

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 177 of 2023 (O&M)

Date of Decision: 08.02.2024

Kamal Dhari

... Petitioner(s)

Versus

Nikhil Virmani and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Amandeep Singh, Advocate
for the petitioner(s).

Mr. C.L.Verma, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The petitioner herein has been ordered to to evict the shop by the Court of Rent Controller on account of failure to pay the provisional rent assessed by the Court. The correctness of the aforesaid order is challenged in this revision petition.
2. In order to comprehend the issue involved in the present case, the relevant facts, in brief, are required to be noticed. The respondents (landlords) filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as “the 1949 Act”) for passing an order of eviction against the petitioner (tenant) on various grounds including non-payment of rent. As per the provisions of the 1949 Act, the Rent Controller assessed the provisional rent on 28.09.2022 and adjourned the case to 04.11.2022 permitting the tenant to pay the provisional rent. On

account of failure to pay the provisional rent, the ejectment order was passed

by the Rent Controller on the same day as the petitioner was not present, though his learned counsel was present. The petitioner filed an appeal which has been dismissed by the Appellate Authority.

3. The learned counsel representing the petitioner contends that there was unforeseen development due to which the petitioner could not appear before the Rent Controller on 04.11.2022. He submits that the petitioner's wife was suffering from cancer, who died on the night of 04/05.11.2022. He further submits that in such circumstances, the Rent Controller should have extended the period.

4. On the other hand, the learned counsel representing the respondents submits that firstly, there is no provision for extension of the period and secondly, these facts were not brought to the notice of the Rent Controller.

5. It is evident that there was a major tragedy in the petitioner's life. The law is required to be interpreted in a manner which advances the cause of justice. It cannot be interpreted in a manner which results in defeating it. The grounds on which the eviction has been sought by the landlords are yet to be proved. The case was at the preliminary stage. The Rent Controller, as provided in the 1949 Act, was required to assess the provisional rent which was assessed. He adjourned the case for ten days in order to enable the tenant to pay the rent. However, as already noticed, there was an untoward development due to which the petitioner could not appear in the Court.

6. The learned counsel representing the respondent does not dispute that the petitioner lost his wife on the intervening night of

04/05.11.2022. The attention of this Court has not been drawn to any provision which debars the Court from exercising its inherent power to extend the period for tendering the provisionally assessed rent. An interpretation of the statute depends upon the facts and circumstances of the case. The law is never static. It has to evolve with the changing circumstances. It shall be noted here that on 22.01.2023, the petitioner was directed to deposit the amount by way of demand draft which has been complied with and the respondents have already encashed the same.

7. Keeping in view the aforesaid facts and discussion, the present revision petition is allowed. The impugned orders passed by the Rent Controller as well as the Appellate Authority are not sustainable and the same are set aside.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

February 08, 2024
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No