

2025:PHHC:030732



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

**114-A**

**CR-4941-2024 (O&M)**

**Date of Decision : 04.03.2025**

RAVI SETHI AND ANR

.... Petitioners

VERSUS

SARVODAYA BAL SHIKSHA SAMITI AND ORS

.... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Rajesh Sethi, Advocate for the petitioners.

Mr. Sushil Kumar Verma, Advocate for respondents No.1 & 2.

Mr. Virender Kumar, Advocate for

Mr. Munish Chaudhary, Advocate for respondents No.3 to 5.

**ALKA SARIN, J. (ORAL)**

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 24.07.2024 (Annexure P-13) passed by the learned Additional Civil Judge (Senior Division)-cum-Rent Controller, Sirsa whereby while dismissing the application for assessment of provisional rent it was held that the provisions of the Rent Act itself are not applicable in the present case.

2. Brief facts necessary for the present *lis* are that the petitioners herein are the landlords and had filed a petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 for ejection of respondents No.1 and 2 from the premises comprising in an area of 3 Kanals 11 Marlas 4 Sarsai measuring about 2161.19 square yards as detailed in the

petition. Written statement was filed on behalf of respondents No.1 and 2. Since no provisional assessment of rent was made, an application was filed by the petitioners herein for assessment of the provisional rent and further for directions to respondents No.1 and 2 to deposit the rent assessed by the Court. Reply was also filed to the said application by respondents No.1 and 2. Vide the impugned order dated 24.07.2024, while dismissing the application for assessment of the provisional rent, the Rent Controller concerned held as under :

*'7. The perusal of case file shows that as per the petitioners themselves it is clear that on 18.03.2009 lease deed was executed by the petitioners in favour of respondents No.1 and 2 for a period of 20 years at yearly lease money of ₹1,50,000. Section 111 of Transfer of Property Act 1882 provided for determination of lease and Section 114 provided for relief against forfeiture for non-payment of rent. So, in the present case lease has not been determined by the petitioners for non-payment of yearly lease money and after determination of lease, the lessor can only sue to eject the lessee. In the present case, the provisions of Rent Act are not applicable and accordingly, the present application is not maintainable and is hereby dismissed'.*

Aggrieved by the same, the present revision petition has been filed.

3. Learned counsel for the petitioners would contend that on an application filed by the petitioners for assessment of the provisional rent, a finding has been returned that the provisions of the Rent Act itself are not applicable in the present case and the application for assessment of the provisional rent was dismissed. It is further the contention of the learned counsel that while dealing with the application for assessment of the provisional rent, the petition filed under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 itself has virtually been dismissed and the issue of maintainability has been foreclosed vide the impugned order dated 24.07.2024.

4. *Per contra*, learned counsel for respondents No.1 and 2 has relied upon the Notification dated 03.11.2021 issued by the Haryana Government, Urban Local Bodies Department to contend that the said property was not included in the municipal limits and therefore the Rent Act is not applicable and hence no fault can be found with the impugned order passed by the Rent Controller concerned.

5. Learned counsel for the petitioners, at this stage, has pointed out that there is no reference to the said Notification in the written statement or in the reply to the application filed for assessment of the provisional rent. Even in the impugned order no such plea has been noticed.

6. Heard.

7. In the present case, on an application filed by the petitioners herein for assessment of the provisional rent, not only the application was dismissed on the ground that the lease has not been determined by the

petitioners for non-payment of the yearly lease money and it is only after determination of lease that the lessor can sue to eject the lessee, the Rent Controller has further held that the provisions of the Rent Act are not applicable in the present case. The grouse of the petitioners is that while dealing with the application for assessment of the provisional rent the Rent Controller concerned has travelled beyond the application in holding that the provisions of the Rent Act itself are not applicable without even any issues having been framed in the present case. It is trite that on an application any finding which virtually disposes off the main case cannot be sustained in law.

8. In view of the above, the present revision petition is allowed and the impugned order dated 24.07.2024 is set aside. Matter is remanded back to the Rent Controller concerned for decision afresh on the application for assessment of the provisional rent in accordance with the law.

9. It is, however, made clear that any observations made herein shall not be construed as an expression of opinion on the merits of the case.

10. Pending applications, if any, also stand disposed off.

**04.03.2025**  
*Aman Jain*

**(ALKA SARIN)**  
**JUDGE**

*NOTE: Whether speaking/non-speaking: Speaking*  
*Whether reportable: Yes/No*