

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CR-3940-2017(O&M)
Date of Order: 16.03.2022

PIARA LAL

..Petitioner

Versus

THE MANIMAJRA CO-OPERATIVE MARKETING-CUM-
PROCESSING SOCIETY LTD.

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vivek Kathuria, Advocate
for the petitioner.

Mr. Dinesh Kumar Chaudhary, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

The hearing of the case is being held through video conferencing on account of restricted functioning of the Courts.

The petitioner's eviction has been ordered by the Appellate Authority on the ground that he has failed to pay the increased rent.

The provisions of the East Punjab Urban Rent Restriction Act, 1949, have been interpreted by the Supreme Court in “**Rakesh Wadhawan and others Vs. M/s Jagdamba Industrial Corporation and others, 2002(5) SCC 440**”. It has been held that if there is a difference in the final order as well as provisional order of assessment and some more amount is payable by the tenant, then an opportunity to pay the arrears is required to be given to the tenant.

The learned counsel representing the petitioner contends that the Rent Controller dismissed the petition on the ground that the entire arrears have been paid and the landlord has failed to prove non-payment of rent.

The Appellate Authority held the clause providing for periodical

increase of the rent in an unregistered rent note is enforceable. Therefore, the Appellate Authority has ordered eviction of the petitioner. On 31.05.2017, the following order was passed:-

*“Counsel inter alia submits that an opportunity should have been given to deposit the rent by the Appellate Authority once it found that there were arrears in view of the judgment in **Rakesh Wadhawan and others vs. M/s Jagdamba Industrial Corporation and others, 2002(5) SCC 440.***

Notice of motion for 26.10.2017.

In the meantime, dispossession of the petitioner shall remain stayed, subject to the petitioner depositing all the arrears of rent as assessed by the Appellate Authority by 31.07.2017 with the Rent Controller, Chandigarh. Further, the rent for each month will be paid by the 7th of each month. It is made clear that violation of any of the conditions aforesaid would entail automatic vacation of the stay.

Lower Court records be requisitioned.”

Sh. Vivek Kathuria, learned counsel representing the petitioner has stated that the entire amount till date has been paid.

The learned counsel representing the respondent submits that he has no information.

Keeping in view the aforesaid statement of the learned counsel representing the petitioner, the revision petition is allowed. The order dated 08.05.2017, is set aside.

The respondent shall have liberty to file an application for recall, if the petitioner has not deposited the rent.

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

March 16th, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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