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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(120)

CR-1152-2024

Date of decision: - 09.01.2025

Gurnam Singh Kanda

....Petitioner

Versus

Jaswinder Singh

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Divanshu Jain, Advocate,
Mr. Minkal Raval, Advocate, and
Mr. Abhinav Goel, Advocate
for the petitioner.

Mr. Prateek Sodhi, Advocate
for the respondent.

VIKAS BAHL, J. (ORAL)

1. Challenge in the present revision petition is to the judgment dated 08.08.2022 passed by the Rent Controller, Amritsar, vide which the petition filed by the respondent under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'Act of 1949') for the ejectment of the petitioner from the demised premises has been allowed. Challenge is also to the judgment dated 04.01.2024, passed by the Appellate Authority, Amritsar, vide which the appeal filed by the present petitioner has been dismissed.

2. Two primary issues which arise in the present case are as to whether the petitioner was to be granted an opportunity to pay the arrears



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of rent once the Courts had come to the conclusion that the petitioner was in arrears in view of the law laid down by the Hon'ble Supreme Court in case "**Rakesh Wadhawan Vs. M/s Jagdamba Industrial Corporation**", ***reported as 2002(1) RCR (Rent) 514***. The second issue which arises for consideration is as to whether the pleadings in the eviction petition were in consonance with the provisions of Section 13(3)(a)(i) of the Act of 1949.

3. During the course of arguments, a consensus has been arrived at between learned counsel for the petitioner and learned counsel for the respondent after taking instructions from their respective parties. A reference has also been made to the order passed by Co-ordinate Bench of this Court dated 13.03.2020 in ***Civil Revision No.3997 of 2018*** titled as '***Hardeep Singh and another Vs. Parveen Kumar and other connected matters***'.

4. With the consent of learned counsel for both the parties, the present revision is partly allowed with the following observations/directions: -

- (i) The judgment dated 04.01.2024 passed by the Appellate Authority, Amritsar is set aside and the case is remanded to the Appellate Authority, Amritsar, for fresh decision.
- (ii) The respondent is given opportunity to move an application under Order 6 Rule 17 of the CPC for amendment of the eviction petition so as to incorporate the ingredients of Section 13(3)(a)(i) of the Act of 1949 and in case of the respondent doing so, the said amendment would be allowed by the Appellate Authority and the present petitioner would



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be granted liberty to file an amended written statement.

- (iii) One opportunity would be given to the petitioner to pay the arrears of rent as assessed by the Rent Controller, Amritsar in paragraph 13 to the extent of Rs.26,723/-.
- (iv) The petitioner would keep depositing an amount of Rs.20,000/- per month, as mesne profit, as assessed by the Appellate Authority on 19.04.2023 till the time the appeal is decided by the Appellate Authority.
- (v) The arrears of the mesne profit, if any, would also be deposited by the petitioner within a period of six weeks from today.
- (vi) After carrying out the steps detailed in sub-clause (ii) and (iii) hereinabove, the Appellate Authority would proceed to decide the appeal afresh after hearing both the parties and after taking into consideration the amended pleadings and the evidence already on record, as expeditiously as possible, preferably, within a period of three months from the date the amended pleadings are complete.

5. It is made clear that this Court has not opined on the merits of the case and it would be open to the Appellate Authority to decide the matter independently after taking into consideration the arguments raised on behalf of both the parties.

January 09, 2025
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No