



127 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4881 of 2024
Date of decision : 29.08.2024

PISHORI LAL ALSO KNOWN AS PISHORI LAL KOURA AND
ANOTHERPetitioners

Versus

SARABJIT DHALLARespondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sandeep Khunger, Advocate
for the petitioners.

PANKAJ JAIN, J. (ORAL)

This is revision filed under Article 227 of the Constitution of India praying for issuance of direction to the Appellate Authority, Kapurthala under the Punjab Rent Act, 1995 (hereinafter referred to as 'the 1995 Act') to consider and decide the application dated 29th of July, 2024 filed by the petitioner under Order 41 Rule 5 read with Section 151 CPC for staying the operation of the order dated 16th of April, 2024 passed by Rent Controller, Phagwara, District Kapurthala.

2. Petitioner is a tenant. Respondent/landlord claiming himself to be NRI filed eviction petition seeking ejectment of the petitioner under Section 24 of the 1995 Act. The petitioner/tenant sought leave to defend. Leave to defend was declined and on the same date order of eviction was passed.

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3. Aggrieved by the order of eviction, the petitioner moved before the Appellate Authority in appeal accompanied with an application seeking stay of the impugned order of eviction.

4. Counsel for the petitioner submits that though the appeal has been registered and admitted but no order on the interim application has been passed by the Appellate Authority. The rights of the petitioner are being seriously prejudiced as the landlord has already initiated execution proceedings *qua* the eviction order passed against the petitioner. Reference is being made to order dated 31st of July, 2024 (Annexure P-5) In order to support his contention, counsel for the petitioner relies upon law laid down by Apex Court in the case of **Mool Chand Yadav and another vs. Raza Buland Sugar Company Limited, Rampur and others, (1982) 3 SCC 484** and that by this Court in **Harinder Pal Singh vs. Palvinder Singh, 2023(2) R.C.R.(Rent) 494** and **Ashwani Kumar Bindra vs. Satish Kumar and another, 2018(2) Law Herald 1253**.

5. I have heard counsel for the petitioner and have carefully gone through the records of the case.

6. Section 52 of the 1995 Act provides for application to the Appellate Authority which reads as under:

“[52. **Application to the Appellate Authority.** (1) Subject to the other provisions of this Act, a person, aggrieved by any order pertaining to any matter within the jurisdiction of the Appellate Authority, may make an application to the Appellate Authority in



the form specified in Schedule XIII appended to this Act for the redressal of his grievance.

(2) Every application under sub-section (1) shall be in such form and be accompanied by such affidavits, documents or any other evidence and by such fees in respect of the filing of such applications and by such other fees for the service or execution of processes under the provisions of the Court Fees Act 1870, as amended by the State Government from time to time.

(3) On receipt of an application under sub-section (1), the Appellate Authority shall, if satisfied after such inquiry as it may deem necessary that the application is a fit case for adjudication or trial by it, entertain such application but where the Appellate Authority is not so satisfied, it may summarily reject the application after recording its reasons.]”

7. Bare perusal of the aforesaid provision would reveal that the same is the subject to the other provisions of the 1995 Act.

8. Section 54 of the 1995 Act deals with conditions as to making of interim order. The same reads as under:

“[54. Conditions as to making of Interim order.-

Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay) shall be made on, or in any proceeding relating to, an application or appeal unless,-

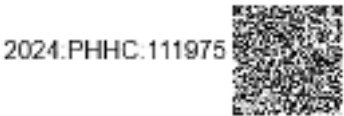
- (a) copies of such application or appeal and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or appeal is preferred; and
- (b) an opportunity is given to such party to be heard in the matter :

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Provided that the Appellate Authority may dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure, if it is satisfied, for reasons to be recorded, in writing, that it is necessary so to do for preventing any loss being caused to the applicant or the appellant, as the case may be, which cannot be adequately compensated in money, but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period or the Appellate Authority has continued the operation of the interim order.

9. The provision as contained under Section 54 is a *non-obstante clause* having over-riding effect not only on the provisions of the 1995 Act but also *qua* other provisions of any other law for the time being in force. The same prescribes conditions to grant of interim orders. Conditions are contained under sub-section (a) and sub-section (b). At the same time, proviso appended thereto carves out an exception and clothes Appellate Authority with the power to dispense with the requirements as contained under Clause (a) and Clause (b) as an exceptional measure, on being satisfied for the reasons to be recorded in writing that it is necessary to pass interim order to prevent loss caused to the applicant which cannot be adequately compensated for time being in force. Life of interim order can't be more than 14 days from the date it is passed.



10. Counsel for the petitioner fairly admits that the respondent/ landlord is yet to be served and no application seeking exemption from conditions as contemplated under Section 54(a) and (b) has been made as yet.
11. In view of above, the present petition is disposed off by granting liberty to the petitioner to move an appropriate application before the Appellate Authority seeking dispensing away of the requirements as contemplated under sub-section (a) and sub-section (b) of Section 54 of 1995 Act and by pleading exceptional circumstances showing loss to the applicant which cannot be adequately compensated in time.
12. In case, such application is filed, this Court is satisfied that the same shall be decided by the Appellate Authority expeditiously in accordance with law.
13. Ordered accordingly.

August 29, 2024

Dpr

Whether speaking/reasoned : Yes

Whether reportable : Yes

(Pankaj Jain)

Judge