

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

118/1

CR No.764 of 2021

Decided on : 08.10.2021

Prem Parkash & another

... Petitioners

Versus

Surinder Gandhi

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.K.B.Raheja, Advocate, for the petitioners.

G.S. Sandhawalia, J. (Oral)

Petitioners setting aside of the order dated 21.01.2021 (Annexure P-2) passed by the Appellate Authority, Fazilka whereby the operation of the order of the Rent Controller was stayed whereby provisional rent had been assessed of Rs.5,10,156/- till 01.11.2019.

Counsel for the petitioners has argued that the provisional rent had been assessed on 19.09.2019 and the amount was to be deposited by 01.11.2019. He submits that the appeal was time-barred and therefore, the Appellate Court could not have passed the interim order in view of the provisions of Order 41 Rule 3 CPC. It is further pointed out that on an earlier occasion on 31.10.2019, no ground had been found by the same Appellate Authority to stay the impugned order.

On 23.08.2021, the following order was passed:

“Inter-alia contends that petitioners are landlords in eviction petition titled *Prem Parkash and Anr. v. Naresh Kumar Baghai and Anr.* and on 19.09.2019, provisional rent was assessed and the amount was to be deposited on 01.11.2019. Said petition was wrongly dismissed in default, though the petitioners were present on the earlier part of the day. An application for restoration (Annexure P-3) was filed on the very next day i.e. 02.11.2019, which is still pending for consideration of the Rent Controller. The respondent-tenant also got the stay order from the Appellate Authority on account of the fact that the petition had been dismissed, though it was noticed that restoration application had been filed. Thus there was no occasion to even stay the impugned order since the appeal itself had become infructuous.

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Let status report be called from the Rent Controller through learned District and Sessions Judge, Fazilka as to why there has been delay

in deciding the restoration application, which has been filed immediately on the next date and why the petitioners-landlord are unnecessarily being deprived of the provisional rent, which had been assessed.

List on 08.10.2021.”

In pursuance of the said order, report from the Rent Controller has been received. A perusal of the same would go on to show that the rent petition has, now, been restored vide order dated 28.09.2021. The grievance of the counsel, thus, is that the appeal was time-barred and the order of stay could not have been granted.

In the considered opinion of this Court, since the appeal is still pending before the Appellate Authority, it shall take into consideration all the said aspects and also the fact that the rent petition has now been restored. Let the appeal be, accordingly, decided within a period of 2 months from the receipt of the certified copy of this order.

With the above-said directions, the present revision petition stands disposed of.

October 8, 2021

Sailesh

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No