(2011) 05 P&H CK 0287

High Court Of Punjab And Haryana At Chandigarh

Case No: CR No. 3212 of 2011 (O and M)

Narinder Pal Kaur — APPELLANT

Vs

Kailash — RESPONDENT

Date of Decision: May 25, 2011

Acts Referred:

- East Punjab Urban Rent Restriction Act, 1949 - Section 13, 13(2)

Citation: (2011) 163 PLR 586

Hon'ble Judges: Rakesh Kumar Jain, J

Bench: Single Bench

Judgement

Rakesh Kumar Jain, J.
The tenant is in revision against the order of learned Rent Controller, Patiala dated 09.42011 by which he had provisionally assessed the arrears of rent to be paid by the tenant @ Rs. 1100/- P.M. from November 2006 along with interest @ 6% P. A. and costs of Rs. 1,000/-.

2. In brief, the landlord had filed petition u/s 13 of the East Punjab Urban Rent Restriction Act, 1949 (for short "the Act") in order to seek eviction of the tenant from room (store), situated at 76-C, Vikas Colony, Patiala which was allegedly let out to the tenant @ Rs. 1100/- per month, inter alia, on the ground of non-payment of arrears of rent. The landlord had alleged that the rate of rent is Rs. 1100/- per month which was not paid since November 2006 whereas the tenant alleged the rate of rent to be Rs. 550/- per month which has been paid till September 2008. The learned Rent Controller, vide its impugned order, assessed the arrears of rent from November 2006 onwards @ Rs. 1100/- per month.

3. On 13.5.2011, This Court had passed the following order:

The issue involved in this case is with regard to assessment of the provisional rent. The learned Rent Controller has assessed the provisional rent by taking into account the rent

@ "1100/- per month from November 2006 and has directed to pay interest @ 6% per annum along with costs of proceedings assessed at "1000/-.

Learned counsel for the petitioner has drawn the attention to this Court to an order dated March 04, 2011 passed in Civil Revision No. 8076 of 2010 (O&M) titled as Gurpreet Singh and Another Vs. Brijinder Bhardwaj and Another, , in which this Court had directed all the Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh to assess the provisional rent by multiplying the rate of rent with the period for which it is due, calculate interest @ 6% and after assessing the cost and give an accurate amount to the tenant which he is supposed to tender on the date fixed by the Court.

The Registrar of this Court was directed to circulate this order to all the learned Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh, in accordance with law.

Registry is directed to put up note as to when this order dated March 04,2011 was circulated to the learned Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh particularly to the Rent Controller, Patiala who has passed the impugned order on April 09,2011.

Put up for hearing on 17.5.2011.

In the meanwhile, the operation of the impugned order shall remain stayed.

4. The aforesaid order was passed because learned counsel for the petitioner had brought to the notice of this Court a decision rendered in Civil Revision No. 8076 of 2010 titled as Gurpreet Singh and another v. Brijinder Bhardwaj and another which was decided on 4.3.2011 in which this Court had directed all the Rent Controllers in the State of Punjab, Haryana and Union Territory, Chandigarh to assess the provisional rent by multiplying the, rate of rent with the period for which it is due, calculate interest @ 6% and after assessing the cost give an accurate amount to the tenant which he is supposed to tender on the date fixed by the Court.

5. Learned counsel for the petitioner had submitted that despite the fact that there was a direction by this Court, the Rent Controller, Patiala had defied the order of this Court and did not assess the exact amount of arrears of rent, exact amount of interest and total amount which is liable to be paid/tendered by the tenant on the date fixed by the learned Rent Controller. Thus, this Court had directed the Registry of this Court to put a note as to when this order dated 4.3.2011 was circulated to the learned Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh, particularly to the Rent Controller, Patiala, who had passed the impugned order on 09.4.2011.

6. The Registry put up a note to the effect that as per the direction of Hon"ble the Chief Justice, the judgment was circulated by Registrar General of this Court to all the Rent Controllers in the States of Punjab, Haryana and Union Territory, Chandigarh on

28.3.2011 with a further request to circulate the same amongst all the Judicial Officers functioning in their Sessions Division, for strict compliance. The Registry also put up a note that The District & Sessions Judge, Patiala was requested telephonically to inform whether a copy of judgment passed in abovesaid case has been circulated to Rent Controller at Patiala, if so, on which date? The Superintendent of the office of District & Sessions Judge, Patiala has informed that the said judgment was circulated to Rent Controller on 8.4.2011."

7. Pursuant to that, on 17.5.2011, this Court had found that prima facie the order dated 4.3,2011 was brought to the notice of Rajiv Kalra, PCS, Rent Controller, Patiala on 8.4.2011, who had passed the impugned order dated 9.4.2011, therefore, at the first instance, it was found appropriate by this Court to seek explanation of the said officer for his conduct for not obeying the direction of this Court which was specifically brought to his notice by way of circulation. He was directed to send his comments to this Court positively by this date. In pursuance of this direction, Rajiv Kalra, Chief Judicial Magistrate-cum-Rent Controller, Patiala has sent his explanation. The operative part of the explanation reads as under:

It is submitted that copy of order dated 4.3.2011 passed by the Hon''ble High Court in Civil Revision No. 8076 of 2010 (O&M) was dispatched to this Court by your worthy office on 8.42011.

