

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

125

CR-596-2024 (O&M)

Date of decision:29.02.2024

M/s Macro Enterprises & another

... Petitioners

Vs.

Rohit Jain

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Ravi Singh, Advocate for the petitioners.

Mr. Gourav Goel, Advocate for the respondent/caveator.

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SUKHVINDER KAUR, J.

1. The instant revision petition has been filed against the order dated 29.08.2023 passed by the Rent Controller, Kharar and also order dated 04.01.2024 passed by the Appellate Authority, SAS Nagar, Mohali, whereby order of eviction of the petitioner/tenant has been passed.

2. The relevant facts as per eviction petition are that the respondent/landlord filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for ejectment of the petitioner/tenant out of the demised premises i.e. a show room as described in the head note of the petition. The respondent/landlord inducted the petitioner as a tenant in the said showroom vide registered rent deed dated 05.06.2013 bearing vasika No.1737 dated 05.06.2013 registered with Sub Registrar, Kharar. Respondent No.2 is proprietor of respondent No.1. As per the aforesaid registered rent deed, tenancy was for 5 years commencing w.e.f. 01.06.2013 to 31.05.2018 and the rent was settled between the parties at the rate of

Rs.60,000/- per month from 01.06.2013 to 31.05.2014 and the same was to be increased at the rate of 8% per annum. Landlord claimed that the present rate of rent for the year 2019-20 was Rs.95,130/- per month and he requested the tenant in the month of March, 2019 to vacate the showroom as he required the demised premises for opening of the jewellery workshop. The petitioner/tenant agreed with the landlord to vacate the demised premises as soon as possible and sought time for vacating the same. It was alleged that the petitioner/tenant had not paid full rent of the demised premises since April, 2019. He just paid Rs.40,000/- per month and had not paid the full rent of the demised premises at the rate of Rs.95,130/- per month since April, 2019. It was alleged that the tenant is liable to be evicted from the demised premises/showroom on the ground that he had not paid the full rent of the demised premises at the rate of Rs.95,130/- per month from April, 2019; that the petitioner requires the demised premises for his bonafide necessity for opening the workshop for his jewellery business; that the tenant had not paid water bill, sewerage bill, property tax of the demised premises; that the tenant had made the alterations in the demised premises by demolishing a wall on the north side. The tenant failed to vacate the premises and finally refused to vacate the same. Hence, the eviction petition was filed before the Rent Controller.

3. Vide order dated 06.03.2023, the Rent Controller assessed the provisional rent of the demised premises. The petitioner/tenant challenged the aforesaid order before the Appellate Authority, SAS Nagar, Mohali, which was dismissed by the Appellate Authority on 03.08.2023 and the order of the Rent Controller regarding assessment of the provisional rent was

upheld. Direction was also issued to the petitioner/tenant to make the payment of arrears of provisional rent as assessed vide order dated 06.03.2023 of the Rent Controller, but despite grant of effective opportunities by the Rent Controller, the petitioner/tenant failed to pay/deposit the arrears of provisional rent as assessed by the Rent Controller. Resultantly vide order dated 29.08.2023, the Rent Controller ordered eviction of the petitioner/tenant from the demised premises on the ground of non-payment of the provisional rent. The petitioner/tenant preferred an appeal against the eviction order dated 29.08.2023 passed by the Rent Controller, Kharar before the Appellate Authority, SAS Nagar, Mohali, which was dismissed by the Appellate Authority on 04.01.2024. Hence, the present revision petition has been filed by the petitioner/tenant against the aforesaid orders.

