

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

CR-6781-2019 (O&M)
Date of decision : 08.01.2020

Baljeet Singh

...Petitioner

Versus

Sukhinder Singh Bawa and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mansur Ali, Advocate and
Ms. Amarpreet Kaur, Advocate for the petitioner.

Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Yogesh Vashista, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

It is undisputed that now the entire arrears of rent as directed by the Court either by the first order dated 05.01.2019 or subsequent order dated 12.04.2019 stand deposited by the tenant.

Tenant-petitioner is in the revision petition against the order of eviction passed by the learned Rent Controller on account of alleged default in payment of re-calculated provisional rent on the date fixed, affirmed in appeal by the Appellate Authority.

Some facts are required to be noticed.

Landlord filed the petition on 07.08.2018 under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 seeking eviction of the tenant on various grounds including non-payment of rent. Pursuant to the notice, the tenant appeared and the Court proceeded to assess the provisional rent as required in law. Learned Court while assessing the

provisional rent committed a calculation error as instead of arrears for 29 months, calculation was made on the basis of arrears of 17 months. Thus, the Court vide order dated 05.01.2019 directed the tenant to deposit ₹8,01,425/- towards arrears of provisional rent, interest and cost. The case was adjourned to 04.02.2019. Thereafter it was adjourned to 20.02.2019. The tenant deposited the rent on 20.02.2019 as assessed by the learned Rent Controller i.e. ₹8,01,425/- which was accepted by the landlord under protest.

Landlord, in the meantime, had filed an application on 11.01.2019 for modification of the order dated 05.01.2019 on the ground that there was error in the calculation. The aforesaid application was allowed on 12.04.2019. The application was allowed and the tenant was directed to pay the remaining amount which due to inadvertent error in the calculation, was not directed to be paid as per the first order. The case was adjourned to 28.05.2019. On that day, neither the tenant nor his counsel appeared in the Court, resulting in the order of eviction.

The petitioner-tenant filed an appeal before the Appellate Authority and offer to pay the amount on the ground that the petitioner had been arrested on 16.04.2019 and was released on bail on 31.05.2019. The Appellate Authority refused to either extend the time or grant an opportunity to the petitioner to deposit.

This Court has heard learned counsel for the parties at length and with their able assistance gone through the paper book.

Keeping in view the facts which have been noticed above, it is apparent that the Appellate Authority has taken a very narrow view of the

matter. It is undisputed that before the Appellate Authority, at the time of arguments, offer to deposit/pay the amount was made by the tenant. However, the Court refused to permit him to deposit. It is not in dispute that the petitioner was in custody during the period when he was to deposit the correct amount arrived at on re-calculation. The petitioner had already deposited ₹8,01,425/- on 20.02.2019 pursuant to the first order dated 05.01.2019. The provision for provisional assessment of the rent is to secure the regular payment to the landlord and test the bona fides of the tenant.

The error in the first order i.e. 05.01.2019 was on the part of the Court. It is well settled that no one can be punished for the fault of the Court. In these circumstances, the Appellate Authority should have taken broader view of the matter in extending the time for tendering so that the tenant gets an opportunity to contest the case on merits. The order of eviction of the tenant cannot be permitted to be passed casually.

Keeping in view the facts of the case, the revision petition is allowed. The order passed by the learned Rent Controller as well as the Appellate Authority ordering the eviction of the petitioner is set aside.

The petitioner-tenant is directed to regularly deposit the rent alongwith arrears, if any, by 7th of each month in advance. The arrears, if any, be deposited within 6 weeks. Learned Rent Controller is requested to make a sincere endeavour to decide the rent petition expeditiously.

08.01.2020*Pawan***(ANIL KSHETARPAL)
JUDGE****Whether speaking/reasoned:-
Whether reportable:-****Yes/No
Yes/No**