

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

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**Civil Revision No.5536 of 2022 (O&M)
Date of Decision: 30th November, 2022**

Roshan Lal

...Petitioner

Versus

Tejpal Singh Gulati & Another

...Respondent

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

Present :- Mr. V.K.Sandhir, Advocate,
for the petitioner.

* * * *

MEENAKSHI I. MEHTA, J.

By way of the instant revision petition, the petitioner-tenant (here-in-after to be referred as 'the tenant'), has laid challenge to the order dated 18.10.2022 passed by learned Rent Controller, Amritsar, in the Rent Petition No.410 of 2019 tilted as ***"Tej Pal Singh and Anr. Vs. Roshan Lal"***, whereby the provisional rent in respect of the demised premises has been assessed under the provisions of the East Punjab Rent (Restrictions) Act, 1949 (for short 'the Act of 1949').

2. I have heard learned counsel for the petitioner-tenant, at the preliminary stage, in the present petition and have also gone through the file carefully.

3. Learned counsel for the tenant contends that initially, the tenant had taken an area measuring 900 square yards, on rent from the

respondent-landlord vide the Rent Note dated 15.09.2010 and thereafter, on 01.02.2014, he had taken another area measuring 1375 square yards, on rent and the Rent Note in respect thereof had been executed on 07.03.2014 and therefore, the provisions of the Punjab Rent Act, 1995 (for short 'the Act of 1995') would govern the above-said subsequent tenancy because the same was created after the commencement of the said Act and thus, it is quite explicit that the impugned order passed qua the assessment of the provisional rent in respect of the total rented area under the provisions of the Act of 1949, is not legally sustainable and hence, the same deserves to be set aside. To buttress his contentions, he has placed reliance upon the observations made by the Co-ordinate Bench in **M/s Puran Singh and sons through its Proprietor and another vs. Komal Sharma 2019(2) R.C.R. (Rent) 380.**

4. However, the afore-raised contentions are devoid of any merit because throughout in his written statement Annexure P-2, the tenant has nowhere specifically denied the fact that the premises, as let out to him on both the above-referred occasions, are comprised in the same property. The observations made in **M/s Puran Singh and sons through its Proprietor and another (supra)** are of no avail to the petitioner because all that has been held in the afore-cited case, is that the date of the creation of tenancy is the most relevant and important fact to decide the applicability of the Act of 1949 or the Act of 1995 and as the tenancy had been created much prior to the commencement of the Act of 1995, therefore, the eviction petition, which was filed in the year 2014, was governed by the Act of 1949 and in

the present case, as discussed earlier, the Rent Note in respect of the area initially let out to the tenant was executed on 15.09.2010, i.e prior to the commencement of the Act of 1995 in November 2013 and the subsequently rented out area is also a part and parcel of the same property and the tenant has not placed any of the above-discussed Rent Notes on the file which could have clinched the entire controversy between the parties regarding the fact as to whether the subsequent tenancy was an extension of the earlier tenancy or was a freshly created one.

5. Moreover, Hon'ble 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"*. These observations are fully applicable to the instant case and in view of the same, it becomes explicit that the tenant is supposed to comply with the impugned order passed by the Rent Controller for assessing the provisional rent in respect of the demised premises.

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

30.11.2022
seema

(MEENAKSHI I. MEHTA)
JUDGE

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