

(2007) 02 P&H CK 0134

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 1444 of 2000

Raj Pal and Another

APPELLANT

Vs

Bhim Sain

RESPONDENT

Date of Decision: Feb. 14, 2007

Acts Referred:

- East Punjab Urban Rent Restriction Act, 1949 - Section 9

Citation: (2007) 3 CivCC 694 : (2007) 3 RCR(Civil) 181 : (2007) 1 RCR(Rent) 624

Hon'ble Judges: Hemant Gupta, J

Bench: Single Bench

Advocate: S.D. Sharma and Neeraj Shanna, for the Appellant; Ajay Jain, for the Respondent

Final Decision: Dismissed

Judgement

Hemant Gupta, J.

The challenge in the present revision petition is to the orders passed by the Courts below, whereby the petitioners have been ordered to be evicted for non payment of arrears of rent.

2. Initially, one Vedwati was the owner of the premises, who has inducted the present petitioners as tenants at a monthly rent of Rs.90/. However, on 16.01.1997, the said Vedwati sold the property in dispute to Bhimsen, the present respondent. Bhim Sain, who sought eviction of the petitioners on the ground that the petitioners are in arrears of rent including house tax with effect from 01.05.1990.

3. The dispute between the parties revolves around the liability of the tenant to pay the house tax. The landlord relied upon the notice Exhibit P.6, calling upon the tenant to make the payment of house tax. However, the tenant denied his liability to pay the house tax. Both the Courts have recorded a concurrent finding of fact that the tenant is liable to make payment of house tax as well.

4. Learned counsel for the petitioner has vehemently argued that in terms of the Hon'ble Supreme Court judgment in Rakesh Wadhawan and Others Vs. Jagdamba Industrial Corporation and Others, the petitioners are entitled to an opportunity to tender arrears of rent so determined by the learned Appellate Authority.

5. On the other hand, learned counsel for the respondent has pointed out that after the notice was served upon the petitioners calling upon them to pay house tax, it was incumbent upon the petitioners to make the payment of house tax as such house tax would be deemed to be part of the rent in terms of Section 9 of the East Punjab Urban Rent Restriction Act, 1949 (for short "the Act"). It was contended that the petitioners cannot take benefit of the judgment of the Hon'ble Supreme Court Rakesh Wadhawan's case (supra), as the petitioners have denied his liability to pay the house tax. It is only in case of dispute regarding quantum of house tax, the aforesaid judgment of the Hon'ble Supreme Court, can come to the rescue of the petitioners and not in the case of present nature, where the liability to pay the house tax is denied.

6. However, I do not find any substance in the said argument raised by the learned counsel for the respondent. The dispute between the parties was regarding liability of the tenant to make payment of the house tax. Whether such house tax is part of the rent or not was a disputed question and was in fact bona-fide disputed by the tenant before the Courts below.

7. In view of the said circumstances, in terms of the judgment in Rakesh Wadhawan's case (supra), the petitioners are entitled to another opportunity to tender arrears of rent.

8. Consequently, the present revision petition is disposed of with the direction to the parties to appear before the learned Rent Controller on 19.03.2007. The petitioners are permitted to deposit the arrears of rent including the house tax within one month of the said appearance before the learned Rent Controller. If the petitioners fail to deposit such rent within the time granted, the present revision shall stand dismissed. If the arrears of rent including house tax are deposited as directed above, the eviction petition shall stand dismissed.