4. I have heard learned counsel for the petitioners at length and have perused the records thoroughly.

5. Learned counsel for the petitioners has contended that the learned Rent Controller, Kharar in its order dated 06.03.2023 whereby the provisional rent has been assessed as Rs.95,130/- has committed patent error which was erroneously upheld by the Appellate Authority vide order dated 03.08.2023. He has further contended that the Rent Controller, Kharar vide order dated 29.08.2023 has passed the impugned eviction order against the petitioner on the basis of non-payment of arrears of rent with interest and cost assessed as provisional rent on 06.03.2023. The Appellate Authority, SAS Nagar, Mohali in the impugned order dated 04.01.2024 has wrongly held that the petitioner/tenant had not challenged the order dated 03.08.2023

vide which it had affirmed the order of provisional assessment of rent passed by the Rent Controller, Kharar on 06.03.2023 before any superior Court, which is factually wrong **CR-4940-2023 'M/s Macro Enterprises & another Vs. Rohit Jain'** had been filed by the petitioner/tenant before this Court which was dismissed as withdrawn vide order dated 31.08.2023. He has submitted that both the Courts below have wrongly held that the petitioner had failed to deposit the rent as assessed by the Rent Controller whereas the petitioner was ready to pay the rent as assessed at the rate of Rs.40,000/- after deducting TDS and GST. He has argued that both the Courts have wrongly relied upon the registered rent deed while assessing the provisional rent and passing the eviction order for non-payment of arrears of rent ignoring the fact that tenancy was for 5 years commencing from 01.06.2013 to 31.05.2018 and the said registered rent deed had expired on 31.05.2018 and the terms and the conditions of the same, could not have been considered for assessing the rent for the period beyond 31.05.2018. So, it was open for the parties to settle the rent afresh after expiry of the said period. So the Rent Controller as well the Appellate Authority have acted illegally and with material irregularity while passing the impugned order dated 29.08.2023 and 04.01.2024 respectively ignoring the settled principle of law and evidence on record. He has argued that despite noticing that rate of rent was disputed and was a matter of evidence, the Rent Controller had passed the order completely ignoring the same and has contended that the impugned order dated 04.01.2024 passed by the Appellate Authority and order of eviction dated 29.08.2023 passed by the Rent Controller, Kharar are liable to be set aside.

6. From the perusal of the record, it transpires that the provisional assessment of rent was made by the Rent Controller vide order dated 06.03.2023 and the petitioner/tenant was directed to pay a total sum of Rs.38,15,247/- (including costs of Rs.1000/-) to the landlord/respondent on or before 17.04.2023 but vide order dated 11.04.2023 of the Appellate Authority, operation of the impugned order dated 06.03.2023 was stayed. Thereafter, the case remained pending for awaiting further orders from the Appellate Authority. On 21.08.2023, order dated 03.08.2023 passed by the Appellate Authority was received whereby the appeal preferred by the petitioner/tenant against the order dated 06.03.2023 of the Rent Controller was dismissed with costs. Thereafter, the petitioner/tenant was given time till 29.08.2023 for making compliance of order dated 06.03.2023 but the petitioner/tenant failed to tender the rent as assessed by the Rent Controller. Consequently, the Rent Controller passed order of eviction of the petitioner/tenant from the demised premises.

7. The Apex Court in the case of **Rakesh Wadhawan & others Vs. M/s Jagdamba Industrial Corporation & others, 2002 (5) SCC 440**, has held that “while passing a duty on the Rent Controller to assess the arrears of rent, interest on such arrears and costs of application, has also castes an obligation upon the tenant to tender the amount so assessed on the first date of hearing after passing of such order. The date of hearing has also been clarified by the Apex Court as the date falling after the date of such order by the Rent Controller. It was also laid down that failure of the tenant to comply with such order means an order of eviction and compliance therewith means enquiry as to arrears of rent, to continue. So, the

petitioner/tenant was under the obligation to tender the arrears of rent on the first date so fixed by the Rent Controller and on account of failure to make such payment of rent along with interest and costs, the eviction order has to follow. So in view of the aforesaid settled proposition of law owing to the failure of the petitioners/tenants to tender the rent with interest and costs as provisional rent on 06.03.2023 by the Rent Controller, the only course left open to the Rent Controller was to order eviction of the petitioner/tenant from the demises premises, which has been rightly upheld by the Appellate Authority, SAS Nagar, Mohali.

8. In the light of the above, the impugned orders are well reasoned orders and do not suffer from any illegality or perversity.

9. Thus, there being no illegality or infirmity in the impugned order no interference therewith is called for while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

10. All pending application(s), if any, also stands disposed of.

(SUKHVINDER KAUR)
JUDGE

29.02.2024

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |