



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

125

CR-2053-2025

Date of Decision: 03.04.2025

Harminder Singh

....Petitioner

Versus

Harvinder Kaur and another

...Respondents

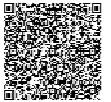
CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Sandeep K. Sharma, Advocate for the petitioner.

NIDHI GUPTA, J.

1. Challenge in the present revision petition filed by the tenant-petitioner is to the order dated 25.03.2025 passed by the learned Appellate Authority, Fatehgarh Sahib, whereby the appeal filed by the petitioner against the judgment/order dated 02.11.2023, rendered by the learned Rent Controller, was dismissed.

2. Brief facts of the case are that the respondent-landlords had filed an application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as 'the Act') for eviction/ejectment of the petitioner-tenant from the demised premises. Eviction of the petitioner was sought on account of: a) non-payment of rent from the year 1992; and b) *bona fide* necessity of the landlords. Vide order dated 02.11.2023 the learned Rent Controller, Khamanon, allowed the ejectment petition filed by the respondent-landlords and the petitioner-tenant was granted one month's time to hand over the vacant physical possession of the demised premises to the respondent-landlords. Feeling aggrieved against the aforesaid order of eviction, the petitioner had filed



an appeal dated 13.12.2023 before the learned Appellate Authority, Fatehgarh Sahib, which was dismissed vide impugned order dated 25.03.2025.

3. Learned counsel for the petitioner-tenant, *inter alia*, submits that the impugned orders deserve to be set aside as, in the application filed by the respondent-landlords under Section 13 of the Act, the learned Rent Controller, vide order dated 02.05.2017 (Annexure P-1) had assessed the Provisional Rent @ ₹1,000/- per month w.e.f. January, 1992 till date i.e. for 305 months. Resultantly, the arrears of rent to be paid by the petitioner were calculated to be ₹5,39,325/-. It is submitted that the said order was assailed by the petitioner before the learned Appellate Authority; and vide order dated 21.08.2017 (Annexure P-2) passed by the learned Appellate Authority, appeal of the petitioner was dismissed. The aforesaid orders dated 02.05.2017 and 21.08.2017 (Annexures P-1 and P-2, respectively) were challenged by the petitioner-tenant before this Court by way of CR-6390-2017. Vide order dated 19.09.2017 (Annexure P-3), this Court had remanded the matter back to the learned Appellate Authority for decision afresh. Pursuant to same, the learned Appellate Authority, vide order dated 11.01.2018 (Annexure P-4) directed the learned Rent Controller to make fresh assessment of the Provisional Rent to be payable by the petitioner. However, the ld. Rent Controller, vide order dated 04.10.2023 (Annexure P-5) again assessed the Provisional Rent payable by the petitioner @ ₹1,000/- per month w.e.f. 01.01.1992 to 30.09.2023; and the arrears now payable by the petitioner were calculated to be ₹7,21,026.50 paisa.



4. It is submitted that subsequently, vide impugned order dated 02.11.2023, the eviction of the petitioner was ordered from the demised premises. The said order was challenged by the petitioner before the learned Appellate Authority and vide another impugned order dated 25.03.2025, the appeal filed by the petitioner has also been dismissed.

5. Learned counsel for the petitioner-tenant contends that by way of filing appeal before the learned Appellate Authority, the petitioner had also laid challenge to the order dated 04.10.2023 (Annexure P-5) whereby the learned Rent Controller had re-assessed the Provisional Rent to be paid by the petitioner. However, perusal of the impugned order dated 25.03.2025, shows that no consideration has been afforded by the learned Appellate Authority as to whether the Provisional Rent has been properly assessed by the learned Rent Controller vide order dated 04.10.2023 (Annexure P-5). It is submitted that in fact, at no stage have the learned Authorities below considered the correctness of the provisional rent. As such, the petitioner has been foisted with an exorbitant liability. It is contended that in this short view of the matter, the eviction order could not have been passed by both the Authorities below.

6. In support, learned counsel for the petitioner-tenant relies upon judgments in *(i) Anjali Foundation vs. Anil Mehra, Law Finder Doc Id # 2678688; (ii) Taninder Tandon Vs. Dr. Anjan Parkash Kaur, Law Finder Doc Id #658347; (iii) Naresh Kumar vs. Mahender Kumar Jain along with other connected petition, Law Finder Doc Id # 2093986; (iv) Mukesh Agrawal vs. Smt. Chanchal Gupta, Law Finder Doc Id # 1690198 and (v) Dalip Kaur Brar vs. M/s Guru Granth Sahib Sewa Mission (Regd.) and Anr., Law Finder Doc Id # 846086.*



