

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

Civil Revision No.2989 of 2022 (O&M)
Date of Decision: August 01, 2022

Sunita Ahluwalia & others

...Petitioners

Versus

Varinder Arora

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr.Arjun Veer Sharma, Advocate,
for the petitioners.

MANOJ BAJAJ, J.

Petitioners-tenants have filed this revision petition to challenge the order dated 20.05.2022 passed by Rent Controller, Ludhiana in CM/138/2020 filed in RP/796/2015 dated 04.12.2015, whereby their application seeking refund of the rent amount paid pursuant to the provisional assessment of rent vide order dated 01.02.2018, was declined.

Learned counsel for the petitioners has argued that the respondent-landlord sought the eviction of the petitioners-tenants by setting up two grounds, i.e., arrears of rent and bonafide personal necessity and at the time of commencement of tenancy, only two shops were given on rent, but later on three more shops were given by landlord to the tenants and the consolidated rate of rent for all shops was Rs.13,500/- per month. According to him, at the initial stage of the proceedings before the Rent Controller, the landlord had pleaded that the consolidated rate of rent is

Rs.50,000/- per month and the Rent Controller vide order dated 05.03.2018 assessed the monthly provisional rent at the rate of Rs.13,500/- and the same was deposited on 05.03.2018. He submits that on 16.12.2019, respondent-landlord suffered the statement, whereby he gave up his ground relating to the arrears of rent. Subsequently, petitioner-tenants moved an application in February, 2020 seeking refund of the amount of rent as this ground was given up by the landlord. Learned counsel has argued that the amount deserves to be refunded to the petitioners.

A perusal of the order dated 20.05.2022 shows that the Rent Controller has finally decided the eviction petition by ordering the eviction of the petitioners and during the course of hearing, it is not disputed by the learned counsel that the appeal filed by the petitioners against the said decision is pending before the Appellate Authority. The argument raised by the learned counsel that as the ground of arrears of rent was given up by the landlord, therefore, the amount paid pursuant to the provisional assessment of rent deserves to be refunded to the tenants, is completely misplaced. As the tenants had tendered the amount, therefore, the ground relating to arrears of rent was not pressed and the relevant issue No.1 was not adjudicated upon merits. Once the tenants have already filed their appeal against the impugned order, this court is not inclined to exercise the superintendence powers under Article 227 Constitution of India.

Dismissed.

August 01, 2022
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No