

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

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**Civil Revision No.2469 of 2022 (O&M)
Date of Decision: 02nd December, 2022**

Kamaljit Singh

...Petitioner

Versus

Smt. Sudesh Anand & Others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present :- Mr. Vivek K. Thakur, Advocate,
for the petitioner.

* * * * *

MEENAKSHI I. MEHTA, J.

By way of the present revision petition, the petitioner-tenant (here-in-after to be referred as 'the tenant') has laid challenge to the order dated 18.04.2018 as passed by learned Rent Controller, Kapurthala, for provisionally assessing the arrears of rent in respect of the demised shop and also the order dated 04.10.2019 passed by him (Rent controller) qua his (tenant's) ejectment from the said shop and he has also assailed the order dated 23.09.2021 handed down by the Appellate Authority regarding the dismissal of the appeal, preferred by him against the said ejectment order.

2. Bereft of unnecessary details, the facts leading to the filing of the instant revision petition, are that the respondents-landlords (here-in-after to be referred as 'the landlords') filed Rent Petition against the tenant for seeking his eviction from the demised shop, *inter-alia*, on the ground of non-payment of the arrears of rent by him (tenant). Vide the impugned

order dated 18.04.2018, the Rent Controller provisionally assessed the arrears of rent as Rs.1,62,308/- but the tenant preferred a revision-petition bearing CR No.3127 of 2018 in this Court and vide the order Annexure P-8 passed therein on 15.05.2018, the recovery beyond 50% of the said arrears of rent had been stayed. As mentioned in Para No.8 in the impugned order dated 23.09.2021, the tenant tendered the remaining 50% of the above-said amount before the Rent Controller on 19.05.2018. However, vide the order dated 17.05.2019 (Annexure P-9), the afore-referred revision petition was dismissed by this Court. Then, the Rent Controller directed the tenant to deposit the balance 50% amount of the above-said arrears of rent but however, he failed to do so. Resultantly, the Rent Controller passed the impugned order dated 04.10.2009 for his ejectment from the demised shop and the appeal, as preferred by the tenant against this ejectment order, has also been dismissed by the Appellate Authority vide the impugned order dated 23.09.2021.

3. I have heard learned counsel for the petitioner-tenant in the present revision petition, at the preliminary stage and have also perused the file carefully.

4. Learned counsel for the petitioner-tenant contends that the Rent Controller had wrongly assessed the provisional arrears of rent in respect of the demised shop and moreover, the tenant has been running a tea stall in the same and he has no other source, except this shop, to eke out a living for himself and his family members and thus, the impugned orders are not legally sustainable and the same deserve to be set aside.

5. However, the afore-raised contentions are devoid of any merit because in pursuance of the order Annexure P-8 passed by this Court, the tenant had tendered only 50% amount of the arrears of rent as provisionally assessed by the Rent Controller and after the dismissal of the above-said Revision Petition by this Court vide order Annexure P-9, he was required to deposit/tender/pay the remaining 50% of the said arrears but he failed to do so despite having been afforded the opportunity by the Rent Controller for this purpose. Hon'ble the Supreme Court has categorically observed in **Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation, Civil Appeal No. 2135 of 1999 decided on 26.04.2002** that “*the tenant must pay or tender the provisionally assessed arrears of rent on the ‘first date of hearing’ after the passing of the order of ‘assessment’ by the Controller and on the failure of the tenant to comply, nothing remains to be done and an order for eviction shall follow and if the tenant makes the compliance, the inquiry would 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*”. When applied on the touchstone of these observations, the contention regarding the wrong provisional assessment of the arrears of rent, cannot be construed to be a valid ground for evading the payment thereof and the plea qua the demised shop being the only source of livelihood for the tenant as well as his family members, also does not afford any justifiable or plausible ground to him (tenant) to challenge his ejection from the same.

6. As a sequel to the fore-going discussion, it follows that the

impugned orders do not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the present revision petition, being *sans* any merit, stands dismissed.

02.12.2022

Seema

(MEENAKSHI I. MEHTA)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>