

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3496 of 2016(O&M)
Date of decision: 22.08.2022

Krishan Kapoor alias Pappu

..Petitioner

Versus

Mukand Lal Bawa

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vaibhav Narang, Advocate, for the petitioner.

Mr. Jatin Salwan, Advocate, for the respondent.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is a tenant. In a petition for his eviction, the rent Controller vide order dated 11.01.2012, assessed the provisional rent while passing the following order:-

“Hence, keeping in view the abovesaid case law assessment of rent is to be determined as per the application filed by the applicant, hence, it is better in the interest of justice that amount of rent is to be assessed as per the contention made by the applicant without prejudice to the rights of parties, subject to decision of petition and the respondent is directed to pay arrears of rent with effect from 25.04.1995 till the date of filing the petition i.e. 7.12.2010 for 180 months @ Rs.72/- per month as Rs.13540/- and costs as assessed by the Court as Rs.460/- i.e. totalling Rs.14,000/-, whereas interest as well as House-Tax is to be calculated by respondent at one responsibility at the time of tendering the rent.

Now to come upon 16.02.2011, for tendering of rent.”

On 16.02.2012, the petitioner tendered the rent as assessed by the Court by making the following statement:-

“I tender arrears of rent along with costs i.e. Rs.14,000/- as provisionally assessed along with interest till today Rs.6567/- and house tax Rs.2031/- at the rate of 15% per annum on arrears of rent i.e. Rs.13,540/-, In this way, I tender Rs.22,598/- for the payment to the applicant.

R.O.& A.C.
Sd/-

Sd/-
16.2.12”

Subsequently, the landlord claimed that the tendered amount is a short tender/deficient. The Rent Controller while passing the final judgment on 17.10.2014, passed a conditional order of eviction unless he pays the balance amount of Rs.576/- within a period of 2 months. The petitioner is stated to have paid the said amount on 13.11.2014. However, the tenant's appeal has been allowed by the Appellate Authority on the ground that the rent tendered on 16.02.2012 was short.

The concept of assessing the provisional rent has come into practice after the interpretation of the provisions of the Act in **Rakesh Wadhawan and others vs. M/s Jagdamba Industrial Corporation and others, 2001(1) RCR (Rent) 514.**

After examining the provisions of the East Punjab Urban Rent Restriction Act, 1949, and the Haryana Urban Rent (Control of Rent and Eviction) Act, 1973, this Court in Gurpreet Singh and another vs. Brijinder Bhardwaj and another (Civil Revision No.8076 of 2010, decided on 04.03.2011, issued the following directions:-

“Hence, a direction is also given to all the Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh, to assess the provisional rent by multiplying the rate of rent with the period for which it is due, calculate the exact amount of interest @ 6% and after assessing the cost, give an accurate amount to the tenant which he is supposed to tender on the date fixed by the Court so that this kind of situation may not arise in future because this Court has experienced that Rent Controllers are neither calculating the amount of interest nor are giving the accurate amount.”

It is evident that as per the directions issued in Civil Revision No.8076 of 2010, the rent controllers are required not only to assess the

provisional rent by multiplying the rate of rent with the period for which it is due, calculate the exact amount of interest @ 6% and after assessing the cost, give an accurate amount to the tenant which he is supposed to tender on the date fixed by the Court in order to avoid any confusion or error. In the present case, the Rent Controller assessed the amount as Rs.14,000/- which was duly paid as per the requirement. The mistake, if any, is of the Court, for which the tenant cannot be punished.

The Appellate Authority has taken a very conservative view of the matter without appreciating the facts. The Hon'ble Supreme Court while interpreting the provisions of Section 13 of the East Punjab Urban Rent Restrict Act, 1949, has also held that if the provisional rent as assessed by the Court is tendered, and in ultimate analysis the Rent Controller or the Appellate Authority comes to a conclusion that the due amount is more than what was assessed as a provisional rent, then an opportunity is required to be given to the tenant to tender the remaining amount. The Rent Controller, in the present case, in accordance with the law laid down in **Rakesh Wadhawan's case (supra)** granted another opportunity to the petitioner.

Keeping in view the aforesaid facts, the judgment passed by the Appellate Authority is set aside while restoring the order passed by the Rent Controller.

The revision petition is allowed.

All the pending miscellaneous applications, if any, are also disposed of.

August 22, 2022

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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*