It is further submitted that the order dated 9.4.2011 was passed by me in rent petition No. 20 of 8.12.2008 due to oversight the exact amount of arrears of rent, exact amount of interest payable, could not be worked out. Hence, I tender my unconditional apology. I do'' hereby undertake to abide by the directions passed by the Hon''ble High Court on this aspect in future.

Kindly exonerate me due to such lapses.

8. Apparently, the impugned order is contrary to law and the direction given by this Court in CR No. 8076 of 2010 titled as Gurpreet Singh and Another Vs. Brijinder Bhardwaj and Another, , therefore, at this stage, without issuing any notice to the landlord, I deem it appropriate to set aside the impugned order and remand the matter back to the Rent Controller, Patiala to calculate the amount in accordance with law and keeping in view the direction, given by this Court in CR No. 8076 of 2010 titled as Gurpreet Singh and another v. Brijinder Bhardwaj and another decided on 4.3.2011. In case the landlord feels aggrieved against the order which is being passed in which notice is not being given to him in order to avoid any further delay, he could file an application for revival of this revision petition. Hence, the impugned order dated 9.42011 is hereby set aside and the matter is remanded back to the Rent Controller, Patiala to assess the rent provisionally in terms of Section 13(2) of the Act more particularly in terms of the directions given by this Court in CR No. 8076 of 2010. This exercise shall be done by him within 15 days of the receipt of certified copy of this order.

9. It is pertinent to mention that in CR No. 8076 of 2010, the direction was given by this Court because a lot of time" and energy of the Courts is being wasted in such type of litigation which is generated because of simple mistake on the part of the Rent Controllers, who fails to discharge their duties of assessing the provisional rent in accordance with law. The directions are issued to the Subordinate Courts / Authorities by the High Court so as to remove any kind of confusion in taking a decision so as to avoid multiplicity of litigation but when the directions are not followed then it leads to chaos.

10. In a recent decision of the Supreme Court in Contempt Petition (C) Nos.140-144 of 2011 in SLP (C) Nos. 27755 - 27759 of 2010 titled as Atma Ram Builders P. Ltd. v. A.K. Tuli and others which has been decided on 10.5.2011, the Supreme Court had dismissed the SLP filed by the tenant on 6.10.2010 by granting six months time to vacate the premises on furnishing usual undertaking before it but neither the undertaking was furnished nor the tenant vacated the premises on the expiry of six months rather frivolous objections were filed in the execution proceedings and the order of the Supreme Court was flouted. It was observed that the tenant put up some other person claiming independent right against the landlord as a sub-tenant in order to start a fresh round of litigation to remain in possession. When this matter was brought to the notice of the Supreme Court by way of Contempt Petition, notice was also issued to implead Additional District Judge Central, Delhi to explain why she had passed the order on 23.4.2011 in total defiance of the order passed by the Supreme Court on 6.10.2010. It was observed that the alleged sub-tenant has raised an objection in the execution proceedings which was rejected by the Executing Court on 1.4.2011 which was challenged before the Additional District Judge, Central Delhi, by way of an appeal, who had granted stay of the warrant of possession on 23.4.2011. In this context, the Supreme Court has observed as under:

It seems to us that in this country certain members of the Subordinate Courts do not even care for orders of this Court. When this Court passed an order dated 06th October, 2010 granting six months'' time to vacate, the contemnor Archana Sinha, Additional District Judge had no business to pass the order dated 23rd April, 2011 but instead she has stayed the warrants of possession, meaning thereby that she has practically superseded our order and overruled us.

We are constrained to say that a certain section of the subordinate judiciary in this country is bringing the whole judiciary of India into disrepute by passing orders on extraneous considerations. We do not wish to comment on the various allegations which are often made to us about what certain members of the subordinate judiciary are doing, but we do want to say that these kind of malpractices have to be totally weeded out. Such subordinate judiciary Judges are bringing a bad name to the whole institution and must be thrown out of the judiciary.

11. Similarly, the order of this Court was brought to the notice of the Rent Controller on 8.42011 in which direction was given in no uncertain terms that the Rent Controller had to

assess the exact amount of rent, exact amount of interest and give an exact amount to the tenant which he is required to tender but the Rent Controller while passing the impugned order on 9.4.2011 did not follow the direction of this Court by taking the plea of oversight from which it is not clear as to whether he had even read the order circulated to him. Apparently, I am not at all satisfied with the explanation given by the Rent Controller, who appears to have an attitude of "who cares" and "who bothers".

12. At this stage, I refrain from taking any action against him but a direction is given to the Registry to place the file of this case before the Administrative Judge of Gurdaspur for his perusal and consideration as the said officer, who had passed the impugned order, is presently posted there.

With these observations, this revision petition is disposed of.