

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR No.574 of 2024 (O&M)

Date of Decision: 01.02.2024

Darshan Kumar

...Revisionist-Petitioner

Versus

Swatanter Malhotra

...Respondent

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

Present:- Mr. Satinderpal Singh Dhaliwal, Advocate
for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J. (Oral)

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 as passed by learned Rent Controller, Jagraon on 10.02.2023, whereby the Rent Petition filed by the respondent-landlord (here-in-after to be referred as 'the landlord') for seeking his (tenant's) eviction from the demised premises, has been allowed and he has also assailed the judgment handed down by learned Appellate Authority, Ludhiana on 06.10.2023, regarding the dismissal of the Rent Appeal, moved by him (tenant) against the above-said order regarding his eviction.

2. Bereft of unnecessary details, the facts, as emerging from the perusal of the file and culminating in the filing of the present revision-petition, are that the landlord filed the afore-referred Rent Petition against the tenant for seeking his eviction from the demised premises on various

grounds, including the non-payment of rent w.e.f. March, 2014 onwards. The Rent Controller assessed the provisional arrears of rent, along-with the cost and interest, as Rs.2,05,520/- and adjourned the above-said Petition to 10.02.2023 for the payment of the afore-mentioned amount but on that day, the tenant failed to make the payment thereof and consequently, the Rent Petition was allowed and the Appeal preferred by him to assail the above-said eviction order, has also ended in its dismissal, as already indicated in the opening para of this judgment.

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

4. Learned counsel for the tenant contends that the tenant could not make the payment of the provisionally assessed arrears of rent on the date, as fixed for this purpose because he was behind the bars at that time and moreover, in his written-statement, he had specifically asserted that he had paid the rent up to February, 2021 but both the Courts below have not appreciated the afore-discussed facts in the correct perspective and it being so, it is explicit that the impugned order and the judgment are not legally sustainable and hence, the same deserve to be set-aside.

5. However, the above-raised contentions do not cut much ice with this Court because it has categorically been held by the Apex Court in **Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation, 2002(1) RCR (Rent) 514** 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 clinch the entire controversy, involved in the instant revision-petition and in the light thereof, it becomes crystal clear that the factum of the detention of the tenant in the jail, does not suffice at all to be construed to be cogent and plausible explanation/ground for non-payment of the provisionally assessed arrears of rent on the date, as scheduled by the Rent Controller for this purpose and even if there was a dispute between the parties over the period for which the rent had been claimed/paid, the tenant could have contested the same before the Rent Controller after the payment/deposit of the afore-said amount.

6. As a sequel to the fore-going discussion, it follows that the impugned order and the judgment, handed down 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.

01.02.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes