



CR No.3507 of 2014 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.3507 of 2014 (O&M)

Date of Reserve: 01.09.2025

Date of Decision: 09.10.2025

HUMA MIRZA

.....Petitioner

Vs

SAVITA

....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sanjay Kaushal, Sr. Advocate with
Mr. Alok Mittal, Advocate and
Mr. Ankit Rana, Advocate
for the petitioner.

Mr. Amit Sahni, Advocate with
Mr. Santosh Yadav, Advocate
or the respondent.

HARKESH MANUJA, J.

[1]. By way of present revision petition, challenge has been laid to the orders dated 12.03.2014 and 24.04.2014 passed by the Authorities below, whereby ejectment has been ordered against the petitioner-tenant on account of non-payment of arrears of rent.

[2]. Briefly stating, the respondent-landlord preferred an ejectment petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter to be referred as 'the 1973 Act') against the petitioner while claiming herself to be the owner/landlord of Flat No.206, Second Floor in Celebrity Suits, Palam Vihar, Gurgaon (now Gurugram) (for short 'the demised premises'). As per the pleadings, the demised premises was leased out in favour of petitioner w.e.f. 10.03.2009 for a period of 11 months i.e. 09.02.2010 at the



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monthly rent of Rs.11,000/-. The ejectment was sought on the ground that the petitioner had failed to pay the arrears of rent.

[3]. Upon notice, petitioner/tenant appeared. Thereafter, on 19.02.2014 provisional assessment of rent as well as interest and costs was made by the learned Rent Controller as Rs.45,233/- (Rs.11000 x 4 = Rs.44,000/- rent, Rs.733/- interest and Rs.500/- cost) and the ejectment petition was adjourned to 06.03.2014. Later, on account of rent been not tendered by the petitioner-tenant, the proceedings were adjourned to 12.03.2014 for tendering of rent. However, the petitioner again failed to tender the amount of provisional rent assessed by the learned Rent Controller on 19.02.2014 and an order of ejectment was passed against the petitioner/tenant in terms of first proviso to Section 13(2)(i) of the 1973 Act on 12.03.2014.

[4]. Aggrieved against the order of ejectment passed by the learned Rent Controller on 12.03.2014, the petitioner-tenant preferred First Appeal. However the same came to be dismissed vide decision dated 24.04.2014 passed by the Appellate Authority, Gurugram. Hence the present revision petition.

[5]. Impugning the eviction orders passed by the Authorities below, learned Senior counsel representing the petitioner-tenant submitted that the provisional assessment of rent in the present case was made by the learned Rent Controller on 19.02.2014 and the matter was adjourned to 06.03.2014; which was thus to be treated as the “first date of hearing” for the purposes of proviso to Section 13(2)(i) of the 1973 Act and accordingly the petitioner was required to be afforded 15 days time thereafter for tendering of the provisionally assessed rent/interest and cost.



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[5.1]. Learned Senior counsel further contended that on 06.03.2014, the ejectment proceedings were adjourned to 12.03.2014, by the said date on account of non-payment of rent provisionally assessed, the order of ejectment was passed against the petitioner-tenant. Learned Senior counsel emphasized that from 06.03.2014 which was to be termed as “first date” of hearing, 15 days period as stipulated under proviso to Section 13(2)(i) of the 1973 Act was to expire on 21.03.2014 and, therefore, the order of eviction passed against the petitioner on 12.03.2014 was illegal and uncalled for. In support of above, reliance was placed upon the decision made by the Hon’ble Apex Court in case of **‘Rakesh Wadhawan vs. M/s Jagdamba Industrial Corporation’** reported as “**2002 AIR Supreme Court 2004**”. Relevant paragraphs nos.25 and 30 therefrom are extracted hereunder:-

