

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

CR-1960-2022 (O&M)

Date of decision : 17.05.2022

Rajinder Singh

... Petitioner(s)

Versus

Chhotu Ram Kisan College, Jind

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ashok Sharma (Bhana), Advocate for the petitioner.

ALKA SARIN, J. (ORAL)

The present revision petition has been filed against the orders of ejectment dated 24.08.2021 and 06.05.2022 passed by the Rent Controller, Jind and the Appellate Authority, Jind, respectively.

Brief facts relevant to the present *lis* are that the landlord-respondent filed an ejectment petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter referred to as the 'Haryana Rent Act') for ejectment of the tenant-petitioner from Shop Nos.4 and 5 of Chhotu Ram Kisan College, Jind situated at Railway Road, Jind, described fully in the ejectment petition. The Rent Controller, Jind vide order dated 09.08.2021 had assessed the provisional rent along with interest and costs as ₹92788.65 paise and the tenant-petitioner was given 15 days' time for tendering the same and the matter was adjourned to 24.08.2021. The tenant-petitioner failed to deposit the provisional rent and in view of the law laid down by the Hon'ble Supreme Court in the case of **Rakesh**

Wadhawan Vs. M/s Jagdamba Industrial Corporation [2002(5) SCC

440], vide order dated 24.08.2021 ejectment of the tenant-petitioner was ordered and the tenant-petitioner was directed to vacate the premises within two months. Aggrieved by the said order, the tenant-petitioner preferred an appeal before the Appellate Authority and during the pendency of the appeal the landlord-respondent filed an application for directions to the tenant-petitioner to pay mesne profits @ ₹8600/- per month for use and occupation of the premises w.e.f. 25.08.2021 till delivery of the possession. The landlord-respondent took a stand that the provisional rent as assessed by the Rent Controller, Jind had not been paid nor the vacant possession of the premises was handed over to the landlord-respondent. The appeal filed by the tenant-petitioner was dismissed vide order dated 06.05.2022.

It has been argued by learned counsel for the tenant-petitioner that he was never informed of the order dated 09.08.2021 assessing the provisional rent. Learned counsel for the tenant-petitioner has further contended that the tenant-petitioner is ready to deposit the entire arrears of rent and that the same could not be deposited due to the prevailing circumstances created because of Covid-19 Pandemic.

Heard.

In the present case, the Rent Controller, Jind vide order dated 09.08.2021 had assessed the provisional rent after hearing the arguments from both sides and the provisional rate of rent along with interest and costs had been assessed as ₹92788.65 paise and the tenant-petitioner was given 15 days' time to tender the rent on or before 24.08.2021. However, on 24.08.2021 the provisional rent as assessed was not deposited by the tenant-petitioner. It was upon the failure of the tenant-petitioner to deposit the

provisional rent that ejectment order was passed in view of the law laid down by the Supreme Court in the case of **Rakesh Wadhawan** (*supra*).

Hon'ble the Supreme Court in the case of **Rakesh Wadhawan** (*supra*) has laid down 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 six per cent per annum on such arrears together with the cost of application".*
- 2. The proviso to Section 13(2)(i) of the East Punjab Urban Rent 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 the 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 6 of 9 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 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 the 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."

In view of the fact that the tenant-petitioner failed to pay the rent as provisionally assessed, the Rent Controller, Jind had rightly ordered the ejectment of the tenant-petitioner which order was affirmed by the Appellate Authority, Jind.

In view of the above and in view of the law laid down by the Supreme Court in the case of **Rakesh Wadhawan** (*supra*), I do not find any illegality and infirmity in the orders passed by the Authorities below and the present revision petition is accordingly dismissed. Pending applications, if any, also stand disposed off.

17.05.2022

Yogesh Sharma

**(ALKA SARIN)
JUDGE**

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