

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5668 of 2019 (O&M)
Date of decision: 18.11.2022

Santra Devi

..Petitioner

Versus

Smt. Darshana Devi

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajinder Goel, Advocate
for the petitioner.

Mr. Sudhir Aggarwal, Advocate
for the respondent.

ANIL KSHETARPAL, J(Oral)

1. In a petition filed under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, the Rent Controller is required to assess the provisional rent in view of the interpretation of the said provision in **Rakesh Wadhawan & Ors vs M/S. Jagdamba Industrial Corporation and others, (2002) 5 SCC 440**.

2. The petitioner herein is the widow of late Sh. Jagan Nath. She is aggrieved by the order of the provisional assessment passed by the Rent Controller on 19.08.2019. She has been directed to pay Rs.2,96,488/- towards the arrears of rent from 01.11.2014 to 01.08.2019 along with interest @ 8% and costs. Through this revision petition, the correctness of the aforesaid order has been assailed.

3. Some relevant facts, in brief, are required to be noticed.

4. Sh. Malook Singh and others, the predecessor-in-interest, of the respondent-landlady, filed a petition in the year 1984, alleging that M/s

Kirpa Ram Manohar Lal is the tenant and late Sh. Jagan Nath and Sh. Ram

Bilas are the sub-tenants. The Rent Controller dismissed the petition on 27.02.1991, however, in the first appeal, the judgment of the Rent Controller was reversed. The alleged sub-tenants, namely, late Sh. Jagan Nath and Sh. Ram Bilas filed civil revision no.1787 and 1788 of 1992 in the High Court which were allowed on 08.08.2007 and late Sh. Jagan Nath and Sh. Ram Bilas were held to be the tenants in the premises owned by Sh. Malook Singh and others and not the sub-tenants, hence the said eviction was set aside.

5. It is the case of the respondent that she through two different sale deeds purchased the suit property on 11.04.2011. She filed a petition under Section 13 of the 1973 Act claiming that the respondent's husband Sh. Jagan Nath executed a fresh lease deed/ rent note on 19.01.2012 agreeing to pay rent @ Rs.4800/- per month for a residential house. She also claimed that the petitioner herein has not paid the rent from 01.11.2014. While contesting the eviction petition before the Rent Controller, the petitioner herein disclosed all these facts and submitted that she is tenant @ Rs.36/- per month and her deceased-husband never signed the rent note/agreement dated 19.01.2012. The Rent Controller, as already noticed, has assessed the provisional rent. As per the settled law, if the tenants fails to tender the provisional rent along with interest and costs within the period prescribed, the order of eviction is required to be passed without permitting the tenant to further contest the case. In such situation, this court is called upon to decide the controversy.

6. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

7. The learned counsel representing the respondent has produced a

photocopy of the alleged rent note/lease deed. The respondent has not produced any rent receipt to prove that late Sh. Jagan Nath or after his death, the petitioner ever paid rent @ 4800/- per month. Moreover, it was on 08.08.2007, the revision petition filed by late Sh. Jagan Nath was allowed by the High Court. In such circumstances, the defence taken by the petitioner, at this stage, appears to be plausible.

8. Keeping in view the aforesaid facts, the operation and effect of the impugned order shall remain in abeyance and the parties will be permitted to lead evidence and prove their respective stand before the Rent Controller.

9. Ultimately, after the conclusion of the trial, if the Rent Controller comes to a conclusion that the rent was @ Rs.4800/- per month and the rent note dated 19.01.2012, Ex.P4, is a genuine document, the petitioner shall not be entitled to any fresh opportunity to tender the rent. However, in the meantime, the petitioner will continue to pay @ Rs.500/- per month as an interim measure subject to the adjustment subsequent with effect from 01.11.2014.

10. The Rent Controller is requested to re-assess the amount of interest and the cost to enable the petitioner to tender the amount.

11. Disposed of accordingly.

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

November 18, 2022

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(ANIL KSHETARPAL)
JUDGE

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