“25. “What follows from the abovesaid discussion is that the proviso to clause (i) of sub-section (2) of Section 13 must be read as obliging the Controller to assess, by means of passing an order, the arrears of rent, the interest and the cost of litigation all the three, which the tenant shall pay or tender on the first date of first hearing of the main petition following the date of such assessment by Controller. Such order based on an opinion formed prima facie by perusal of the pleadings and such other material as may be available before the Controller on that day would be an interim or provisional order which shall have to give way to a final order to be made on further enquiry to be held later in the event of there being a dispute between the parties calling for such determination. The Controller would, however, at the outset assess the rent, the interest and the cost of application in the light of and to the extent of dispute, if any, raised by the tenant. Such amount, as determined by Controller shall be liable to be paid or tendered by the Controller on the 'first date of hearing' falling after the date of the preliminary or provisional order of Controller. The expression "the date of first hearing" came up recently for the consideration of this Court in Mam Chand Pal Vs Smt. Shanti Agarwal (C.A. No.1187 of 2002 decided on 14.2.2002). It was held that 'the date of first hearing' is the date on which the Court applies its mind to the facts and controversy involved in



the case. Any date prior to such date would not be date of first hearing. For instance, date for framing of issues would be the date of first hearing when the Court has to apply its mind to the facts of the case. Where the procedure applicable is the one as applicable to Small Cause Courts, there being no provision for framing of the issues, any date fixed for hearing of the case would be the first date for the purpose. The date fixed for filing of the written statement is not the date of hearing. Keeping in view the interpretation so placed on 'the date of first hearing' the obligation cast by the proviso under consideration can be discharged by the Controller on any date fixed for framing of the issues or for hearing. It would be the obligation of the parties to place the relevant material on record, in the shape of affidavits or documents, which would enable the Controller to make a provisional judicial assessment and place it on record to satisfy the spirit of the proviso. It would be desirable if the Rent Controller specifically appoints a date for the purpose of such assessment and order so that the parties are put on adequate notice and bring the relevant material on record to assist the Controller. A litigant cannot be expected to be ready to comply with the order of the Controller on the very day on which the order is made. How could he anticipate what order the Controller would be making?

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30. *To sum up, our conclusions are:*

1. *In Section 13(2) (i) proviso, the words 'assessed by the Controller' qualify not merely the words 'the cost of application' but the entire preceding part of the sentence i.e. 'the arrears of rent and interest at six per cent per annum on such arrears together with the cost of application'.*
2. *The proviso to Section 13(2)(i) of East Punjab Urban Restriction Act, 1949 casts an obligation on the Controller to make an assessment of (i) arrears of rent (ii) the interest on such arrears, and (iii) the cost of application and then quantify by way of an interim or provisional order the amount which the tenant must pay or tender on the 'first date of hearing' after the passing of such order of 'assessment' by the Controller so as to satisfy the requirement of the proviso.*



3. *Of necessity, 'the date of first hearing of the application' would mean the date falling after the date of such order by Controller.*

4. *On the failure of the tenant to comply, nothing remains to be done and an order for eviction shall follow. If the tenant makes compliance, the inquiry shall continue for finally adjudicating upon the dispute as to the arrears of rent in the light of the contending pleas raised by the landlord and the tenant before the Controller.*

5. *If the final adjudication by the Controller be at variance with his interim or provisional order passed under the proviso, one of the following two orders may be made depending on the facts situation of a given case. If the amount deposited by the tenant is found to be in excess, the Controller may direct a refund. If, on the other hand, the amount deposited by the tenant is found to be short or deficient, the Controller may pass a conditional order directing tenant to place the landlord in possession of the premises by giving a reasonable time to the tenant for paying or tendering the deficit amount, failing which alone he shall be liable to be evicted. Compliance shall save him from eviction.*

6. *While exercising discretion for affording the tenant an opportunity of making good the deficit, one of the relevant factors to be taken into consideration by the Controller would be, whether the tenant has paid or tendered with substantial regularity the rent falling due month by month during the pendency of the proceedings."*

[5.2]. Learned Senior counsel also placed reliance upon case titled as '**Vinod Kumar vs. Prem Lata**' reported as '**(2003) 11 Supreme Court Cases 397**'. In the said the Hon'ble Supreme Court while dealing with the provisions of Haryana Urban (Control of Rent and Eviction) Act, 1973 held to be following effect in paragraph No.6 of the judgment:-

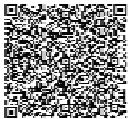
"6. On the plain language of the Haryana Act, the expression "to be calculated by the Controller" qualifies both the arrears of rent and interest.



