

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.140

Case No. : C.R. No.1814 of 2024

Date of Decision : April 08, 2024

Gulshan Pahwa @ Gulshan Arora and another Petitioners
vs.
Dharampal Raheja Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Bhavesh Aggarwal, Advocate
for the petitioners.

Mr. J. S. Lalli, Advocate
for the respondent-caveator.

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GURBIR SINGH, J. :

1. Challenge in this petition is to the order dated 22.02.2024 (Annexure P-6), passed by learned Appellate Authority, Ludhiana, thereby modifying the order dated 25.07.2023 (Annexure P-4), passed by learned Rent Controller, Ludhiana and assessing interim rent to be paid by the petitioners.
2. The parties hereinafter are being addressed as per their original status in the rent petition.
3. The brief facts, necessary for proper adjudication of the present revision petition, are that the respondent Dharampal Raheja (the landlord) filed petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (for brevity – the Act), for ejectment of the petitioner namely

Gulshan Pahwa (the tenant) on the ground of non-payment of arrears of rent and personal bona fide necessity, submitting therein that the license was created on 14.08.2019 at a settled license fee of Rs.27,000/- per month for a period of six years, vide registered license/rent deed dated 05.11.2019. However, tenant failed to pay the rent regularly and amount of Rs.18,000/- out of monthly rent of Rs.27,000/- became due towards him for the month of March 2020. Thereafter, he did not pay rent @ Rs.27,000/- per month w.e.f. April 2020.

4. The tenant contested the rent petition taking preliminary objection that the petition was filed under the old Act, especially when the rent deed is dated 05.11.2019. The tenant also moved application for dismissal of the petition under provisions of Section 13 of the Act being not maintainable as the tenancy pertains to rent deed dated 05.11.2019. The said application was dismissed and it was held that eviction petition be deemed to have been amended and filed under the new Act i.e. the Punjab Rent Act, 1995 (hereinafter called – the Rent Act). It was further submitted on behalf of the tenant that the date of execution of rent deed is 05.11.2019 and he had been making the payment of rent to the landlord @ Rs.27,000/- per month in cash, but no receipt in lieu of that was ever issued by the landlord. There had been no occasion for non-payment of rent by the tenant except for a few months, under the compulsive circumstances of outbreak of pandemic COVID-19, which was duly redeemed by the tenant at a later stage. The transactions pertaining to payment of rent of the demised shop were duly recorded by the tenant in the audited balance sheets pertaining to the proprietorship concern of the tenant's firm namely M/s Saksham Steels,

Ludhiana. The copies of balance sheets from 2020-21 to 2022-23 reflecting regular payment of rent has been annexed as Annexure P-3 (Colly).

5. It has been further contended on behalf of the tenant that as per provisions of Section 25 of the Rent Act, the learned Rent Controller was required to calculate interim rent from the date of filing of ejectment petition but learned Rent Controller wrongly assessed provisional rent for a period of 41 months. It is further argued that learned Appellate Authority has rightly set aside the order dated 25.07.2023, whereby provisional rent was assessed by learned Rent Controller but has wrongly assessed interim rent to be Rs.10,67,837/- w.e.f. 01.03.2021, to be paid by the tenant on or before 27.03.2024 and has failed to take into consideration the audited balance sheets pertaining to the proprietorship concern of the tenant's firm namely M/s Saksham Steels, Ludhiana from 2020-21 to 2022-23 Annexure P-3 (Colly). The landlord has not been issuing receipts in lieu of rent paid by the tenant, under the provisions of Section 13(2) of the Act.

6. Learned counsel for the landlord has argued that the tenant took a specific plea in the written statement that in the first week of May 2020, the landlord, by taking benefit of the lock-down situation, tried to dispossess the tenant from the demised shop by breaking the locks of the shutters forcefully, in the absence of tenant but could not succeed due to timely intervention of the tenant with the help of his neighbours and respectables of the locality. Thereafter, on 21.08.2020, the landlord sent a false notice to the tenant to vacate the shop on the ground of non-payment of rent. It is further submitted that earlier, no amount of rent was paid in cash. When dispute arose between the parties, then it is not possible that the tenant had paid the

amount of rent in cash and that too, without getting its receipt. The balance sheets, on which the tenant is relying, are self-serving documents and therefore, have no evidentiary value. In the reply to the main petition, it is not even mentioned that payment of rent was being reflected in the balance sheets. It is an after-thought version and no reliance can be placed on the same. The burden is always on the tenant to show that no rent has been paid. The learned Appellate Authority has correctly assessed the interim rent, in accordance with the provisions of Section 25 of the Rent Act.

7. I have heard the submissions of learned counsel appearing for both the parties and have carefully perused the case file.

