

**(2002) 02 P&H CK 0021**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Revision No. 166 of 1985

Prem Chand

APPELLANT

Vs

Om Parkash

RESPONDENT

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**Date of Decision:** Feb. 13, 2002

**Acts Referred:**

- Haryana Urban (Control of Rent and Eviction) Act, 1973 - Section 13(2)

**Citation:** (2003) 133 PLR 123 : (2002) 2 RCR(Rent) 68

**Hon'ble Judges:** V.K. Bali, J

**Bench:** Single Bench

**Advocate:** C.B. Goel, for the Appellant; D.R. Mahajan, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

V.K. Bali, J.

This is landlord's revision, who lost in the matter of eviction of his tenant-respondent herein before the Rent Controller as also the Appellant Authority. The only ground on which he sought eviction of the respondent-tenant was that he was in arrears of rent. No dispute came to be raised before the authorities below insofar as actual rent per month of the demised premises is concerned. The dispute was only with regard to non-payment of house tax which, as per rent note, Ex. A1, was part of the rent itself. On the issue aforesaid, learned Appellate Authority observed as follows:-

"I, however, do not find any merit in this submission. As observed earlier, rent note, Ex. A1 was executed for one year. There is no evidence on the file to show that house tax was the liability of the tenant after the period of rent note, Ex. A1 expired. The appellant has nowhere mentioned in the eviction petition as to what amount is due from the respondent as rent and as house tax. When the house tax was assessed in the Court, the appellant made no statement or raised any objection. The respondent while appearing as RW3 stated on oath that he had made the payment

of entire house tax. The appellant has not appeared in the witness box to deny the statement made by the respondent that he had made the payment of the entire house tax. The appellant in para 4-A of the petition has averred that if any payment is found to have been made to his father against a duly executed receipt then the same can be adjusted. He has failed to produce his father in the witness box to deny that he did not receive the arrears of house tax. The appellant did not give any notice to the tenant regarding the non-payment of the house tax. If the house tax for the year 1981-82 stands paid by the respondent vide receipt Ex.R3, there is nothing on the record to show that the house tax for the earlier period has not been paid. The appellant has failed to prove that any house tax was payable during those years. The appellant could produce the record of the municipal committee to prove that any house tax was payable and the same was not paid. In the absence thereof the tender made by the respondent cannot be held to be short."

2. This Court finds no illegality or infirmity in the findings returned by the appellate authority, as reproduced above. That apart, if the tenant had paid the tax for the year 1981-82 as would be evident from document Ex. R3, the presumption would be that he had paid the house tax for the earlier period as well. It is significant to mention that . even petition against the tenant came to be filed on 28.1.1982. There were no arrears of house tax by the time when petition came to be filed. Still further, the landlord did not appear in the witness box to even orally state that the house tax for the period prior to 1981-82 had not been paid by the tenant.

3. It view of the discussion made above, I find no merit in this petition and dismiss the same, leaving, however, the parties to bear their own costs.