

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

Civil Revision No. 7288 of 2019 (O&M)

Date of decision : November 18, 2019

Pardeep Kumar

.....Petitioner

Versus

Ashok Kumar Bajaj

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Vivek Baghla, Advocate
for the petitioner.

LISA GILL, J.

The petitioner – tenant being aggrieved of order dated 27.02.2019 passed by learned Rent Controller, Chandigarh as well as order dated 01.10.2019 passed by the learned Appellate Authority, Chandigarh has filed this revision petition.

Brief facts necessary for the adjudication of the case are that the respondent – landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the petitioner – tenant on the ground of non-payment of arrears of rent w.e.f. 01.01.2017 at the rate of ₹54,000/-. It is pleaded that the landlord had let out all the three floors of House No. 3473, Sector 23-D, Chandigarh vide rent agreement dated 27.12.2016 for a period of eleven (11) months from 01.12.2016 to 30.10.2017 at the rate of rent of ₹54,000/- per month excluding water and electricity charges. The tenant, it is pleaded, had not deposited rent since 01.01.2017.

Present petitioner – tenant contested the petition and filed a written statement. Relationship of landlord and tenant between the parties was admitted. It is admitted that the premises were taken on rent at the rate

of ₹54,000/- per month though it is denied that the tenant was in arrears of rent since 01.01.2017. The rent in question, it is pleaded, was paid in cash without issuance of receipt till December, 2017 and the tenant expressed his willingness to pay rent as assessed.

Learned Rent Controller vide order dated 11.01.2019 provisionally assessed rent which amounted to a sum of ₹7,27,070/-. The matter was adjourned by the learned Rent Controller to 27.02.2019 for tender of the arrears of rent etc. However, the said arrears were not deposited by the tenant. An application was moved for extension of time to pay assessed rent. Learned Rent Controller vide impugned order dated 27.02.2019 while referring to the judgment of the Hon'ble Supreme Court in **Rakesh Wadhawan vs. M/s Jagdamba Corporation AIR 2002 SC Page 2004** and a Division Bench of this Court in **Rajan @ Raj Kumar vs. Rakesh Kumar 2010 (1) HLR 264 2010 (2) PLR page 201** allowed the petition filed by the respondent – landlord and the present petitioner was ordered to be evicted from the demised premises on the ground of non-payment of rent. Appeal preferred by the present petitioner was dismissed by the learned Appellate Authority vide impugned decision dated 01.10.2019. Aggrieved therefrom, present petition has been filed.

Learned counsel for the petitioner argues that both the learned courts below have grossly erred in allowing the petition filed by the respondent – landlord and ordering ejectment of the petitioner from the demised premises. It is submitted that the petitioner had tendered rent in cash till 01.12.2017. The provisional rent assessed by the learned Rent Controller is contended to be incorrect, unjustified and opposed to the record. It is further asserted that the application for extension of time moved

by the petitioner for deposit of the provisional rent before the learned Rent Controller, has been wrongly dismissed. Learned counsel for the petitioner argues that manifest injustice shall be caused to the petitioner in case this petition is not allowed and an opportunity to deposit the rent is not afforded to the petitioner. It is, thus, prayed that this petition be allowed and impugned orders dated 27.02.2019 passed by learned Rent Controller, Chandigarh as well as order dated 01.10.2019 passed by the learned Appellate Authority, Chandigarh be set aside.

I have heard learned counsel for the petitioner and have gone through the file with his able assistance.

Relationship of landlord and tenant between the parties or taking of the premises on rent by the present petitioner from the respondent – landlord at the rate of ₹ 54,000/- is not in dispute. Provisional rent in this case was assessed by the learned Rent Controller on 11.01.2019. The matter was adjourned by the learned Rent Controller to 27.02.2019 for tender of the arrears of rent. Admittedly, the petitioner did not challenge the assessment of provisional rent and neither did he deposit the same on 27.02.2019. Learned Rent Controller rightly allowed the petition filed by the respondent – landlord as the petitioner – tenant failed to tender the provisional rent as assessed by the learned Rent Controller on 11.01.2019.

It is relevant to note that vide order dated 23.04.2019 passed by the learned Appellate Authority, operation of ejectment order dated 27.02.2019 passed by the learned Rent Controller was stayed subject to the condition that the tenant shall deposit the arrears of rent within thirty (30) days at the agreed rate. However, the tenant admittedly failed to make the payment of rent even at that stage. Therefore, clearly there is no ground whatsoever for interference in order dated 27.02.2019 passed by learned

Rent Controller, Chandigarh as well as order dated 01.10.2019 passed by the learned Appellate Authority, Chandigarh ordering ejectment of the petitioner from the demised premises on the ground of non-payment of rent, which was assessed provisionally on 11.01.2019.

Learned counsel for the petitioner is unable to point out any illegality, infirmity, perversity or error of law in impugned order 27.02.2019 passed by learned Rent Controller, Chandigarh as well as order dated 01.10.2019 passed by the learned Appellate Authority, Chandigarh which calls for interference in exercise of revisional jurisdiction by this Court. The same are upheld.

No other argument has been addressed.

Present petition is, accordingly, dismissed with no order as to cost.

November 18, 2019
rts

(Lisa Gill)
Judge

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