

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

**101**

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**CM No. 5805-C of 2017 in/and  
RSA No. 2383 of 2017  
Date of decision : 5.2.2020**

**Amarjit Singh**

**.....Appellant**

**Vs.**

**Assistant Director, Youth Services, Government of Punjab, Ludhiana and  
others**

**.....Respondents**

**Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present : Mr. P.S. Saini, Advocate, for the applicant/appellant

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**Rajbir Sehrawat, J. (Oral)**

**CM No. 5805-C of 2017 :**

This is an application for condonation of 10 days delay in filing the accompanying appeal.

For the reasons mentioned in the application, the same is allowed. Delay of 10 days in filing the present appeal is condoned.

**RSA No. 2383 of 2017 (O & M) :**

This is the second appeal filed by the plaintiff; challenging the concurrent findings, the judgments, and the decrees passed by both the Courts below, whereby, the suit for recovery of arrears of rent, house tax and the interest thereon, from the year 1990 to 2012, was dismissed.

For the convenience, the parties hereinafter are referred to as the plaintiff and the defendants, as they were mentioned in the original suit.

Without going into the unnecessary details of facts of this case, suffice it to say that the plaintiff had filed the instant suit claiming therein that

a property; i.e. House No.20-E, Model Gram, Ludhiana, was taken on rent by the defendants/Government Department @ Rs.900/-per month w.e.f. 1.1.1989. Initially, the defendants kept on paying the rent to the plaintiff along with the leviable house tax. As per the Government Instructions, the monthly rent was to be increased by 5% after five years. The defendants defaulted in payment of the rent w.e.f. 1.3.1994 and even failed to pay the house tax since then. Accordingly, the plaintiff was compelled to file before Rent Controller an ejectment petition bearing RA No.49 dated 14.9.1995 against the defendants for their eviction; on account of non payment of rent and house tax and for personal necessity. Ultimately, the eviction of the defendants was ordered on 10.12.2011 and the defendants were directed to vacate the premises under their tenancy within a period of 4 months. Accordingly, the defendants handed over the possession of the rented premises to the plaintiff on 12.11.2012. The plaintiff was also paid arrears of rent, as ordered by the Rent Controller. However, despite that as per the calculations of the plaintiff, made from January 1989 till the filing of the suit, an amount of Rs.1,96,795/-and an interest accrued to the tune of Rs.1,21,572/- remained unpaid. Accordingly, the suit for recovery of Rs.3 lakhs was filed.

The defendants contested the suit filed by the plaintiff. It was pleaded that monthly rent was duly paid to the plaintiff till 21.11.2012, as assessed by the Public Works Department. This rent was paid to the plaintiff against proper receipt. The defendants never agreed to pay the house tax to the plaintiff. It was further asserted that in January 1994; on completion of the first five years, the increased rent @ Rs.1037/-per month was offered to the plaintiff, however, he refused to accept the same. Subsequently also, the

increased rent @ Rs.1296/-per month was offered but he refused to accept the same. The plaintiff never repaired and white washed the rented premises from 1994 to 2012. The increased rent, as per the Instructions of the Government, was to be paid only to the landlord who regularly carries out the work of repair and white wash. Therefore, no increased rent, as per the Instructions claimed by the plaintiff, was applicable to the facts of the present case. However, after the rent petition was filed, the permissible rent and yearly house tax has been fully paid to the plaintiff till the vacation of the premises. After payment of the rent upto the date, as ordered by the Rent Controller, the building was vacated by the defendants, the same being in dilapidated condition.

On the basis of the pleadings of the parties, the trial Court framed the issues. Accordingly, the parties led their evidence to support their respective assertions. After considering the evidence on file and hearing the parties, the trial Court dismissed the suit filed by the plaintiff. Aggrieved against that, the plaintiff preferred appeal before the lower Appellate Court. However, the same has also been dismissed. This is how the present appeal has been preferred; challenging the judgment and decree passed by the Court below.

Arguing the case, learned counsel for the appellant has submitted that when the eviction petition was filed by the plaintiff, at that time, the Instructions of the Government; Ex.P-5; were not in the knowledge of the plaintiff. Still further, it is submitted that while accepting the rent as assessed by the Rent Controller, the same was accepted by the plaintiff only under protest. Therefore, the plaintiff has rightly filed the suit for recovery of the arrears of the increased rent.

Having heard learned counsel for the appellant, this Court does not find any merit in the submissions made by learned counsel for the appellant. It is not even disputed that the plaintiff had received the rent right upto the year 2012. The plaintiff himself has placed on record the document Ex.P-6 which shows that the rent stood paid to him upto the year 2011. Thereafter, the defendants have placed on record the receipt Ex.D-18; which acknowledges the receipt of rent by the plaintiff upto the year 2012. The other documents on record also show that even the house tax stands paid to the plaintiff. Therefore, it has come in evidence that the plaintiff has already received, whatever the rent he was to receive, and whatever the rent was assessed by the Rent Controller.

Although learned counsel for the appellant has submitted that he was not aware of the Government Instructions qua increase of the rent of the buildings taken on rent by the Government Departments; Ex.P-5, however, the fact remains that the plaintiff never even pleaded the said Instructions before the Rent Controller, where the issue of determination of the rent of the building was directly involved. Even after coming to know of the Instructions, the plaintiff had chosen not to challenge the order passed by the Rent Controller before any higher authority/Court. Therefore, after having got settled the rent by the Rent Controller and having received the same, the plaintiff cannot be permitted to turn around and say that something more is outstanding from the tenant, who already has vacated the premises in question. Needless to say; that the eviction petition filed by the plaintiff before the Rent Controller was, inter alia, on the ground of non-payment of rent as well. The very fact that the Rent Controller had assessed the rent and the plaintiff had received the same; shows

that the rent was rightly determined by the Rent Controller in the appropriate proceedings and the same was received by the plaintiff. Therefore, this Court does not find any illegality or perversity in the judgment and decree passed by the Courts below.

No other argument was raised.

Besides this, while challenging the concurrent findings of the facts, the counsel has not pointed out any procedural irregularity or error of law in the impugned judgments and decrees. No substantial question of law has been pleaded before this Court.

In view of the above, finding no merit in the present appeal, the same is dismissed.

**(RAJBIR SEHRAWAT)**  
**JUDGE**

**5.2.2020**  
*Ashwani*

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|-------------------|---|--------|
| Speaking/Reasoned | : | Yes/No |
| Reportable        | : | Yes/No |