IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

231 **CR No.2851 of 2016 (O&M)**
Date of Decision : 14.12.2022

Sandeep Singh ....Petitioner

VERSUS

Gurwinder Kaur Sandhoo ....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

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

Mr. Ashish Aggarwal, Advocate for the respondent.

ALKA SARIN, J. (Oral)

The present revision petition has been preferred against the order dated 08.01.2016 passed by the Rent Controller whereby the provisional rent was assessed @ Rs.7500/- per month w.e.f. 01.01.2009 till 31.01.2016 along with 6% interest and the order dated 25.03.2016 passed by the Appellate Authority dismissing the appeal of the tenant-petitioner. Hence, the present revision petition.

Learned counsel for the tenant-petitioner would contend that the landlord-respondent had given a representation dated 14.01.2014 (Annexure P-4) to the Deputy Commissioner, Amritsar wherein there was not a single averment *qua* the rent.

Per contra learned counsel for the landlord-respondent has contended that in the written statement filed by the tenant-petitioner it was the categoric stand taken by the tenant-petitioner in the preliminary objections as well as on merits that the rate of rent was Rs.7500/- per month and it stood paid upto April, 2014. It is further contended that both the authorities below have held that there is not a single document on the record

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to substantiate the plea that the rent stood paid by the tenant-petitioner upto April, 2014.

I have heard learned counsel for the parties.

In the present case the landlord-respondent had approached the Court claiming the rate of rent to be Rs.6000/- per month. In the written statement, a categoric stand was taken that the rent was not Rs.6000/- per month but was Rs.7500/- per month. It was, however, averred in the written statement that the rent stood paid upto April, 2014. The Rent Controller while assessing the rate of rent held that the rate of rent was Rs.7500/- per month. However, there was nothing on the record that the said rent has been paid upto April, 2014 as averred by the tenant-petitioner and hence the provisional rent was assessed w.e.f. 01.01.2009 till 31.01.2016 @ Rs.7500/- per month along with 6% interest. The Appellate Authority upheld the order of the Rent Controller assessing the provisional rent on the basis that no document had been produced by the tenant-petitioner to show that the rent had been paid. Admittedly, in the present case, the relationship of the landlord and tenant has not been denied.

In case of **Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation [2002(1) RCR (Rent) 514]**, it has been held as under :

> *"30. To sum up, our conclusions are:*
>
> *1. In Section 13(2)(i) proviso, the words 'assessed by the Controller' qualify not merely the words 'the cost of application' but the entire preceding part of the sentence i.e. 'the arrears of rent and interest at*

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six per cent per annum on such arrears together with the cost of application'.

2. *The proviso to Section 13(2)(i) of East Punjab Urban Restriction Act, 1949 casts an obligation on the Controller to make an assessment of (i) arrears of rent (ii) the interest on such arrears, and (iii) the cost of application and then quantify by way of an interim or provisional order the amount which the tenant must pay or tender on the 'first date of hearing' after the passing of such order of 'assessment' by the Controller so as to satisfy the requirement of the proviso.*

3. *Of necessity, 'the date of first hearing of the application' would mean the date falling after the date of such order by Controller.*

4. *On the failure of the tenant to comply, nothing remains to be done and an order for eviction shall follow. If the tenant makes compliance, the inquiry shall continue for finally adjudicating upon the dispute as to the arrears of rent in the light of the contending pleas raised by the landlord and the tenant before the Controller.*

5. *If the final adjudication by the Controller be at variance with his interim or provisional order passed under the proviso, one of the following two*

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orders may be made depending on the facts situation of a given case. If the amount deposited by the tenant is found to be in excess, the Controller may direct a refund. If, on the other hand, the amount deposited by the tenant is found to be short or deficient, the Controller may pass a conditional order directing tenant to place the landlord in possession of the premises by giving a reasonable time to the tenant for paying or tendering the deficit amount, failing which alone he shall be liable to be evicted. Compliance shall save him from eviction.

6. While exercising discretion for affording the tenant an opportunity of making good the deficit, one of the relevant factors to be taken into consideration by the Controller would be, whether the tenant has paid or tendered with substantial regularity the rent falling due month by month during the pendency of the proceedings.

31. The view of the law so taken by us advances the object sought to be achieved by the legislation, serves best the interests of landlord and tenant both, removes uncertainty in litigation and obscurity in drafting of the provision and also accords with the principles of justice and equity. Even if, it is an innovation, it is in the field

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> *of procedural law, without affecting the substantive rights and obligations of the landlord and the tenant and such innovation is permissible on the basis of authority and supported by principles of justice, good sense and reason. We have not touched the substantive rights of landlord and tenant, and are feeling satisfied with a do little in the field of procedure so as to effectuate the purpose of enactment."*

Once the relationship of landlord and tenant was not denied, it was incumbent upon the Rent Controller to assess the provisional rent. Even as per the tenant-petitioner the rate of rent was Rs.7500/- per month as categorically stated in his written statement. Learned counsel for the tenant-petitioner has not been able to show a single document in support of the fact that the amount stood paid till April 2014 except for a representation to the Deputy Commissioner, Amritsar which would not have any relevance in the present case at this point when the case is only *qua* provisional assessment of rent. Even if the said document was taken into account nothing would turn on the same.

The Learned counsel for the tenant-petitioner has made a request that the tenant-petitioner be granted some time to deposit the provisional rent as assessed. Since the amount to be deposited is about Rs.7 lakhs and the order was stayed way back in 2016, I deem it appropriate to grant a period of two months from today to the tenant-petitioner to make good the payment of provisional rent as assessed. The provisional rent shall

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be paid by the tenant-petitioner on or before 14.02.2023. No extension of time for depositing the amount of provisional rent shall be granted.

The revision petition is dismissed with the above directions. Pending applications, if any, also stand disposed off. Any observation made herein shall not be treated as an expression of opinion of this Court on merits of the case.

(ALKA SARIN)
JUDGE

14.12.2022
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO

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