

In the High Court of Punjab and Haryana at Chandigarh

115

CR-5722-2019 (O & M)

Date of Decision: January 30, 2020

MEERA DEVI AND ANR

.....PETITIONERS

VERSUS

RAKESH KUMAR

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. S.K. Liberhan, Advocate for the petitioners.

Mr.Ullas Kapoor, Advocate for the respondent.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioners have challenged the orders of the Rent Controller and the Appellate Authority whereby the petition preferred by the respondent-landlord has been allowed.

On 13.09.2019 when the matter had come up for hearing before the Coordinate Bench of this Court, learned counsel for the petitioners had submitted that if a reasonable time is given which would be of about 3 to 4 months, he would vacate the premises and also pay the arrears of rent. After recording the undertaking of the learned counsel for the petitioners, notice was issued to the respondent. It was also clarified in the order that notice is not being issued on the merits of the case rather it is being issued on the aforementioned request which has been made on behalf of the petitioners. It was also observed that in the meantime, no coercive action would be taken by the Executing Court

for eviction of the petitioners till the next date of hearing. Thereafter the matter had been adjourned twice on the request of the learned counsel for the petitioners.

Learned counsel for the petitioners contends that the petitioners are not inclined to vacate the premises and they would, therefore, seek an order on merits.

Learned counsel for the petitioners submits that the petitioners had not been afforded opportunity to make the payment of the provisional rent and, therefore, impugned orders deserve to be set aside.

Learned counsel for the respondent, however, contends that the orders assessing provisional rent was passed on 23.05.2019 and the counsel for the petitioners was duly heard in the matter and his presence was recorded in the order itself. He also contends that the petitioners had not been paying the rent even after the first assessment of the provisional rent on 27.02.2019 and the cheque which he had issued was dishonoured due to insufficient funds. He also contends that the petitioners after having submitted before this Court on 13.09.2019 that he will hand over the possession in 3 to 4 months from then would not be entitled to be heard on merits at this stage.

Heard.

The material on record indicates that the respondent-landlord had filed a petition for eviction of the petitioners/tenant on non-payment of rent on 06.10.2017. The Rent Controller had assessed the provisional rent at the rate of ₹4800/- per month by the order dated 27.02.2019 which was challenged by the petitioners/tenant by preferring CR-2188-2019. The revision petition was allowed by this Court on 30.04.2019 and the contentions of the respondent-landlord that the clause for enhancement of rent in the rent note had not been

taken into account while assessing the provisional rent was also recorded and the Rent Controller was directed to carry out fresh assessment after considering the contentions of both the parties. In pursuance to the order passed by this Court, the Rent Controller assessed the provisional rent on 23.05.2019. In terms of this order, the amount of provisional rent including the arrears was assessed as ₹2,24,060/-. The order dated 23.05.2019 has not been challenged and, therefore, attained finality.

At this stage, learned counsel for the petitioners contends that the revision petition challenging the order dated 23.05.2019 had been filed but some objections were raised on 03.07.2019 by the Registry and in the meantime the eviction order dated 02.07.2019 had been passed. As the order of ejectment had been passed on 02.07.2019, the revision petition was not re-filed after removing objections.

A perusal of the order dated 23.05.2019 indicates that the counsel for the petitioners/tenant was present when it was passed and his presence was duly recorded in the order. The petitioners were required to tender the provisional rent on 02.07.2019 but they failed to do so. Even before this Court, no attempt has been made by the petitioners to tender any part of the arrears of rent. He had earlier undertaken to vacate the premises within 03 to 04 months as observed in the order dated 13.09.2019 but he appears to have resiled from the undertaking. It is well settled that the provisional rent has to be tendered by the tenant on the first date after the assessment had been made. The assessment had been made on 23.05.2019. The petitioners were required to make the payment of provisional rent on 02.07.2019 which they had failed to do so.

Consequently, I do not find any merit in this petition which stands dismissed.

At this juncture, learned counsel for the petitioners states that the petitioners are poor persons, they are in financial difficulty and, therefore, they may be granted some time to vacate the premises.

The petitioners shall hand over the vacant possession of the premises to the respondent-landlord on or before 30.04.2020. They shall also pay the arrears of rent within a period of 01 month from now. They shall also file an undertaking before the Rent Controller in this regard within a period of one week from now.

(ANUPINDER SINGH GREWAL)
JUDGE

January 30, 2020

A.Kaundal

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