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The succeeding expression "such costs of the application" is again qualified by the expression "if any, as may be allowed by the Controller". Thus the provision itself casts an obligation on the Controller to calculate and determine by its order (i) the arrears of rent; (ii) the interest; and (iii) the costs, quantifying the amount which should be paid or tendered by the tenant (at that stage) to comply with the proviso. The words 'calculated' and 'allowed' occurring in the proviso imply a duty cast on the Controller which has to be discharged judicially. Such determination will be only for the purpose of securing compliance by the tenant on 'the first date of hearing' succeeding the date of order by the Controller, which order would be based on a summary enquiry and would obviously be subject to final determination by the Controller at the end of the regular full-fledged enquiry. Thus it is not correct to say that the provision does not contemplate an enquiry, nor is it correct to say that such an interpretation would result in the holding of a full-fledged enquiry on the first date of hearing, which is not possible."

[6]. On the other hand, learned counsel for the respondent submitted that in terms of first proviso to Section 13(2)(i) of the 1973 Act, the petitioner was to tender the rent provisionally assessed by the learned Rent Controller within 15 days of the determination. He thus, contended that in the present case the provisional rent was assessed by the learned Rent Controller on 19.02.2014 and, thus, the said date was required to be treated as "the first date of hearing"; the learned Rent Controller having applied its mind. Learned counsel emphasized that the rent provisionally assessed on 19.02.2014 was required to be tendered within 15 days of the said date. He thus submitted that the eviction order passed by the learned Rent Controller on 12.03.2014 was perfectly in accordance with law as the same was passed after more than 15 days of the assessment of provisional rent and accordingly the orders passed by the Authorities below required no interference.

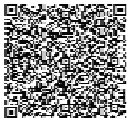


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[7]. I have heard learned counsel for the parties and gone through the paper book.

[8]. Before proceeding further, it may be relevant to recapitulate the relevant portion of Sections 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 as well as The East Punjab Urban Rent Restriction Act, 1949. A comparative chart of both the provisions is given as under:-

Sections 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973	The East Punjab Urban Rent Restriction Act, 1949
13. Eviction of tenants. <i>(1) A tenant in possession of a building or a rented land shall not be evicted therefrom except in accordance with the provisions of this section.</i> <i>(2) A landlord who seeks to evict his tenant shall apply to the Controller, for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied:--</i> <i>(i) that the tenant has not paid or tendered the rent due from him in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement by the last day of the month next following that for which the rent is payable :</i> <i>Provided that if the tenant,</i>	13. Eviction of tenants. <i>(1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise and whether before or after the termination of the tenancy, except in accordance with the provisions of this Section, [or in pursuance of an order made under Section 13 of the Punjab Urban Rent Restriction Act, 1947, as subsequently amended] [Added by Punjab Act XVII of 1950, Section 2. (These words shall be deemed to have been added since the commencement of East Punjab Act, III of 1949).].</i> <i>(2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the applicant, is satisfied -</i>



<i><u>within a period of fifteen days of the first hearing of the application for ejectment after due service, pays or tenders the arrears of rent and interest, to be calculated by the Controller, at eight per centum per annum on such arrears together with such costs of the application, if any, as may be allowed by the Controller, the tenant shall be deemed to have duly paid or tendered the rent within the time aforesaid:</u></i>	<i>(i) that the tenant has not paid or tendered the rent due by him in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the last day of the month next following that for which the rent is payable:</i> <i>Provided that if the tenant <u>on the first hearing of the application for ejectment after due service pays or tenders the arrears of rent and interest at six per cent per annum on such arrears together with the cost of application assessed by the Controller, the tenant shall be deemed to have duly paid or tendered the rent within the time aforesaid</u></i>
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[9]. The Hon’ble Apex Court in case of **Rakesh Wadhawan** (Supra) meticulously examined the provisions of Section 13(2)(I) of 1949 Act. The Court addressed two pivotal legal issues arising from this provision and it’s accompanying proviso. First and foremost, the Apex Court ruled that Section 13(2)(i) imposes a mandatory statutory duty on the Rent Controller to conduct a provisional assessment and pass an explicit order determining three key elements; namely i) the arrears of rent owed by the tenant, ii) the applicable interest on those arrears, and iii) the costs of eviction petition and the purpose of this obligation is to prevent ambiguity and to facilitate the tenants compliance.



