

(2010) 05 P&H CK 0308

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 3271 of 2004

Smt. Titu Peter

APPELLANT

Vs

Shri Mohinder Pal Singh

RESPONDENT

Date of Decision: May 28, 2010

Citation: (2010) 159 PLR 748

Hon'ble Judges: S.D. Anand, J

Bench: Single Bench

Judgement

S.D. Anand, J.

The eviction of the petitioner-tenant from the tenanted premises was ordered by the learned Rent Controller on account of non-compliance with the order on point of provisionally assessed rent. The provisionally assessed rent was required to be tendered on the next date of hearing. The order was not complied with and eviction order followed.

2. In appeal, the learned Appellate Authority affirmed the finding.

3. The petitioner-tenant is in revision.

4. It is the vehement contention of the learned Counsel appearing on behalf of the petitioner that the finding by both the Forums deserves invalidation for the simple reason that the impugned order did not specify the period for which the provisionally assessed rent was payable. Further, that it also did not assess the amount of payable interest and costs thereof.

5. Learned Counsel appearing on behalf of the respondent landlord resists the plea by arguing that the grievance could have been appropriately ventilated by challenging that order which had not done in this case.

6. The plea, which otherwise proceeds on a correct factual premise, deserves to be negated. If the petitioner-tenant had a grievance with the whole or any part of the impugned order, it was for him to have either applied for clarification to the learned

Rent Controller himself or he could have gone in for the recourse available to him on the judicial side by filing a petition before this Court. As the petitioner-tenant did not have a resort to either of the two, he cannot be heard to presently justify the non payment of the provisionally assessed rent. On that count, he also cannot validly argue for exoneration from the consequence which had to inevitably follow in the light of law laid down by this Court in [Rakesh Wadhawan and Others Vs. Jagdamba Industrial Corporation and Others](#), and a Division Bench of this Court in Civil Revision No. 3577 of 2006 (Rajan alias Raj Kumar v. Rakesh Kumar). The latter i.e. a Division Bench of this Court, in the matter of interpretation of the Apex Court judgment in Rakesh Wadhawan's case, made the following observations in the context:

This Court is of the view that the ratio of judgment in Rakesh Wadhawan's case (supra) leaves no manner of 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 alongwith arrears, interest and costs etc., as may be determined by the above said authority. The "first date of hearing" has also been interpreted to mean, the first date of hearing after determination of provisional rent and other expenses by the Rent Controller. A reading of conclusions drawn in para No. 30 of the judgment in Rakesh Wadhawan's case (supra) leaves no doubt that if after determination of the provisional rent, a tenant fails to deposit the same, nothing remains to be done and an order of ejectment of a tenant has to be passed. The language of conclusion No. 4 in the said para is very clear and needs no further interpretation. The Court is further of the view that the benefit of conclusions No. 5 and 6 would become available to a tenant only on his making a deposit of the provisional rent and other ancillary charges determined by the Rent Controller and not otherwise. It was implicitly made clear that it is the bounden duty of the tenant to deposit the provisional rent determined by the Rent Controller, otherwise it will entail the tenant's ejectment from the premises in dispute. This Court feels that if a tenant is dissatisfied with the interim order passed by the Rent Controller, he has an opportunity to challenge the same before the date fixed for payment, in the higher forum.

These two judicial pronouncements appreciated conjunctively give rise to an inference that the challenge posed by the petitioner herein stands outweighed and has to be negated and it is so held accordingly.

In the light of foregoing discussion, the petition is held to be denuded of merit and is ordered to be dismissed. The petitioner tenant shall have two months time from today to vacate the premises aforementioned.