8. It is common case of the parties that there is relationship of landlord and tenant between the parties. The tenancy was created as per lease deed dated 14.08.2019. The rent petition was filed under the provisions of Section 13 of the Act, whereas the Punjab Rent Act, 1995 had already come into force w.e.f. 30.11.2013, as per notification issued by the Punjab Government. To reach this conclusion, I find support from a judgment passed by a Co-ordinate Bench of this Court in the case of **Daljit Singh Sandhu M/s Bhatia Electronics – Civil Revision No. 505 of 2022 (O&M)**, decided on **04.05.2022**, wherein the petition filed under Section 13-B of the old Act was directed to be treated as petition under the relevant provisions of new Rent Act of 1995 and on this ground alone, the impugned order was set aside. In the case in hand, since the ejectment petition in question is to be considered under the Punjab Rent Act, 1995, so, the learned Appellate Authority has rightly held that interim rent was to be assessed. Section 25 of the Punjab Rent Act, 1995 reads as under :-

“25. Payment of rent during eviction proceedings. -

(1) During the proceedings for recovery of possession under section 20, a tenant shall ensure timely payment of rent and other charges at the rate at which these were being paid immediately before the commencement of the proceeding.

(2) If, in any proceeding for recovery of possession, there is any dispute as to the amount of rent payable by the tenant, the Rent Authority shall, within fifteen days of the date of the first hearing of the proceeding, fix an interim rent and other charges in relation to the premises to be paid or deposited within one month of the date on which the interim rent is fixed for such further time as the Rent Authority may allow in this behalf.

(3) If, in any proceeding for recovery of possession there is any dispute as to the person or persons to whom the rent is payable the Rent Authority may direct the tenant to deposit with the Rent Authority the amount payable by him under sub-section (2) as the case may be, and in such a case, no person shall be entitled to withdraw the amount in deposit until the Rent Authority decides the dispute and makes an order for payment of the same.

(4) If the Rent Authority is satisfied that any dispute referred to in sub- section (3) has been raised by a tenant for reasons which are false or frivolous, the Rent Authority may order the defence against eviction to be struck out and proceed with the hearing of the application.

(5) If a tenant fails to make payment or deposit as required by this section, the Rent Authority may order the defence against eviction to be struck out and

proceed with the hearing of the application.”

9. The burden is always on the landlord to prove the rate of rent. It is not in dispute in the instant case. The burden is on the tenant that he had paid the arrears of rent. Reliance is placed on judgments namely **Shamma Rani vs. Mohan Lal and another** – **Law Finder Doc Id # 634363**, **Bal Krishan vs. Krishan Kumar Gupta** – **Law Finder Doc Id # 16662**, **Kishori Lal vs. Hari Chand** – **Law Finder Doc Id # 3713**, **Karpoori Thakur vs. Dewan Chand** – **Law Finder Doc Id # 3039** and **Rajinder Kumar vs. Jai Singh** – **Law Finder Doc Id # 16005**.

10. The tenant, in para no.4 of preliminary objections, took a specific plea that in the year 2020, landlord wanted to dispossess him illegally and forcibly. The landlord even called henchmen at the spot and tried to take the possession of demised premises forcibly. On his making hue and cry, some persons from the locality gathered and the landlord could not succeed in getting the possession forcibly but he threatened the tenant that he would come again and get the possession of the property. In the first week of May 2020, by taking benefit of the lock-down situation, the landlord tried to dispossess the tenant from the demised shop by breaking open the locks of the shutters forcefully, in the absence of tenant but could not succeed due to timely intervention of the tenant with the help of his neighbours and respectables of the locality. He also sent a false notice on 21.08.2020 to the tenant to vacate the shop on the ground of non-payment of rent. On 21.09.2020, he again came to the suit property and threatened the tenant and tried to dispossess him forcibly and illegally. He also filed suit for permanent injunction, wherein stay was granted.

11. It is too obvious that when successive attempts were being made by the landlord, then it is not believable that the tenant would pay the rent in cash without getting any receipt. The tenant has shown payment of rent in cash in the balance sheets of his proprietorship concern. There is no dispute that earlier tenant was regularly paying the rent through cheques and not by cash. Moreover, it is a question of evidence whether the balance sheets were regularly being maintained in daily course of business. No reliance can be placed on this type of documents at this stage.

12. In the light of above discussion, this Court is of the view that a well-reasoned order has been passed by the learned Appellate Authority, which warrants no interference at the hands of this Court. So, this revision petition deserves to be dismissed.

13. Ordered accordingly.

14. The tenant is granted time of three weeks to pay the amount of interim rent, as assessed by the learned Appellate Authority vide order dated 22.02.2024, failing which learned Rent Controller shall proceed in accordance with law.

15. Pending applications, if any, shall stand disposed of along with this judgment.

16. The parties are directed to appear before the learned Rent Controller on 17.04.2024 at 10:00 AM.

April 08, 2024
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.