

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****265****CR-2419-2024 (O&M)****Date of decision: 16.04.2026****Gobind Ram****...Petitioner(s)****Vs.****Lala Mathura Prasad Trust and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Pankaj Nanhera, Senior Advocate assisted by
Ms. Sachin Jangua, and Ms. Ishita Arora, Advocate
for the petitioner.

Mr. Sunil Chadha, Senior advocate with
Ms. Kashish Aggarwal, Advocate
for the respondents.

NIDHI GUPTA, J.

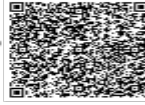
Present Civil Revision Petition has been filed by the tenant against the order dated 23.12.2022 passed by the learned Rent Controller whereby Rent Petition filed by the respondent/landlord has been allowed; and the order dated 01.04.2024 passed by the Appellate Authority whereby Rent Appeal filed by the petitioner has been dismissed.

2. Brief facts of the case in chronological order are as follows: -

15.01.1970: The petitioner had entered demised premises as tenant vide Rent Note dated 15.01.1970 (Annexure P-2) at monthly rent of Rs.32.

07.12.1991: Subsequently, vide order dated 07.12.1991 (Annexure P-3), Rent Controller had assessed fair rent @ Rs.65 per month.

02.09.2016: On 02.09.2016, respondent/landlord had sought ejectment of the petitioner from the demised premises by way of Rent Petition.



16.12.2016: Vide order dated 16.12.2016 (Annexure P-1), learned Rent Controller had assessed provisional rent and had assessed arrears of rent as Rs.4,125/-. The petitioner had offered to tender the said amount however, the respondent had declined to receive the same by stating that tender is short as house tax is not included.

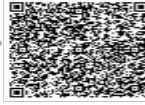
04.07.2017: On 04.07.2017, petitioner had filed reply to the Rent Petition and had admitted landlord-tenant relationship between the parties and had also admitted arrears of rent.

22.04.2019: On 22.04.2019, the petitioner had filed application for permission to deposit the assessed rent.

13.12.2021: On 13.12.2021, respondent/landlord had filed an application for eviction order against the tenant due to non-deposit of provisional rent, assessed under Section 13(2)(1) of the Haryana Urban (Control of Rent & Eviction) Act, 1973.

23.12.2022: Vide order dated 23.12.2022 passed by the learned Rent Controller, Charkhi Dadri, application dated 22.04.2019 filed by the petitioner was dismissed; and application dated 13.12.2021 passed by the respondent/landlord was allowed. Vide impugned order dated 23.12.2022, it was directed as follows: -

“22. Hence, finding support from the said case law, this Court is of the view that the arguments advanced by petitioner has merit. Consequently, the application dated 22.04.2019, filed on behalf of respondent is hereby dismissed and the application dated 13.12.2021, filed on behalf of petitioner is hereby allowed. Consequently, the present petition also stands allowed. Resultantly, the respondent is hereby ordered to put



the petitioner in possession of the premises in question within three months from the date of passing of this order. Memo of costs be drawn accordingly.

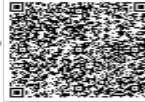
13.02.2023: On 13.02.2023, petitioner had preferred an Appeal against the said order dated 23.12.2022.

01.04.2024: Vide order dated 01.04.2024 passed by learned Appellate Authority, Charkhi Dadri, Rent Appeal of the petitioner has been dismissed.

3. Hence, present revision petition.

4. It is *inter alia* submitted by Id. Senior Counsel for the petitioner that it has been categorically recorded by learned Rent Controller in para 2(a) of the order dated 23.12.2022 that the respondent had sought arrears of rent for the period 01.01.2016 to 31.07.2016 *“alongwith House Tax/Property Tax, interest and costs, is due from the tenant; that the total House Tax for the years 1995 to 2013 is Rs.56,749/- and the Property Tax from the years 2014 to 2016 is Rs.5940/- @ Rs.1980/- per year, thus, total House Tax/Property Tax amounting to Rs.62,689/- is also due from the Tenant which the tenant has not paid to the petitioner/landlord, therefore, the tenant is liable evicted from the rented plot on the grounds of non-payment of arrears of rent.”*

5. Learned Senior counsel contends that as per the Rent Note/Deed (Annexure P-2); as also as per order dated 17.12.1991 (Annexure P-3) passed in Rent Case previously filed by the respondent against the petitioner, rate of rent had been fixed by learned Rent Controller, Charkhi Dadri as Rs.65 per month. It is submitted that it is



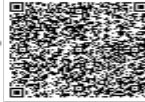
nowhere stated that petitioner also has to pay house tax thereupon. Thus, it was not incumbent upon the petitioner to pay house tax.

6. It is further submitted that in any event, it is undisputed fact on record that vide order dated 16.12.2016, petitioner had duly tendered the rent arrears of Rs.4,125/- however it is the respondent who has refused to accept the same on the ground that it was short tender as it did not include house tax. It is submitted that therefore, the eviction of the petitioner from the demised premises could not have been ordered on the ground that the petitioner had failed to pay provisional rent.

7. It is accordingly prayed that the present Revision Petition be allowed; and the impugned judgments-orders be set aside.

8. *Per contra*, learned Senior Counsel for the respondent vehemently opposes submissions advanced on behalf of the petitioner and submits that in the event that respondent has refused to accept the provisional rent so tendered by the petitioner in terms of Rule 11 of the Deposit of Rent (Section 23) of the Haryana Urban (Control of Rent & Eviction) Rules, 1976, the petitioner was required to deposit the provisional rent in the Court of Rent Controller. However, petitioner failed to do so; and only moved application more than 2 years thereafter on 22.04.2019 for permission to deposit the assessed rent. Therefore, the present Revision Petition is misconceived and deserves to be outrightly dismissed.

9. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of Id. Senior Counsel for the petitioner.



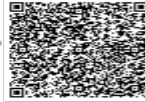
10. It is admitted fact on record that the provisional rent was assessed by the Rent Controller vide order dated 16.12.2016 (Annexure P-1). The Hon'ble Supreme Court in **Rakesh Wadhawan v. M/s. Jagdamba Industrial Corporation, (SC) : Law Finder Doc Id # 3207**, has clearly held that:

"A. East Punjab Urban Rent Restriction Act, 1949, Section 13(2) (i) proviso - Arrears of rent - First date of hearing - Petition for eviction on ground of arrears of rent - Tenant raising genuine dispute regarding rate of rent, quantum of rent etc. - In such a case it is obligatory on Rent Controller to make assessment of arrears of rent, interest and cost of ligation and fix provisional rent to be paid by tenant on first date of hearing - The first date of hearing, would mean the date falling after the provisional order of Rent Controller - On payment of provisional rent by tenant, Rent Controller will then finally adjudicate arrears of rent - If rent finally adjudicated is more than the provisional rent, then tenant will be given one more opportunity to make up deficiency to escape order of eviction."

The Hon'ble Supreme Court in **R. Wadhawan (supra)** has concluded that: -

"1. In Section 13(2)(i) poviso, the words "assessed by the Controller" qualify not merely the words "the cost of application" but the entire preceding part of the sentence i.e. "the arrears of rent and interest at six percent per annum on such arrears together with the costs of application".

2. The proviso to Section 13(2)(i) of the East Punjab Urban Rent Restriction Act, 1949 casts an obligation on the Controller to make an assessment of (i) arrears of rent, (ii) the interest on such arrears, and (iii) the cost of application and then quantify



by way of an interim or provisional order the amount which the tenant must pay or tender on the "first date of hearing" after the passing of such order of "assessment" by the Controller so as to satisfy the requirement of the proviso.

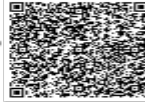
3. Of necessity, "the date of first hearing of the application" would mean the date of filing after the date of such order by the Controller.

4. On the failure of the tenant to comply, nothing remains to be done and an order for eviction shall follow."

11. Thus, in terms of the above landmark judgment, the Hon'ble Supreme Court has unequivocally laid down that tenant/ petitioner had to deposit the provisional rent positively on the next date of hearing; failing which petitioner was liable to be outrightly evicted from demised premises.

12. Contention of the petitioner that he had tendered the assessed rent and it was the respondent who had refused to accept the same on the ground that it was short tender; and therefore, eviction of the petitioner could not have been ordered, is also liable to be rejected in view of the clear stipulation contained in Rule 11: Deposit of Rent (Section 23) of the Haryana Urban (Control of Rent & Eviction) Rules, 1976, noticed in the impugned order as follows: –

"Rent, interest and costs assessed by the Controller, which are tendered by the tenant under Section 13 of the Act, but refused by the landlord, shall be deposited by the tenant in the Court of the Controller. Such sums deposited shall be treated as Civil Court Deposits and accounted for and dealt with according to the rules of the Civil Deposits in force in civil Courts. In the present case, the tenant did not comply with the said rule."

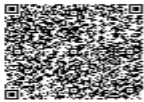


(Emphasis added)

13. Thus, upon the refusal by the landlord, it was incumbent upon the petitioner to deposit the provisional rent in the Court of Controller. Admittedly, petitioner has moved application for tender of rent only on on 22.04.2019, viz two years after passing of the order dated 16.12.2016. Hence, petitioner is liable to be ejected forthwith from demised premises.

14. Relevant findings of the learned Appellate Authority are noted in para 12 of the judgment dated 01.04.2024 which reads as follows: -

“12. In the present case, assessment of provisional rent was made by learned Rent Controller on 16.12.2016 and on the same day, appellant/tenant had offered to pay the provisional rent but it was refused by the respondent/landlord taking plea that it was short tender on account of non depositing the house-tax. No doubt, while assessing the provisional rent, learned rent controller did not order to pay any amount towards house tax but when provisional rent was refused by the respondent then it was duty of the appellant/tenant to deposit the same in the Court on or before next date following the order of provisional assessment as per Section 6A of Haryana Urban (Control of Rent & Eviction) Act, 1973 and law laid down in Atma Ram, Sarla Goel and Ujjawal Sehrawat's case (supra). But it was not deposited by the appellant/tenant. He made application for depositing the provisional rent only on 22.04.2019 i.e. after about 2 years and 4 months from the date of assessment of provisional rent and even at that time, he had not filed demand-draft of the provisional rent in order to show his bonafide. Since appellant/tenant had made default in depositing provisional rent then in view of law laid down in Rakesh Wadhawan and Vinod Kumar's case (Supra) the



learned Rent Controller has rightly passed eviction order against appellant. Thus, I do not find any substance in the contentions of the learned counsel for the appellant that tendering of provisional rent by the appellant which was refused by the respondent/landlord amount to compliance of order of provisional assessment of rent or law laid down in Rakesh Wadhawan's case is not applicable to the facts and circumstances of the present case."

15. In view of the above noted factual and legal position, the present Revision Petition is **dismissed**.

16. Pending application, if any, stands disposed of.

16.04.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

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