

In the High Court of Punjab and Haryana at Chandigarh

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CR-3892-2019 (O & M)

Date of Decision: March 06, 2020

RAKESH SHARMA

....PETITIONER

VERSUS

KUNDAN LAL KAPOOR

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Veneet Sharma, Advocate for the petitioner.

Mr. Kanwar Pahul Singh, Advocate for the respondent.

ANUPINDER SINGH GREWAL, J (ORAL)

Learned counsel for the petitioner contends that as the date after assessment of the provisional rent had been wrongly noted by the counsel for the petitioner as 09.06.2017 instead of 06.05.2017, therefore, he could not make the payment on 06.05.2017. He has also relied upon the judgment of this Court in the case of **Mani Nandwani versus M. R. Sharma and others, 2018 (1) RCR (Rent) 262**. He also contends that the petitioner had later paid the provisional arrears of rent along with mesne profits in terms of the direction of the Appellate Court.

Learned counsel for the respondent, however, contends that as the petitioner failed to deposit the arrears of provisional rent on the next date after the assessment of the same, he had been rightly ordered to be evicted from the premises. He has placed reliance upon the judgment of the Supreme Court in the case of **Rakesh Wadhwan and others versus M/s Jagadamba Industrial Corporation and others, AIR 2002 SC 2004**.

Heard.

It is not in dispute that the assessment of provisional rent had been made by the Rent Controller on 06.04.2017. The total assessment is reproduced hereunder:-

“Arrears of rent @ Rs.1690/- for the
period (w.e.f. 01.04.2014 to 31.08.2015 : Rs.28730/-
i.e. 1690 x 17 months)

Arrears of rent @ Rs.1775/- per month
period (w.e.f. 01.09.2015 to 31.03.2017 : Rs.33725/-
i.e. Rs.1775/- x 19 months)

Interest : Rs.2979/-

Cost : Rs.1000/-

Total Amount to be paid by the
respondent to applicant : Rs.66,434/-”

The case was adjourned to 06.05.2017, the petitioner was required to deposit the sum of ₹66,434/- on 06.05.2017 which was the first date after the assessment. The petitioner did not make any payment of the provisional rent on the aforementioned date and the petition of the respondent-landlord was allowed and eviction order has been passed against the petitioner. It has been held by the Supreme Court in the case of Rakesh Wadhwan's case (supra) that in the event of the tenant failing to comply with the order regarding payment of provisional rent on the next date of hearing, no further time can be afforded to him and the order of eviction has to follow. The judgment relied upon by the learned counsel for the petitioner in the case of Mani Nandwani's case (supra) is distinguishable on facts as it does not pertain to a case of provisional assessment of rent. In that case, two petitions had been preferred and the rent for some period overlapped in the two petitions. The part of the rent had already been deposited in the second petition which had not been taken into

account by the Rent Controller.

However, in the instant case, there was no such ambiguity and it was thus incumbent upon the petitioner to have made the payment of the provisional assessed rent on 06.05.2017. The factum of the petitioner having paid the arrears of rent and mesne profits later in terms of the direction of the Appellate Court would not help his case in any manner. The Appellate Court had directed the petitioner to make the payment of arrears of rent and mesne profits to balance the equities while staying the operation of the order of the Rent Controller ejecting the petitioner. It has also been held by the Supreme Court in the case of Hindustan Petroleum Corporation Limited versus Dilbahar Singh, (2014) 9 SCC 78 that the revisional jurisdiction is not to be lightly exercised and in the garb of the revision, there cannot be any re-appreciation of evidence.

Consequently, I do not find any merit in the instant petition and the same is dismissed.

At this stage, learned counsel for the petitioner contends that the petitioner may be granted three months time to vacate the premises as he has to make alternate arrangements.

Learned counsel for the respondent states that he has no objection if the petitioner vacates the premises by 15.06.2020, provided he clears the arrears of mesne profits within a period of one month from now, pay the future rent as admissible and also file an undertaking in this regard.

In view of the above, the petitioner shall hand over actual, physical, vacant possession of the demised premises on or before 15.06.2020, subject to his furnishing an undertaking within a period of 15 days before the Executing Court in this regard. He shall clear the arrears of

rent, if any, within a period of one month and also file an undertaking in this regard.

Needless to say that any violation of the aforesaid terms shall entitle the landlord to seek his eviction forthwith with police help, if necessary and without recourse to any remedy besides the petitioner/tenant making himself liable to contempt proceedings.

(ANUPINDER SINGH GREWAL)
JUDGE

March 06, 2020

A.Kaundal

Whether speaking/ reasoned	:	Yes/No
Whether Reportable	:	Yes/No