

CR-1649-2025

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2025:PHHC:052607



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

CR-1649-2025

Date of decision : 24.04.2025

Sarbjit Dhalla

... Petitioner

Versus

Pishori Lal and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Abhay Kumar Sharma, Advocate
for the petitioner.

Mr.Sandeep Khunger, Advocate
for the respondents.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned judgment dated 31.01.2025 (Annexure P-1) passed by the Appellate Authority, Kapurthala vide which the appeal filed by the respondents has been allowed.

2. On 20.03.2025, this Court was pleased to pass the following order:-

*“Present:- Mr. Abhay Kumar Sharma, Advocate, for the
petitioner.*

*Inter alia, contends that in the present case, the
petitioner is aggrieved with certain observations made in para
12 of the impugned order, which has been reproduced as*



under: -

“12. Accordingly in the light of my discussion above, it is held that the order passed by the Rent Authority is not sustainable under the provision of law. Serious prejudice was caused to the respondents due to the non providing of opportunity for filing of review application before the Rent Authority within stipulated period of 10 days. Hence, finding merit, the present appeal is allowed. However, it is observed that respondents will have liberty to file the review petition within the period of 10 days from today under the provision of clause E to sub Section 7 of Section 38 of the Act, if so advised and learned Rent Authority will decide the same in accordance with law. Memo of cost be prepared. Record of the learned Rent Controller be returned along with copy of this judgment. Appeal file be consigned to the Record Room.

Pronounced in open Court

Dated: 31.01.2025”

It is stated that since a liberty has been granted to the respondents-tenants to file a review petition, thus, apparently the order dated 16.04.2024 has not been set aside. It is however submitted that in the earlier part of para 12 of the impugned order, observations had been made to the effect that the appeal is allowed and the said observation should not be construed as the order dated 16.04.2024 having been set aside, as the prayer in the appeal is for setting aside the said order dated 16.04.2024. It is submitted that it is only for seeking the said clarification that the present revision petition has been filed as the petitioner has no objection in case a review petition is filed by the respondents in pursuance of the impugned order and the same is decided in accordance with law.

Notice of motion for 03.04.2025.

Liberty is granted to the petitioner to serve the respondents through dasti process as well as through the counsel appearing for them before the trial Court.



*To be taken up in the urgent list.
March 20, 2025”*

3. Learned counsel for the petitioner has pointed out that in the present case, the leave to contest filed by the respondents was dismissed by the Rent Controller vide order dated 16.04.2024 and the eviction order was passed granting three months period to the tenants. It is submitted that the said three months period was more than the statutory period of ten days for filing a review application and thus, the order dated 16.04.2024 would not become illegal merely because a composite order of eviction and dismissal of leave to contest has been passed by the Rent Controller.

4. Learned counsel for the respondents, on the other hand, has submitted that a reading of Section 38 (7) (e) of the Punjab Rent Act, 1995 would show that after the leave to contest is denied to the tenant, he has a right to file an application for review within ten days, which is required to be decided within seven days. It is submitted that at the stage of dismissing the application for leave to contest, an eviction order is not required to be passed and at least ten days time should have been granted to the respondents-tenants in the order itself so as to permit them to file an application for review and it is only on dismissal of application for review that an eviction order could be passed. It is submitted that since the composite order has been passed, thus, the respondents-tenants have been deprived of their right to file a review application.

5. The arguments raised on behalf of both the counsel raise debatable issues.



6. During the course of arguments, a consensus has been arrived at between the learned counsel for the petitioner as well as learned counsel for the respondents in order to resolve the matter and also in view of the fact that subsequent to passing of the impugned order, a review application has already been filed by respondents-tenants, which is now listed for 09.05.2025 for arguments. On the basis of said consensus, the present petition is disposed of with the following observations/directions:

i) The order passed by the Rent Controller on 16.04.2024 rejecting the leave to contest filed by the respondents-tenants is, to the said extent, held to be valid, subject to the right of the respondents-tenants to file and pursue a review application, which has admittedly already been filed and is stated to be listed for arguments on 09.05.2025. It would be open to the respondents-tenants as well the petitioner to raise all their pleas in the said review application, in accordance with law. The upholding of the order of the Rent Controller by this Court to the said extent should not be construed as a decision on merits so as to influence the review application which has been filed by the tenants, which would be decided independently in accordance with law.

ii) The order of the Rent Controller dated 16.04.2024, to the extent that the eviction order has also been simultaneously passed, is set aside to the said extent with the observations that in case the review application filed by the respondents-tenants



is dismissed, then it would be open to the Rent Controller to pass an order of eviction at that stage. It is again clarified that setting aside of the said part of the order of the Rent Controller dated 16.04.2024, vide which eviction order has been passed, should not be construed as an expression on the merits of the case and would not bar the Rent Controller from passing a fresh eviction order, in case the review application filed by the respondents-tenants is dismissed. Needless to say that in case the review application is allowed and the leave to contest is allowed, then the Rent Controller would proceed in accordance with law. The present observations should also not be construed as an expression on the merits of the review application, which should be decided independently in accordance with law.

(VIKAS BAHL)
JUDGE

April 24, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No