhu, Advocate
for the petitioner.

Ms. Nupur Choudhary, Advocate
for the caveator-respondent.

JAISHREE THAKUR, J. (Oral)

The instant civil revision has been filed seeking to challenge the order dated 03.08.2018 by which the Rent Controller has passed an order of eviction of the petitioner herein which order was subsequently affirmed by the Appellate Court in its decision dated 12.03.2019.

In brief the facts are that the respondent-landlord filed a rent petition against the petitioner-tenant seeking his eviction from the demised premises on the ground of non-payment of rent, change in the structure and also on the ground of personal necessity. On notice, the petitioner-tenant (hereinafter called the petitioner) filed his reply admitting the relationship of

landlord and tenant while contesting the rest of the eviction petition. By an order dated 02.03.2017, the Rent Controller made a provisional assessment of rent which order was challenged by the petitioner by filing an appeal before the first Appellate Authority which came to be dismissed vide order dated 31.10.2017. Thereafter, the petitioner approached this Court by filing a Civil Revision No. 8700-2017 and vide order dated 12.12.2017, the petitioner herein was directed to pay all arrears of mesne profit @ ₹20,000/- per month w.e.f. May, 2015 to December, 2017 with interest @6% per annum. It was further ordered that out of the total amount, 50% shall be paid directly to the landlord and 50% shall be deposited with the Rent Controller within a period of one month, pending appeal and thereafter in future mesne profit for use and occupation of the demised premises @ ₹10000/- was to be continued to be paid to the landlord and the balance amount of ₹10,000/- to be deposited before the Rent Controller on or before the 10th day of each month. In compliance to the aforesaid order, the appellant paid rent in the Court of the Rent Controller on 11.01.2018 from May 2015 till January, 2018. Thereafter in March, 2018, the petitioner paid ₹10,000/- to the respondent but did not deposit ₹10,000/- in the Court of the Rent Controller which made the respondent-landlord to file an application for eviction. The application was allowed and the petitioner herein was directed to vacate the demised premises within a period of one month from the date of order dated 03.08.2018.

Aggrieved against the said order of eviction, an appeal was filed which also came to be dismissed leading to the filing of the instant petition.

Learned counsel for the petitioner contends that it was only on account of mis-calculation that the rent was not deposited as directed by the High Court and therefore, the order of eviction which has been passed by the Rent Controller is liable to be set aside.

A caveat has been filed and an appearance has been caused on behalf of the landlord-respondent herein.

I have heard learned counsel for the parties and with their assistance, have gone through the pleadings of the instant case. There is no doubt about the fact that the provisional assessment of rent came to be challenged before this High Court in Revision No. 8700-2017 titled as Vijay Sethi Vs. Nonihal Singh, wherein an order came to be passed which is reproduced as under.

“To test the bonafides of the tenant, the arrears of mesne profits @ Rs.20,000/- w.e.f. May 2015 to December 2017 with interest @6% p.a. shall be deposited by him. Out of total, 50% be paid directly to the landlord and 50% be deposited before the Rent Controller within period of one month pending appeal and thereafter, mesne profits for use and occupation of the demised premises @Rs.10,000/- be paid to the landlord and Rs.10,000/- be deposited before the Rent Controller on or before 10th of every month. In default of payment, the petitioner will be liable to the evicted.”

In terms of the aforesaid order, the petitioner herein did not make any payment to the respondent for the month of February, 2018 and also did not comply with the High Court directions as he failed to deposit

the rent of Rs. 10,000/- with the Rent Controller for the month of March, 2018. The plea that was taken that there was miscalculation, was considered by the Rent Controller and rejected on the ground that on 11.01.2018, he had cleared arrears from May, 2015 till January, 2018, therefore, it could not be believed that there was any miscalculation regarding deposit of rent for the months of February 2018 and March 2018 to the landlord and before the Rent Controller respectively. The law as settled in the case of “***Rakesh Wadhavan vss. M/s Jagdamba Industrial Corporation, 2002(2) Rent LR 36***” has clearly specified that in case of default of any payment of provisional rent as assessed by the Rent Controller, the Rent Controller would have no option but to pass an order of eviction as has been done in the instant case. Even the Appellate Authority bound by the judgment as rendered by the Supreme Court in ***Rakesh Wadhavan's case (supra)*** rightly ordered eviction. The argument of miscalculation as raised before this Court is not believable and hence finding no infirmity, the instant appeal stands dismissed.

March 20, 2019

seema

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No