

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

**Civil Revision No.4994 of 2022 (O&M)
Date of Decision: 15.05.2023**

M/s Sanjay Seizer and another

...Petitioners

Versus

Kasturi Lal

...Respondent

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

Present:- Mr. Vaibhav Sehgal, Advocate,
for the petitioner.

Mr. Ishan Gupta, Advocate,
for the respondent.

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MEENAKSHI I. MEHTA, J.

By way of the present revision petition, the petitioner-tenant (here-in-after to be referred as 'the tenant') has assailed the orders dated 06.04.2022 and 05.05.2022 passed by learned Rent Controller, Ludhiana, regarding the provisional assessment of the arrears of rent in respect of the demised shop and qua his (tenant's) ejectment from the same, respectively and he has also laid challenge to the order dated 08.09.2022 handed down by learned Appellate Authority, Ludhiana, whereby the appeal filed by him (tenant) against the above-mentioned orders passed by the Rent Controller, has been dismissed.

2. Shorn and short of unnecessary details, the facts, culminating in the filing of the instant revision petition, are that the respondent-landlord

(here-in-after to be referred as ‘the landlord’) filed a rent petition against the tenant for seeking his ejectment from the demised shop on the ground that he (tenant) was in arrears of rent @ Rs.9200/- per month for the period from 01.05.2020 to 30.10.2020, @ Rs.15,000/- per month from 01.11.2020 to 30.06.2021 and @ Rs.16,500/- per month w.e.f 01.07.2021. Though the tenant did not dispute the factum of the existence of the relationship of landlord and tenant between the parties but he asserted that he had already paid the rent @ Rs.9200/- per month till October, 2020. Vide the impugned order dated 06.04.2022, the Rent Controller provisionally assessed the amount of the arrears of rent in respect of the demised shop (@ Rs.9200/- per month for the period from 01.05.2020 to 30.04.2022, along-with the interest and cost) as Rs.2,34,600/- and adjourned the rent petition to 04.05.2022 for the payment/tender of this amount. However, as mentioned in para No.3 in the impugned order dated 05.05.2022, the proceedings could not be conducted on 04.05.2022 as the Lawyers had observed “no work day” on that day and therefore, the Court had refrained from passing any adverse order and had adjourned the case to 05.05.2022 but even on the said date, the tenant failed to tender/pay/deposit the said amount and rather, as observed in Para No.5 in the order passed on that day, his counsel moved an application at 4:50 P.M for seeking one day’s time to deposit the afore-mentioned amount as he had not been able to contact his client. After hearing learned counsel for both the parties, the Rent Controller declined the above-discussed prayer as set-forth in the application and ordered for the ejectment of the tenant from the demised shop. The appeal preferred by

the tenant against both the afore-referred orders, as passed by the Rent Controller, has also been dismissed vide the order dated 08.09.2022.

3. I have heard learned counsel for the petitioner-tenant as well as learned counsel for the respondent-landlord in the present revision petition and have also perused the file carefully.

4. Learned counsel for the tenant has contended that the Lawyers had observed “no work day” on 04.05.2022, i.e the date as fixed for the payment/tender of the rent and since the Rent Controller had adjourned the rent petition for the very next day, i.e 05.05.2022, therefore, the lawyer representing the tenant before the Rent Controller, could not contact and inform him (tenant) regarding the said date and thus, it is explicit that the non-payment/non-tender of the arrears of rent by the tenant on 05.05.2022, was unintentional but the Rent Controller wrongly declined the request for grant of one day’s time to tender/pay the rent, as put-forth in the above-said application and ordered for the eviction of the tenant from the demised shop and the Appellate Authority has also failed to appreciate the afore-discussed facts in the correct perspective and has erroneously dismissed the appeal filed by the tenant, vide the impugned order dated 08.09.2022 and in these circumstances, all the impugned orders deserve to be set aside. To buttress his contentions, he has placed reliance upon the observations made by the Co-ordinate Benches in **Gurpreet Singh & Anr. Vs. Brijinder Bhardwaj & Anr. 2011(2) Civil Court Cases 290** and **Subhash Aggarwal vs. M/s Narinder Singh & Co.etc. 2017(1) HLR 4.**

5. Per contra, learned counsel for the respondent-landlord has

argued that the Rent Controller provisionally assessed the arrears of rent in accordance with the relevant legal provisions but the tenant failed to pay/tender the same on the stipulated date and thus, it becomes explicit that the impugned orders have rightly been passed and hence, this revision petition is liable to be dismissed.

6. Vide the order dated 06.04.2022, the Rent Controller had provisionally assessed the arrears of rent and had adjourned the petition to 04.05.2022 for the payment/tender thereof. However, the Lawyers were stated to have observed “no work day” on that day and the Rent Controller, instead of passing any adverse order against the tenant due to non-payment/non-tender of the arrears of rent on the said date, had adjourned the case to 05.05.2022. The contention, as raised by learned counsel for the tenant to justify the non-payment of the arrears of rent even on 05.05.2022, does not hold any water because concededly, the tenant and the counsel representing him before the Rent Controller, are the residents of the same city and undoubtedly, there is no dearth of the means of communication these days and it being so, the tenant could have been contacted through the mobile-phone and could have easily been informed regarding the above-said next date as fixed in the case (05.05.2022).

7. Seen from yet another angle, even if learned counsel for the tenant did not appear in the Court on 04.05.2022 on account of the Lawyers having observed that day as “no work day”, even then there was nothing to preclude/debar/restrain the tenant himself from appearing in the Court and expressing his willingness and readiness before the Rent Controller to pay/

tender/deposit the arrears of rent or at least, to note down the next date of hearing (05.05.2022). It has been held by the Apex Court in **Rakesh Wadhawan & Ors vs. M/s Jagdamba Industrial Corporation & Ors 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 the ‘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 enquiry 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 crystal clear that the impugned orders are perfectly legal and justified ones.

8. The observations, made in **Gurpreet Singh & Anr (supra)** and **Subhash Aggarwal (supra)**, are of no help to the tenant because the facts and circumstances of the present case are distinguishable from those of the cited above. In **Gurpreet Singh & Anr (supra)**, the Rent Controller had not calculated the exact amount of the arrears of rent and the interest accrued thereon whereas in the instant case, the Rent Controller has specifically calculated the amounts of the arrears of rent and interest and costs as well, in Para No.5 in the order dated 06.04.2022. Then, in **Subhash Aggarwal (supra)** also, the Rent Controller had not assessed the provisional rent by mentioning the specific amount of arrears, in the order passed by him for this purpose whereas it is not so in the present case, as discussed above.

9. As a sequel to the fore-going discussion, it follows that the impugned orders, as passed by both the Courts below, do not suffer from any illegality, infirmity, irregularity or perversity so as to warrant any interference by this Court. Resultantly, the revision petition in hand, being *sans* any merit, stands dismissed.

May 15 , 2023
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *Yes*