

CR-2590-2020 (O&M)

Date of Decision : 09.12.2020

Rajinder Kaur

...Petitioner

Versus

Balwant Kaur Dhesi

....Respondent

Coram : Hon'ble Mr. Justice B.S. Walia

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

Mr. Rakesh Chopra, Advocate for the respondent.

B.S. Walia, J. (VC)

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of Covid-19 pandemic.

2. Prayer in the petition under Article 227 of the Constitution of India is for setting aside of order Annexure P/1 dated 28.10.2020, passed by the learned Addl. Civil Judge (Junior Division), Jagraon, striking off the defence of the petitioner while allowing the application filed by the respondent under Order 15 Rule 5 of CPC, in Civil Suit No.568 of 2019, titled as Balwant Kaur vs. Rajinder Kaur.

3. Learned counsel contends that the impugned order striking off the defence has been passed by the learned Rent Controller without taking into account the circumstances prevailing on account of lockdown and the consequential inability of the petitioner to make the payment within the stipulated period of time and that in the circumstances, the impugned order is legally unsustainable and liable to be set side.

4. Notice of motion.

5. Mr. Rakesh Chopra, Advocate, accepts notice on behalf of the respondent/caveator and states that he has no objection in case the impugned order is set aside subject to the petitioner depositing arrears of rent @ Rs.3,000/- per month upto December, 2020 within time stipulated by this Hon'ble Court without prejudice to the rights of the respondent qua the rate of rent and consequential entitlement to arrears as may be finally determined by the learned Rent Controller besides the petitioner examining witnesses cited by her on the date fixed before the learned Rent Controller i.e. 16.12.2020.

6. Learned counsel for the petitioner states that the petitioner would deposit a sum of Rs.21,000/- i.e. the amount due upto and including December, 2020 plus interest @ 9% per annum on said amount with effect from the date the same became due till date of payment, on or before the date fixed i.e. 16.12.2020, before the learned Rent Controller and would also examine witnesses cited by her on the next date itself.

7. Accordingly, in the light of the statement of learned counsel for the parties, the revision petition is allowed, impugned order dated 28.10.2020, is set aside subject to payment of costs of Rs.5,000/- to the respondent without prejudice to the rights of the respondent qua the rate of rent and consequential entitlement to arrears as may be finally determined by the learned Rent Controller besides the petitioner paying arrears of rent i.e. Rs.21,000/- plus interest @ 9% per annum on the said amount with effect from the date the same became due till date of payment on or before the next date before the learned Rent Controller i.e.

16.12.2020 and further the petitioner examining the witnesses cited by her on the next date itself. It is made clear that no further opportunity would be granted to the petitioner and in case the petitioner fails to comply with either of the aforementioned directions, the learned Rent Controller would be at liberty to proceed further in the matter in accordance with law.

(B.S. Walia)
Judge

December 09, 2020
'Rajesh-PS'

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