



286

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

**CR-3529-2024
DECIDED ON: 21.01.2025**

ANJU KHANNA**.....PETITIONER****VERSUS****DAVINDER KHARBANDA****....RESPONDENT****CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.**

Present: Mr. Akshit Aggarwal, Advocate
for the petitioner.

Mr. Harsh Manocha, Advocate
for the respondent.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition assails the order dated 27.05.2024 (Annexure P-6) passed by the Appellate Authority dismissing the appeal filed by the petitioner-tenant against the order dated 16.04.2024 (Annexure P-4) passed by the Court of learned Rent Controller, Yamunanagar vide which the petitioner-tenant was ordered to be evicted from the tenanted premises.

2. The facts, as borne out from the revision petition, are that a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short 'the Rent Act') (Annexure P-1) was moved by the respondent-landlord for eviction of the petitioner-tenant from the house No.480-L situated at Model Town, Yamunanagar (hereinafter referred to as the 'demised premises) on the ground of non-payment of rent. The eviction was resisted by the petitioner-tenant by filing a reply (Annexure P-2). Vide order dated 02.04.2024 (Annexure P-3), provisional assessment of rent was



CR-3529-2024

-2-

made and the case was fixed for 16.04.2024 for tender of the provisional rent. On 16.04.2024, rent was not tendered and instead, an application for grant of one month time to deposit the provisional rent was moved which was declined and eviction order was passed. Aggrieved by the same, an appeal (Annexure P-5) was preferred which has also been dismissed by the Appellate Authority, leading to the filing of the present revision petition.

3. I have heard learned counsel for the parties.

4. Learned counsel for the petitioner has strenuously urged that the orders passed by the Court of learned Rent Controller and the Appellate Authority are not sustainable for, in terms of the proviso to Section 13(2)(i) of the Rent Act, 15 days period had to be granted from the first hearing for tender of rent. He submits that since the provisional rent was assessed on 02.04.2024 and the date for tender of the same was fixed as 16.04.2024, 15 days period was not granted which is in violation of the statutory provision and, therefore, the rights and interests of the petitioner-tenant have been prejudiced. Learned counsel further submits that the petitioner-tenant is willing to tender the entire outstanding amount within a period of 24 hours.

5. Per contra, learned counsel for the respondent-landlord has submitted that there is no illegality in the impugned decisions for, in terms of the decision of the Supreme Court of India in the case of '**Rakesh Wadhawan and Others Vs. Jagdamba Industrial Corporation and Others**', (2002) 5 SCC 440 and other judgments on the subject, the amount had to be tendered on the date fixed by the Rent Controller after the assessment of provisional rent. He submits that after the assessment of rent on 02.04.2024, the matter was fixed for 16.04.2024 thereby granting a period of 15 days to the petitioner-tenant for tender of rent. He submits that even on 16.04.2024,



CR-3529-2024

-3-

it was never the contention before the Court of learned Rent Controller that 15 days had not been granted and instead, an application for the grant of one more month was moved. He submits that under the circumstances, the eviction order was rightly passed by both the Courts. He further submits that the order dated 02.04.2024 vide which the provisional rent was assessed has never been challenged till date and it is only the eviction order which is under challenge.

6. I have considered the submissions made by learned counsel for the parties.

7. Admittedly, the eviction petition was filed on the ground of non-payment of rent. On 02.04.2024, the provisional rent was assessed and after calculating the rate of rent and interest, the total came to Rs,1,62,700/- which the petitioner-tenant was directed to pay on 16.04.2024. On 16.04.2024, instead of tendering the rent, an application was moved by the petitioner-tenant for the grant of one month time to deposit the rent. The said request was turned down and while relying upon the judgment passed by the Division Bench of this Court in '**Rajan @ Raj Kumar Vs. Rakesh Kumar**', **2010 (1) RCR (Rent) 386 (P&H)** as also the judgments passed by the Single Bench of this Court in the case of '**Rajesh Thakur and others Vs. Jangi Lal**', **2011 (1) Rent Control Reporter 482** and '**Arun Jain Vs. Kulbir Kaur**', **2011 (1) RCR (Rent) 409**, in which it was held that once the rent had not been tendered, eviction order was bound to be passed. The Appellate Authority also considered the matter including the argument of a period of 15 days not having been granted and while relying upon the judgment rendered in '**Rakesh Wadhawan and Others Vs. Jagdamba Industrial Corporation and Others**' (supra), the appeal was rejected. In the considered



