

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**CR No.3542 of 2022 (O&M)
Date of Decision : 07.09.2022**

Jasbir Singh

....Petitioner

VERSUS

Gurmej Singh

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sarbjit Singh, Advocate for the petitioner.

Mr. Veneet Sharma, Advocate for the caveator-respondent.

ALKA SARIN, J. (Oral)

The present revision petition has been filed challenging the ejectment order dated 03.01.2020 passed by the Rent Controller which order was affirmed by the Appellate Authority vide it's order dated 21.07.2022.

The brief facts relevant to the present *lis* are that the landlord-respondent filed an ejectment petition under Section 13 of East Punjab Urban Rent Restriction Act, 1949 for eviction of the tenant-petitioner on the grounds of arrears of rent and personal *bona fide* necessity. The tenant-petitioner appeared and filed his written statement taking various pleas regarding non-maintainability of the ejectment petition and concealment of material facts. On merits, it was stated that the tenant-petitioner was not in arrears of rent as alleged. It was further denied that the building was required by the landlord-respondent for his *bona fide* necessity. The provisional rent was assessed by the Rent Controller on 18.11.2019 and the case was fixed for 03.01.2020 for tendering of the rent provisionally assessed by the Rent Controller. The said order was challenged in the CR No.8335 of 2019.

Before the matter was fixed before this Court for hearing, on 03.01.2020 the

order of ejectment was passed by the Rent Controller since the tenant-petitioner failed to deposit the provisional rent as assessed. It is to be noted that the order was passed in the presence of counsel for the tenant-petitioner. CR No.8335 of 2019 came up for hearing on 06.01.2020 wherein the following order was passed :

“The petitioner has challenged the order dated 18.11.2019 passed by the Civil Judge (Senior Division)-cum-Rent Controller, Amritsar whereby he has been directed to make payment of rent @ Rs.2,000/- per month w.e.f. 01.02.2011.

Learned counsel for the petitioner contends that the petitioner was in arrears of rent only w.e.f. 01.04.2018 and therefore, he could not have been fastened the liability to pay the rent w.e.f 01.02.2011. He also contends that the interest on arrears of rent could not have been awarded.

Heard.

The respondent (applicant therein) had filed a petition for eviction on the basis of non-payment of rent. He had claimed rent @ Rs.3,000/- per month. The petitioner had taken a specific plea that the rent was Rs.2,000/- per month but he could not place on record any documents or receipts before the trial Court to indicate that he had paid the arrears till 31.03.2018. The Rent Controller has accepted the plea of the

petitioner that the rent was Rs.2,000/- per month and not as claimed by the landlord to Rs.3,000/- per month.

I do not find any illegality in the impugned order which would warrant interference while exercising revisional jurisdiction especially when the petitioner had not substantiated through any documents or other prima facie evidence that he had paid rent till 31.03.2018. I also do not find any merit in the contention of learned counsel for the petitioner that the interest on arrears of rent @ 6% p.a. could not have been awarded. The interest awarded by the Rent Controller is reasonable and no interference is called for in this aspect as well.

At this stage, learned counsel for the petitioner contends that the petitioner may be granted some more time to make the payment of the arrears of rent as assessed by the Rent Controller.

The petitioner shall make the payment of the arrears of rent within one month from now and the amount which shall be paid by the petitioner shall, however, be subject to the adjustment, if any, at the time of the passing of the final order.

The petition stands disposed of accordingly.”

Thereafter, the tenant-petitioner challenged the order dated

03.01.2020 before the Appellate Court by filing an appeal on 28.01.2020,

which appeal has also been dismissed vide order dated 21.07.2022. Hence, the present revision petition.

Learned counsel for the tenant-petitioner has contended that vide order dated 06.01.2020 passed by this Court the petitioner has been granted one month's time to pay the amount of provisional rent as assessed by the Rent Controller and, hence, the order of ejectment deserves to be set aside.

Per contra, learned counsel for the landlord-respondent has pointed out that the order of ejectment was passed on 03.01.2020 in the presence of counsel for the tenant-petitioner. However, the tenant-petitioner concealed the said fact from this Court and that is how order dated 06.01.2020 in CR No.8335 of 2019 came to be passed.

I have heard learned counsel for the parties.

In the present case, the tenant-petitioner has totally misused and abused the process of law. The ejectment order in the present case was passed on 03.01.2020 for non-deposit of the provisional rent as assessed by the Rent Controller. The revision petition being CR-8335-2019 challenging the assessment of the provisional rent was listed on 06.01.2020 and was disposed off on the same date vide order a copy whereof is appended with the petition as Annexure P-1. A perusal of the said order reveals that there has been total concealment of facts from this Court inasmuch as the ejectment order dated 03.01.2020, which was passed in the presence of counsel for the tenant-petitioner, was not brought to the notice of the Court and when a period of one month was granted to the tenant-petitioner to make good the payment. Since the order of ejectment was passed prior to the order

dated 06.01.2020 and the same was not brought to the notice of this Court, the tenant-petitioner cannot derive any benefit of the said order.

In case of **Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation & Ors. [2002(1) RCR (Rent) 514]** it was held 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 East Punjab Urban 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 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 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 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.”

Since the provisional rent in the present case as assessed by the Rent Controller was not deposited on the date fixed i.e. 03.01.2020, the Rent Controller has rightly allowed the ejectment petition and ordered eviction of the tenant-petitioner from the demised premises.

Learned counsel for the tenant-petitioner, except for raising the argument that this Court had given permission to deposit the amount within a period of one month from the date of passing of the order dated 06.01.2020 and hence the ejectment order was bad, has not been able to show how the orders passed by the Authorities below are illegal or erroneous.

In view of the above, I do not find any illegality or infirmity in the orders passed by the Authorities below. The present revision petition being devoid of any merits is dismissed. Pending applications, if any, also stand disposed off.

Keeping in view the facts as narrated above, this Court is constrained to impose exemplary costs of Rs.20,000/- on the tenant-petitioner. Costs to be deposited with the Punjab and Haryana High Court Legal Services Committee.

07.09.2022
jk

(ALKA SARIN)
JUDGE

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