

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

CR No.4737 of 2019 (O&M)
Date of Decision: October 19, 2019

Tarsem Lal

...Petitioner

Versus

Paramjit Kaur

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Dinesh Nagar, Advocate
for the petitioner.

Mr. K.S. Cheema, Advocate
for the respondents.

JAISHREE THAKUR, J.

1. The instant civil revision has been filed under Article 227 of the Constitution of India for setting aside the order dated 17.07.2019 (Annexure P-4) whereby, the application for recalling the warrant of possession, as filed by the petitioner-JD (tenant), has been dismissed.

2. The brief facts are that an ejectment petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 was filed by the respondent-DH (landlady) against the petitioner herein seeking eviction on the ground that the petitioner was in arrears of rent. Appearance was caused on behalf of the petitioner, who in his written statement has averred that the present petition has been filed as a counter-blast to the suit filed by him for permanent injunction, restraining the landlady from interfering in his

peaceful possession. The Rent Controller, Dasuya, by its order dated 19.09.2017, held the petitioner to be in arrears of rent, as he had paid the rent only at the rate of ₹ 600/- per month since April 2006 whereas, the actual rate of rent was ₹ 1000/- per month. The petitioner was directed to clear the arrears of rent at the rate of ₹ 1000/- per month within two months, with a further direction to pay the future rent @ ₹ 1000/- per month on or before 10th of every month, failing which he would be ejected from the disputed shop. The respondent herein filed an execution petition on the ground that the petitioner-JD had not complied with the order passed on 19.09.2017 and had failed to deposit the rent within time. The rent @ ₹ 1000/- per month was to be deposited on or before 10th of every month, however, the challan produced on the record would show that there was a late deposit. Consequently, warrant of possession was issued, against which an application for recalling was filed by stating that the JD had paid the arrears of rent by challan dated 08.11.2017 and rent from January 2018 to June 2018 @ ₹ 1000/- per month had been paid by challan dated 08.03.2018 and, therefore, he was not in arrears of rent. This application was dismissed and aggrieved against the said order, the instant civil revision has been filed.

3. The sole argument, as addressed by the counsel for the petitioner-JD is that, there was no mala fide or ill will in depositing the rent of January 2018, which was slightly delayed by two months. However, the petitioner had rectified his make by depositing the rent for 06 months in advance from January 2018 to June 2018. He has further deposited the advance rent for the months of July 2018 to December 2018 and the rent for

the months of January 2019 to June 2019 stood deposited. It is argued that as on date he is not in arrears of any rent.

4. Per contra, counsel for the respondent-DH submits that there is no infirmity in the order as passed by the Addl. Civil Judge(Senior Division) Dasuya, who has rightly dismissed the application for recalling of warrant of possession on the ground that there was a delay in payment of the rent for the months of January and February, 2018, which was deposited in the month of March 2018.

5. I have counsel for the parties and with their assistance, have perused the impugned order as well as the order dated 19.09.2017.

6. Admittedly, in compliance of the order dated 19.09.2017, the petitioner herein had deposited the arrears of rent @ ₹ 400/- per month from April 2006 to December, 2017, which total comes to ₹ 56,600/-, on 18.11.2017 i.e. within two months. Thereafter, he deposited an amount of ₹ 6000/- as rent for the months of January 2018 to June 2018 in the month of March 2018 and further amount of ₹ 6000/- was deposited as rent for the months of July 2018 to December 2018 on 10.07.2018. After that, the petitioner deposited rent for the months of January 2019 to June 2019 on 03.01.2019. By the order dated 19.09.2017, the petitioner herein had been directed to pay the rent @ 1000/- per month on or before 10th of every month, failing which he would be liable to be ejected from the disputed shop. Even though, there is clear violation of the order dated 19.09.2017, as the petitioner herein failed to deposit the rent of the month of January, 2018 on or before 10th of that month, which was later on deposited in the month of March 2018 and similar is the position regarding the rent for the month

of February, 2018, which was also deposited in the month of March 2018, the admitted position is that the petitioner herein has deposited the rent in terms of the order dated 19.09.2017 in advance upto June 2019, which has been accepted. This court cannot lose sight of the fact that advance payment of rent has been made, which apparently has been accepted. There does not seem to be any mala fide intention in depositing the said rent. Giving the petitioner herein leeway in the instant case, the impugned order is hereby set aside. However, it is made absolutely clear that in future, even if there is one default in complying with the order dated 19.09.2017, the respondent-landlady shall be at liberty to proceed with the execution petition, seeking immediate eviction of the petitioner herein.

7. Accordingly, the civil revision in hand is hereby allowed, with the aforesaid directions.

October 19, 2019

vijay saini

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No