opinion of this Court, no illegality was committed by the Courts. As has been noticed above, the provisional rent was assessed on 02.04.2024 and the case was fixed for 16.04.2024, for tender of the provisional rent. On that day, no request was made before the learned Rent Controller that 15 days time had not been granted and instead, an application was moved for grant of one month time for tendering the rent. This shows the intention of the petitioner-tenant and makes it clear that the only intention was to buy time. Even otherwise, 15 days period had been granted to the petitioner-tenant and there was no occasion to exclude the day on which the rent was assessed for the same was passed in the presence of the counsel representing the petitioner-tenant. In the case of ‘*Rakesh Wadhawan and Others Vs. Jagdamba Industrial Corporation and Others*’ (supra), it was held by the Supreme Court of India that in case on the date fixed for tendering the rent, the same is not paid, nothing else is required to be done and eviction would follow. This judgment was further approved by a Three Judges Bench of the Supreme Court of India in the case of ‘*Vinok Kumar Vs. Prem Lata*’, 2003 *AIR SC 3854* , wherein it was held as under:-

- - - - -

“3. In Rakesh Wadhawan’s case, the decree for eviction was passed under Section 13 (2) (i) of the East Punjab Urban Rent & Restriction Act, 1949 (hereinafter referred to as ‘the Punjab Act’ for short). It is, therefore, necessary to consider the relevant provisions of the two Acts. The same are extracted and re-produced hereunder:

PUNJAB ACT	HARYANA ACT
S.13. Eviction of tenants	S.13. Eviction of tenants-
(1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise and whether before or after the termination of the tenancy, except in accordance with the provisions of this	A tenant in possession of a building or a rented land shall not be evicted therefrom except in accordance with the provisions of this Section.



section, or in pursuance of an order made under section 13 of the Punjab Urban Rent Restriction Act, 1949 as subsequently amended.	
2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the applicant, is satisfied	2. A landlord who seeks to evict his tenant shall apply to the Controller, for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied
i) that the tenant has not paid or tendered the rent due by him in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the last day of the month next following that for which the rent is payable :	(i) that the tenant has not paid or tendered the rent due from him in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the last day of the month next following that for which the rent is payable :
Provided that if the tenant on the first hearing of the applications for ejectment after due service pays or tenders the arrears of rent and interest at 6% per annum on such arrears together with the cost of application assessed by the Controller, the tenant shall be deemed to have duly paid or tendered the rent within the time aforesaid;	Provided that if the tenant, within a period of fifteen days of the first hearing of the application for ejectment after due service, pays or tenders the arrears of rent and interest, to be calculated by the Controller, at eight percentum per annum on such arrears together with such costs of the application, if any as may be allowed by the controller, the tenant shall be deemed to have duly paid or tendered the rent within the time aforesaid
XXX	Provided further that the landlord shall not be entitled to claim arrears of rent for a period exceeding three years immediately preceding the date of application under the provision of this Act.
the Controller may make an order directing the tenant to put the landlord in possession of the building or rented land and if the Controller is not so satisfied he shall make an order rejecting the application :	the Controller may make an order directing the tenant to put the landlord in possession of the building or rented land and if the Controller is not so satisfied he shall make an order rejecting the application:
Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not to exceed three months in the aggregate.	Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not to exceed three months in the aggregate.

- - - - -

9. It is true that the decisions in M/s. Rubber House (supra) and Rajinder Kumar Joshi (supra) were not brought to the notice of the Court deciding Rakesh Wadhawan's case (supra) and it would have been better if that would have been done at the Bar. However, the present petition has given as the opportunity of examining afresh the merits of the three decisions under consideration in the Punjab Act and the Haryana Act insofar as the ground for eviction on account of default in payment or tendering the arrears of rent by the tenant is concerned. We are of the



opinion that M/s. Rubber House's case and Rajinder Kumar Joshi's case do not place a correct interpretation upon the provisions. The decision in Rakesh Wadhawan's case correctly lays down the law and is re-affirmed. The interpretation placed by this Court in Rakesh Wadhawan's case on Section 13(2)(i) with the proviso in the Punjab Act applies for interpreting Section 13(2)(i) and the proviso as contained in the Haryana Act.”

Further, in this case, a plea had been taken that the judgment in *Rakesh Wadhawan’s* case pertained to the East Punjab Urban Rent Restriction Act, 1949 and, therefore, the same would not apply to the Haryana Urban (Control of Rent and Eviction) Act, 1973. The Supreme Court of India then compared the provisions of both acts and came to the conclusion that the interpretation placed by the Supreme Court of India in *Rakesh Wadhawan’s* case on Section 13 (2) (i) with the proviso in the Punjab Act applies for interpreting Section 13 (2) (i) and the proviso as contained in the Haryana Act. Under the circumstances, the argument of the petitioner falls to the ground and, therefore, no illegality was committed by the Courts in ordering the eviction of the petitioner-tenant.

In view of the aforesaid facts and circumstances, I do not find any merit in the present appeal and the same is accordingly dismissed.

21.01.2025
Prince Chawla

(VIKRAM AGGARWAL)
JUDGE

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