

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

CR No. 5599 of 2019 (O&M)  
Date of decision: 10.9.2019

Satya Narain

...Petitioner

Versus

Shyam Sunder and another

...Respondents

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present: Mr. Ajay Aggarwal, Advocate,  
for the petitioner.

**JAISHREE THAKUR, J.**

The instant revision has been filed under Article 227 of the Constitution of India with a prayer for setting aside the order dated 1.4.2019 passed by the Rent Controller, Hansi, whereby the application filed by the petitioner under Order 15 Rule 5 of the Code of Civil Procedure (for short '**the Act**') for striking off the defence of the respondent No.1/tenant on account of non-payment of rent has been dismissed.

In brief, the facts are that the petitioner herein, along with Sanjay—proforma respondent No.2, filed a petition under Section 13 (2) (i) of the Haryana Urban (Control of Rent & Eviction) Act, 1973 seeking ejectment of the respondent No.1—Shyam Sunder from the shop as detailed in the head note. The basic ground for seeking ejectment was that the respondent was not paying rent and was in arrears thereof. During the pendency of the eviction petition, the respondent deposited arrears of rent

for 36 months, amounting to ₹1,02,791/- and thereafter did not deposit the rent. The petitioner herein preferred an application under Order 15 Rule 5 of the Code requesting the Rent Controller to strike off the defence of the respondent, as he had willfully disobeyed the order of the Rent Controller and had not deposited the future rent. The said application was dismissed, which has led to the filing of the instant revision.

Learned counsel appearing on behalf of the petitioner herein contends that the petitioner is being put to great harassment on account of non-deposit of future rent and, therefore, his application under Order 15 Rule 5 of the Act ought to have been allowed and the defence struck off. It is argued that the Rent Controller had assessed the provisional rent and non-compliance of the order by the respondent would entitle the petitioner to plead for striking off of his defence.

I have heard learned counsel for the petitioner and have also perused the impugned order.

By order dated 1.4.2019, respondent No.1—tenant had been directed to make payment of arrears of rent through bank account by the next date and to pay the rent regularly till the disposal of the eviction petition. The case was then adjourned to 18.4.2019 for making payment of arrears upto date. The matter was not taken up on 18.4.2019 and was subsequently received by transfer by the Civil Judge (Junior Division), Hansi, who took note of the offer made by the tenant to tender the rent. However, the Civil Judge adjourned the matter on the statement made by both the landlords, namely Satya Narain—petitioner and Sanjay—proforma

respondent herein, that there was a dispute going on between them as to who would be entitled to take the rent and a compromise was to be effected inter-se themselves and the rent would be taken on the next date by the petitioner in whose share the shop would come. On the statement so made by the learned counsel for the petitioner, the matter was adjourned for 17.7.2019 for evidence of the petitioner, for making payment of arrears of rent as well as for furnishing the details of the bank account by the landlords. The case was subsequently taken up on 17.7.2019 and the bank account details were furnished by the counsel for the petitioner. Thereafter, respondent No.1 was directed to deposit the rent of the future months in the said bank account within a period of seven days.

Learned counsel for the petitioner herein is praying for striking off the defence of the respondent—tenant by invoking the pleas as envisaged under Order 15 Rule 5 of the Act, by stating that the rent has not been deposited in time. A perusal of the orders annexed with the petition would show that the tenant was ready to deposit the rent but on account of an inter-se dispute between the landlords themselves as to who would be entitled to receive the rent, the rent was not accepted on the date fixed i.e. 17.7.2019. Therefore, at this stage, it cannot be said that the tenant has defaulted in making the payment. On the asking of the Court, learned counsel for the petitioner replied that the rent has been deposited in the bank account. When the petitioner/landlord has accepted the rent as would be evident from the fact that he has furnished his bank details, he would be estopped from taking a plea that the defence of the tenant ought to be struck

off.

Consequently, finding no merit in the instant revision, the same is dismissed.

10.9.2019  
prem

(JAISHREE THAKUR)  
JUDGE

Whether speaking/reasoned  
Whether reportable

Yes  
No