7. No other argument has been raised by learned counsel for the petitioner.
8. I have heard learned counsel for the petitioner and perused the case file in great detail.
9. I find no merit in the submissions advanced on behalf of the petitioner-tenant. It is the admitted fact on record that earlier, the learned Rent Controller, vide order dated 02.05.2017 (Annexure P-1) had assessed the provisional rent @ ₹1,000/- per month w.e.f. January 1992 till date i.e. for 305 months. As such the arrears of rent to be paid by the petitioner was calculated to be ₹5,39,325/-. Thereafter, the petitioner had filed an appeal before the learned Appellate Authority, which was dismissed vide order dated 21.08.2017 (Annexure P-2). Feeling aggrieved, the petitioner assailed the aforesaid orders dated 02.05.2017 and 21.08.2017 (Annexures P-1 and P-2, respectively) before this Court by way of CR-6390-2017. The said revision petition was disposed of by this Court vide order dated 19.09.2017 (Annexure P-3), and the matter was reminded back to the learned Appellate Authority as follows:

“Aggrieved by the order of the Rent Controller, Khamanon, the tenant carried an appeal to the Appellate Authority, Fatehgarh Sahib, who has dismissed the same. The averments in Para.7 of the grounds of appeal taken before the Appellate Authority was that earlier rent at the rate of `600/- per month was deposited up to 2001 in the account of the landlord Badan Singh maintained in the Punjab & Sind Bank, Khamanon. Thereafter, the position is not clear and remains subject to proof by evidence before and after 2001 to confirm transfers of money. It is argued by the learned counsel for the tenant that this aspect as



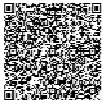
contained in Para.7 of the grounds of appeal has been ignored by the Appellate Authority while passing the final order affirming the order of the Rent Controller.

The Appellate Authority cannot be blamed for this, as it was for the tenant to produce the Bank statements at proper stage to show that rent was paid for the period claimed. If there was laxity on the part of the tenant in not backing up the pleadings with proof and if such documentary proof exists on bank record, then to the mind of the Court the ends of justice may demand that the matter should be remitted for reconsidered by the Appellate Authority by giving an opportunity to the tenant to produce bank officials/bank statements and the photocopies of rent payment receipts through banking transactions which are in his possession, so that the same can be matched and compared with the transactions on the original bankers book in case they have not been weeded out.

Having heard learned counsel for the parties, this Court is of the considered view that justice may be served if the matter is remanded and the Appellate Court is requested to pass a fresh order as expeditiously as possible after taking into consideration the new material which may be placed before it by both the parties upon remand and after hearing them take a call on the evidence.

Disposed of accordingly”.

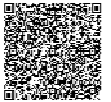
10. As such, vide order dated 19.09.2017 (Annexure P-3), the matter was remanded back to the learned Appellate Authority for decision afresh by taking into consideration any new material which may be placed before it. Pursuant to the same, the learned Appellate Authority vide order dated 11.01.2018 (Annexure P-4), had further remanded the matter back to the learned Rent Controller in the following terms: –



“14. After hearing the learned counsel for the parties and after going through the record of the case including the various vouchers placed on record by the tenant before this Court, this Court is of the confirmed and considered view that the stage of the case when the order dated 2.5.2017 was passed by the learned Rent Controller requires to be revisited by the Rent Controller for which purpose the case stands remanded to the learned Rent Controller, who after taking into consideration the vouchers Mark A to Mark Q, shall made a fresh assessment of tender. The findings returned by the Rent Controller regarding provisional rate of rent @ Rs.1000/- per month would remain the same. The assessment of actual arrear of rent be made after taking into consideration the vouchers Mark A to Mark Q, the amount so paid through these vouchers, the period for which the rent remained due. After so making a fresh assessment of tender of rent, one effective opportunity be granted to the tenant to deposit the arrear of rent in the court.”(Emphasis added)

11. From a bare reading of the above, it is clear that the learned Appellate Authority had duly considered and found that no interference was called for in the provisional rent as assessed by the learned Rent Controller @ ₹1,000/- per month. And only an assessment of actual arrears of rent was required to be made on the basis of vouchers, if any, to be supplied by the petitioner or the respondent. As such, argument of learned counsel for the petitioner to the effect that in appeal, no consideration was afforded by the Appellate Authority to the provisional rent as assessed by the Rent Controller, is misfounded.

12. In compliance, the learned Rent Controller has passed the order dated 04.10.2023 (Annexure P-5) taking note of the fact that the petitioner had produced only photocopies of the vouchers Mark A to



Mark Q as per which an amount of ₹12,700/- had been paid by the petitioner towards rent since 1992. It is specifically noticed in the order dated 04.10.2023 (Annexure P-5) that *'the respondent has failed to produce on record these Original Vouchers despite numerous orders of this Court for producing the same on file and lastly, for compliance of Orders of Ld. Appellate Authority for considering these vouchers, the original file of Ld. Appellate Authority has been summoned from Record Room to consider the said vouchers for the limited purposes of calculating the arrears for the limited purposes of the Provisional Assessment of Rent, in the absence of production of Original Vouchers before this Court'*.

