

CR-980-2025

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-980-2025

Date of decision : 15.02.2025

Santosh Kumar

... Petitioner

Versus

Santosh Rani

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Prabhjot Singh Mann, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. Challenge in the present revision petition is to the order dated 10.10.2024 vide which the eviction petition filed by the respondent has been allowed and the present petitioner has been directed to vacate and hand over the possession of the premises in question. Challenge is also the judgment dated 13.01.2025 passed by the Appellate Authority vide which the appeal filed by the present petitioner has been dismissed.
2. Learned counsel for the petitioner has submitted that the petitioner is now ready to pay the rent and has submitted that the impugned orders be set aside and the petitioner be granted one more opportunity to pay the rent due.
3. This Court has heard the learned counsel for the petitioner and



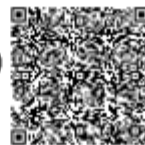
CR-980-2025

2

has perused the paper book and finds that the impugned orders have been rightly passed and deserve to be upheld and the present petition being meritless, deserves to be dismissed for the reasons stated hereinafter.

4. It is not in dispute that the respondent had filed a petition under Section 20 of the Punjab Rent Act, 1995 for ejection of the present petitioner from the shop in question and in the said case, the provisional rent was assessed by the Rent Controller on 09.08.2024 and the case was adjourned to 10.10.2024 for making payment. It is also not in dispute that the order dated 09.08.2024 was not challenged and on 10.10.2024 the provisionally assessed rent as per the order dated 09.08.2024 was not tendered and accordingly, in view of the law laid down by the Hon'ble Supreme Court in the case of ***“Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation”*** reported as ***2002(1) Rent Control Reporter 514***, the eviction order was passed.

5. The appeal filed against the said order dated 10.10.2024 was dismissed vide judgment dated 13.01.2025 by the Appellate Authority after observing that the provisional rent assessment order dated 09.08.2024 was not challenged by the petitioner and the case was adjourned to 10.10.2024 for making payment and even the payment was not made and thus, the Rent Controller had rightly passed the order of ejection. Reference in the judgment was made to the judgment of this Court in the case of ***Rajan alias Raj Kumar vs. Rakesh Kumar*** reported as ***2010(1) RentLR 515*** in which it was observed that the ratio of the judgment in ***Rakesh Wadhawan's case (supra)*** left no doubt that the provisional rent and other ancillary charges



assessed by the Rent Controller had to be deposited by the tenant on the next date of hearing along with arrears, interest and cost etc., which had been determined by the Rent Controller and the first date of hearing is the date after the assessment of provisional rent. In the said judgment, it was also observed that there was no doubt that after determination of provisional rent, in case, a tenant fails to deposit the same, then nothing remains to be done and order for ejection of the tenant has to be passed.

6. The Hon'ble Supreme Court in the case of ***Rakesh Wadhawan (supra)*** while crystallizing the law with respect to eviction on the ground of non-payment of rent, had in paragraph no.30 of the judgment culled out six conclusions. Conclusions no.1 to 4 which are necessary for consideration in the present case are reproduced hereinbelow:-

“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.”

A perusal of the above judgment would show that the Hon'ble Supreme Court had observed that an obligation has been cast upon the Rent Controller to assess the rent / arrears of rent etc. 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. It was further specifically observed / held that on the failure of the tenant to comply with the said order, nothing remains to be done and an order of eviction is required to necessarily follow and in case 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.

7. In the present case, since the facts are not in dispute and it is the admitted case of the parties that on 09.08.2024, the case was adjourned to 10.10.2024 for making payment of the provisionally assessed rent and the same was not done, thus, the eviction order and the order passed by the Appellate Authority are in consonance with the law laid down by the Hon'ble Supreme Court in the case of ***Rakesh Wadhawan (supra)*** and thus,



CR-980-2025

5

the said orders deserve to be upheld and the present revision petition being
meritless, deserves to be dismissed and is accordingly dismissed.

**(VIKAS BAHL)
JUDGE**

February 15,2025.

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No