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[10]. Further more, the Hon'ble Apex Court clarified the temporal aspect of compliance under the proviso to Section 13(2)(i) of 1949 Act (related to Punjab) and held that the "first date of hearing" for the purpose of the tenant paying or tendering the provisionally assessed amounts refers specifically to the hearing date that falls immediately after the learned Rent Controller has issued the order of provisional assessment. This interpretation stems from a practical and tenant-protective lens, recognising that tenants cannot realistically be expected to tender payment on the very day the assessment is made, as they may not anticipate the exact quantum determined by the learned Rent Controller.

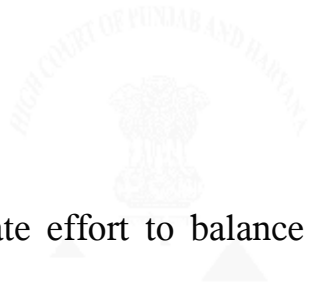
[11]. To delve deeper into the statutory language, a careful perusal of the proviso to section 13(2)(i) of the 1949 Act reveals that it explicitly requires the tenant to pay or tender the assessed arrears of rent, along with interest and costs, "on the first hearing of the application" for ejectment, provided due service has been affected. In practical terms, "the first date of hearing" is understood as the initial occasion when the court substantively applies its judicial mind to the facts, evidence and controversies at hand. In the context of eviction proceedings, this typically coincides with the stage of provisional rent assessment. However, the Hon'ble Apex Court emphasized pragmatic approach as imposing an immediate payment obligation on the same day of the assessment can be unduly, harsh, and unrealistic; tenant can't be presumed to have prior knowledge of the precise order. Therefore, to adapt a purposive interpretation – one that aligns with the legislative intent of the 1949 Act and to balance landlord rights with tenant protection—the term "on the first hearing of the application" has been construed as the subsequent hearing date following the issuance of the provisional assessment order.



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[12]. Building upon the aforementioned foundation, the Hon'ble Apex Court in the subsequent case of **Vinod Kumar** (supra), which specifically pertained to the 1973 Act re-affirmed and extended the similar principles. The Hon'ble Court reiterated that proviso to section 13(2)(i) of the 1973 Act likewise imposes a clear statutory obligation on the Rent Controller to undertake a summary enquiry and determine the provisional rent. The primary thrust of the discussion in the case of **Vinod Kumar** (supra) centered on this mandatory duty of the Learned Rent Controller to perform the provisional assessment. Notably, the judgment did not record any specific submissions from the parties nor engaged in an extensive debate on whether the 1973 Act built-in 15-days, compliance window inherently, protects tenants differently from that of the 1949 Act.

[13]. In view of the aforesaid, it becomes pertinent to critically analyse the implications of applying the framework of **Rakesh Wadhawan** case (supra) uniformly to the 1973 Act as doing so may potentially undermine the distinct legislative intent embedded in its proviso. Under the 1973 Act, the proviso explicitly grants the tenant a period of 15 days from the first hearing to pay or tender the arrears, interest and costs. This contrasts with the requirement of the 1949 Act of immediate tendering of arrears "on the first hearing", without an explicit buffer period. In fact the Hon'ble Apex Court in case of **Vinod Kumar** (supra) did not delve into the issue about this 15 days, safeguard already provided to the tenants with ample time to respond without the need for redefining the "first hearing" as post assessment date which could effectively extend the compliance timeline beyond the legislature's intended 15 days, potentially diluting the provisions efficiency for landlords. The language chosen by the Haryana legislature in the proviso-specifying a fixed 15 days window post first hearing



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demonstrates a deliberate effort to balance interest by giving tenants a defined, foreseeable period to comply with the assessment made by the Rent Controller. This built in timeframe, mitigates any element of surprise for the payment, as the tenant is not required to pay instantaneously under the provision of 1973 Act. Thus, insisting on a separate post assessment hearing date for compliance might not only be superfluous, but could even contravene the statutory scheme. Besides, the closer examination of the 1973 Act wording suggests that the interest of tenant has been sufficiently protected therein without necessitating the same purposive expansion applied to the 1949 Act, thereby preserving the original legislative design.

[14]. As such, in view of aforesaid, discussion it cannot be held that the rent provisionally assessed by the learned Rent Controller on 19.02.2014 having not been paid till 12.03.2014 followed by ejectment orders passed by the Authorities below in terms of Section 13(2)(i) of the 1973 Act, called for interference. Consequently, the present revision petition stands dismissed.

[15]. Pending application(s), if any shall also stand disposed of.

October 09, 2025
Atik

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No