13. Nonetheless, the learned Rent Controller deducted the said amount of ₹12,700/- and assessed the arrears of rent to be ₹7,21,026.50 paise (@₹1,000/- x 381 months) i.e. w.e.f. 01.01.1992 to 30.09.2023. The aforesaid order (Annexure P-5) was challenged by the petitioner before the Appellate Authority; and vide impugned order dated 25.03.2025, the appeal of the petitioner has been dismissed.

14. Furthermore, even the conduct of the petitioner requires mention inasmuch as vide order dated 04.10.2023 (Annexure P-5), the learned Rent Controller in accordance with law had granted one effective opportunity to the petitioner *'for tendering the aforementioned provisionally Assessed Rent Amount on 26.10.2023'*. It is pertinent to mention here that on 26.10.2023 the learned Rent Controller was to be on leave; and the file was taken up on 25.10.2023, on which date the matter stood adjourned to 02.11.2023 for conducting proceedings as per previous order. On 02.11.2023, following order was passed by the Rent Controller:



“Today, the case was fixed for payment/tender of rent by tenant which was provisionally assessed by this court vide its previous order dated: 04.10.2023. But the Ld. Counsel for the respondent submitted that respondent was aware to tender the rent but was neither appeared to tender rent nor given any instruction to him qua the same. It is already 04:15 PM now and till now nothing has been paid or tendered by tenant/respondent today. Accordingly, vide my separately passed detailed order of the even date, the ejectment petition is allowed and the ejectment order has been passed against the respondent/tenant with costs. Memo of costs be prepared.

Any application, if pending in this case, was neither brought to the notice of the court nor argued upon and nor pressed by any of the parties. Accordingly, any such application, if pending, also stands disposed off in terms of final order on this petition.

File be consigned to the record room after due compliance.”

15. Thus, the eviction order came to be passed in the above noted circumstances.

16. Much hue and cry has been made by learned counsel for the petitioner that the Provisional Rent as assessed by the Authorities below was exorbitant; as also that in appeal no re-assessment was made by the Appellate Authority; and also no finding has been given by the learned Appellate Authority as to whether the Provisional Rent was properly assessed by the learned Rent Controller or not in the impugned orders.

17. In find no merit in the said contentions of learned counsel for the petitioner for the reasons noted above. It is well entrenched position in law as enunciated by the Hon’ble Apex Court in a landmark judgment in ***Rakesh Wadhawan vs. M/s. Jagdamba Industrial Corporation, Law***



Finder Doc Id # 3207, wherein it is unambiguously, unequivocally and categorically held as under:-

“30. *To sum up, our conclusions are :*

1. *In Section 13(2)(i) proviso, 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 per cent per annum on such arrears together with the cost of application'.*

2. *The proviso to Section 13(2)(i) of East Punjab Urban 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 falling after the date of such order by Controller.*

4. *On the failure of the tenant to comply, nothing remains to be done and an order for eviction shall follow.* *If the tenant makes compliance, the inquiry shall continue for finally adjudicating upon the dispute as to the arrears of rent in the light of the contending pleas raised by the landlord and the tenant before the Controller.*

5. *If the final adjudication by the Controller be at variance with his interim or provisional order passed under the proviso, one of the following two orders may be made depending on the facts situation of a given case. If the amount deposited by the tenant is found to be in excess, the Controller may direct a refund. If on the other hand, the amount deposited by the tenant is found to be short or*



deficient, the Controller may pass a conditional order directing tenant to place the landlord in possession of the premises by giving a reasonable time to the tenant for paying or tendering the deficit amount, failing which alone he shall be liable to be evicted. Compliance shall save him from eviction.

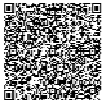
6. *While exercising discretion for affording the tenant an opportunity of making good the deficit, one of the relevant factors to be taken into consideration by the Controller would be, whether the tenant has paid or tendered with substantial regularity the rent falling due month by month during the pendency of the proceedings.”*

(Emphasis added)

18. Admittedly, in the present case, the petitioner has failed to comply with/make payment of the provisional rent as assessed by the learned Rent Controller and affirmed by the learned Appellate Authority. As such, as per the above pronouncement, the eviction of the petitioner shall follow without further consideration.

19. On the contrary, it has been submitted by learned counsel for the petitioner before this Court that the petitioner-tenant is not in arrears of rent since the year 1992; and arrears of rent are payable only since 2017. On a query by this Court that as to why the rent has not been paid for so many years, learned counsel for the petitioner repeatedly states that the petitioner is ‘*ready to pay the rent*’.

20. The petitioner can derive no benefit from the relied upon judgments as the same are distinguishable on facts and law. The undisputed legal position in this regard is that it is incumbent upon the tenant to deposit the arrears of rent as provisionally assessed by the



learned Rent Controller '*on the first date of hearing*' failing which the tenant is liable to be evicted forthwith from the demised premises.

21. In view of the discussion made here-in-above, the present revision petition, being meritless, is **dismissed**.

22. Pending application(s), if any, shall also stand disposed of.

03.04.2025
rishu

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No