



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

CR-646-2024 (O&M)

Date of Decision: 08.05.2024

SHIVAM DIWAN AND ANR

....Petitioners

VERSUS

RIKASH GOEL

....Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Sunil Garg, Advocate
for the petitioners.

Respondent in person.

VIKAS SURI, J. (Oral)

1. This is tenant's revision petition under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949, assailing the order dated 27.07.2023, whereby the Appellate Authority by common order has dismissed the two appeals, one filed by the petitioner-tenant and the other one by the respondent-landlord, wherein challenge was to the order dated 25.05.2023 assessing the provisional rent.

2. The facts of the case borne out from the record on paper-book are that the respondent is landlord of Plot No.35, Industrial Area, Phase I, Chandigarh and the petitioner was inducted as a tenant in the demised premises at monthly rent of Rs.2,05,000/- excluding electricity, water and



other charges besides the GST. A registered lease dated 07.02.2022 was executed wherein it was also settled that the rate of rent was to be enhanced at the rate of 5% per annum on the last paid rent. The rent controller after hearing both the parties assessed provisional rent in terms of law laid down by Supreme Court in the case of ***Rakesh Wadhawan vs. Jagdamba Industrial Corporation, (2002) 5 SCC 440.***

3. Both the landlord and the tenant preferred appeals before the Appellate Authority against the aforesaid assessment. The landlord sought modification of the order dated 25.05.2023 by enhancement of the rent and further for assessment of other charges i.e. electricity, water, property tax etc. as per the lease deed. The landlord also sought enhancement of the annual rent w.e.f. 07.02.2023 with reference to clause 9 and 13 of the lease deed.

4. The case of the petitioner-tenant before the Appellate Authority was that the learned Rent Controller has assessed provisional rent in a mechanical manner and the rent for the fit-out period has also been included therein. It was contended that rent for the period 07.02.2022 to 30.04.2022 was not payable. The petitioner-tenant also sought waiver of GST for the period w.e.f. 07.02.2022 to 30.06.2022 on the ground that GST bills have not been raised on the GST portal of the Central Government. It was also contended that the respondent-landlord was not entitled to claim TDS for a period of 07.02.2022 to 30.06.2022. However, the only plea that was strenuously raised was assessment of rent for the fit-out period w.e.f. 07.02.2022 to 30.04.2022.



5. The Appellate Authority after considering the rival contentions of the parties and the material available on record, dismissed both the appeals by a common order dated 27.07.2023.

6. Aggrieved by the aforesaid, the petitioner-tenant is in revision before this Court.

7. Heard learned counsel for the petitioner and with his able assistance perused the material available on record.

8. In the present case, the relationship of landlord and tenant is not in dispute. It is also not in dispute that registered lease deed dated 07.02.2022 was executed between the parties wherein the rate of rent was settled and terms and conditions of the tenancy had been stipulated. Learned Rent Controller vide order dated 25.05.2023 assessed the provisional rent as under:-

“Rate of rent	:Rs.2,05,000/- p.m. (07.02.2022 to 30.04.2022)
period of rent	:07.02.2022 to 30.04.2022
total arrears of rent	:(2,05,000/-* period w.e.f. 07.02.2022 to 30.04.2022)Rs.05,71,071/-
GST (w.e.f 07.02.22 to 30.04.2022)	:Rs. 1,02,793/-
Total	:Rs. 06,73,864/-

Arrears of GST	:Rs. 73,800/- for May & June, 2022 @18%
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Grand total of arrears of rent	= 06,73,864/- + 73,800/- = 7,47,664/-
Interest	:Rs. 7,477/-
Cost of petition	:Rs. 2,000/-
Grant Total	:Rs.7,57,141/-”

9. The contentions raised on behalf of the petitioner-tenant before the Appellate Authority have been noticed in paragraph 6 of the impugned order dated 27.07.2023, which reads as thus:-



“6. On the other hand, respondent through the instant appeal sought for Modification of the order dated 25.05 2023 by enhancement of the rent and further for assessment of other charges i.e. electricity charges, water charges, property tax. etc etc as per registered lease deed dated 07.02.2022. It is specific stand of the petitioner that as per Clause No. 9 & 13 of the registered lease deed dated 07.02.2022 the rent of the tenanted premises shall be enhanced by 5% per annum on the last monthly paid rent w.e.f 07.02.2023 and as per Clause No. 13 it was settled that the respondent shall pay the rent for the period 07.02.2022 to 30.04.2022, if respondent fails to abide by Clause No. 13. It is also contended that under the East Punjab Urban Rent Restriction Act, the tenant shall be entitled to pay the rent from the date of entering into the physical possession of the tenanted premises and as per the said act there is no such provision to provide any rent free period to the respondent/tenant. The Ld. Rent Controller while passing the order of assessment dated 25.05.2023 has also failed to appreciate the averments, replication and the written submissions of the appellant/landlord and assessed the provisional rent to the lesser side and fails to assess the other charges i.e. Electricity charges, water charges, property tax etc. etc which the respondent is entitled to pay. Finally, it is prayed that the order dated 25.05.2023 is required to be modified and the respondent is entitled to pay the enhanced rent @ 5% per annum w.e.f. 07.02.2022 to 03.04.2022 alongwith other charges and the enhanced rent shall become applicable”

10. It is trite law that provisional assessment of rent is not final adjudication of the amount due from the tenant. In the present case, the provisional rent assessed by the Rent Controller has been upheld by the Appellate Authority, which ofcourse is subject to final assessment when the main rent petition will be disposed of on merits. The petitioner-tenant would be entitled to seek refund of the amount paid in excess or to get the same adjusted in future rent, if it is so found that the tenant was not liable to pay rent for the period claimed in the rent petition.



11. In light of the above discussion, I am of the considered opinion that there is no infirmity in the impugned order that would warrant interference by this Court in exercise of revisional jurisdiction. Even otherwise the petitioner-tenant is not able to make out a case of any jurisdictional error.

12. Consequently, the present revision petition being bereft of merit, is accordingly dismissed. Pending applications, if any, also stand disposed of.

May 08, 2024
Sangeeta

(VIKAS SURJ)
JUDGE

Whether reasoned/speaking:	Yes/No
Whether reportable:	Yes/No