

quantum of compensation. No other question can be raised therein. The reference court exercises a limited jurisdiction. It derives its jurisdiction from the terms of reference.”

17. In view of my aforesaid discussion, it can be opined that the learned reference court did not have the jurisdiction to deal with the issue regarding grant of annuity or any other benefit in terms of the policy framed by the government while dealing with the reference under the Act.

18. However, still as far as the case in hand is concerned, as the land in question was acquired by the State and as per the policy framed by the State, the land owners, whose land is acquired, are entitled to certain benefits over and above the value of the land as determined by the Collector or the reference court, the amount already paid shall not be recovered. In case certain corrections are to be made in the heads or the accounting procedure, the same may be carried out.

Regarding apportionment

RFA Nos. 2536 and 2896 of 2009

19. Learned counsel for the parties submitted that in the said appeals, the dispute regarding apportionment of compensation has been raised. Out of a big chunk of land measuring 475 kanals, only 14 kanals and 19 marlas of land has been acquired in which there are number of co-sharers. A civil dispute regarding ownership thereof is pending in the court. The submission is that the dispute regarding apportionment of compensation be disposed of as the parties will abide by the judgment and decree of the civil court as regards their share in the compensation.

20. To sum up, it is held that the land owners shall be entitled to compensation @ 6,00,000/- per acre for the acquired land. They shall also be entitled to the statutory benefits available to them under the Act.

21. The appeals are disposed of in the manner indicated above.

Order accordingly.

PUNJAB AND HARYANA HIGH COURT

Before: Rakesh Kumar Jain, J.

CR-7938 of 2010 (O&M)

Decided on: 23.01.2012

Anil Kumar

Petitioner

Versus

Ghanshyam Dass

Respondent

Present: Mr. Ajay Ghangas, Advocate, for the petitioner

None for the respondent

**Haryana Urban (Control of Rent and Eviction) Act, 1973 (11 of 1973),
Section 13(2)(i) – Arrears of rent – First date of hearing – Provisional
assessment of rent – Non-tender of – Tenant did not comply with the
order by which rent was provisionally assessed and he was asked to
tender the same on the first date of hearing – Tenant deserves to be**

evicted. Rajan alias Raj Kumar's case, 2010 (2) PLR 201 relied.

I have heard learned counsel for the petitioner and perused the record with his able assistance from which I have found that the respondent in this case deserves to be evicted in view of the fact that he did not comply with the order dated 17.10.2008 by which rent was provisionally assessed and he was asked to tender the same on 30.10.2008 i.e. the first date of hearing. The ratio of law laid down in the case of Rajan alias Raj Kumar Vs. Rakesh Kumar (Supra) is fully applicable to the facts of this case.

(Para 11)

Cases referred:

1. Rakesh Wadhawan & others v. Jagdamba Industrial Corporation & others (2002-2) Punjab Law Reporter 370.
2. Rajan alias Raj Kumar v. Rakesh Kumar, 2010(1) L.A.R. 662 (P&H D.B.) = 2010 (2) PLR 201

JUDGMENT**RAKESH KUMAR JAIN, J. –**

1. The landlord is in revision against the order of the learned Appellate Authority, by which order of learned Rent Controller dated 12.4.2010 has been set aside and the case has been remanded for fresh disposal in terms of the law laid down by the Supreme Court in the case of **Rakesh Wadhawan & others Vs. Jagdamba Industrial Corporation & others (2002-2) Punjab Law Reporter 370.**

2. In brief, facts of the case are that the petitioner/landlord filed a petition under Section 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (for short, 'the Act') in respect of the demised premises (shop) which was let out to the respondent on a monthly rent of Rs. 6000/-, on the ground of non-payment of arrears of rent w.e.f. 01.09.2006 and that the respondent is planning to sublet the demised premises to some other person without his consent.

3. In reply, the tenant admitted the tenancy but disputed the rate of rent. According to him, the rate of rent was Rs.3000/- per month which is alleged to have been paid up-to-date but the landlord has not issued rent receipts. It was denied that he is trying to sublet the demised premises to some other person, as alleged.

4. On the pleadings of the parties, the learned Rent Controller framed the issues and both the parties led their respective evidence.

5. The learned Rent Controller dismissed the eviction petition on the ground that the landlord has not been able to prove the rate of rent of Rs.6000/- per month and that it has not been paid by the tenant w.e.f. 01.9.2006. In respect of the second contention that the respondent is trying to sublet the demised premises without his consent was not found to be a ground of eviction.

6. The landlord being aggrieved against the order of learned Rent Controller, filed the statutory appeal in which it was categorically argued that vide order dated 17.10.2008, the learned Rent Controller had assessed the provisional rent @ Rs.6000/-per month for the period from 01.09.2006 to

24.9.2008, interest was calculated as Rs.13,000/- and costs of the petition was fixed as Rs.1000/-, total amounting to Rs.1,64,000/- was to be paid by the tenant on the first date of hearing and which was admittedly not tendered. Thus, it was submitted that the Rent Controller has not taken into consideration this aspect of the matter, otherwise, the tenant could have been evicted on this ground alone.

7. Learned Appellate Authority has though noticed this argument and has observed as under:-

“Learned Rent Controller assessed the total amount of Rs.1,64,000/- on a separate sheet of paper in the manner given as under:-

A.	Rate of rent	Rs.6000/- P.M.
B.	Arrears of rent for the period of 1.9.2006 to.24.9.2008 -25 Months	Rs.150000/-
C.	Rent @ of 6%	Rs.13000/-
	Procedure of Rent Act	
	$\frac{25+1}{300} = \frac{150000 \times 26}{300}$	
D.	Cost:	Rs.1000/-
	Total:	Rs.164000/-

However, the order dated 17.10.2008 is altogether silent as to on what basis and in what manner, provisional or interim rate of rent was assessed. There is only reference that rent proceedings done and now, to come up on 30.10.2008 for tendering of rent and for filing written statement, if any. The order for assessing the interim or provisional arrears of rent, interest on such arrears and cost of the application should have been specific, but no specific order in that regard was passed”.

8. The learned Appellate Authority has further observed that if the tenant fails to tender the rent, nothing remains to be done and order of eviction shall follow but the learned Rent Controller proceeded with the petition despite non-payment of the amount by the tenant, framed the issues, recorded the evidence and then finally decided the petition in which he has not decided as to what was the agreed rate of rent between the parties in respect of the demised premises. Rather, it has been observed that the petitioner has not been able to prove rate of rent as Rs.6000/- per month and the tenant has not paid it w.e.f. 01.9.2006. Therefore, the appeal was allowed and the matter was remanded back to the learned Rent Controller to decide it afresh.

9. Although notice of motion was issued on 6.12.2010 and operation of the impugned judgment was stayed on the argument raised by the learned counsel for the petitioner that the learned Appellate Authority has no jurisdiction to remand the whole case, yet the argument raised before this Court is that after the assessment of the provisional rent, if the tenant does not tender the same on the first date of hearing, which was 30.10.2008 in this case, then no further order was required to be passed by the learned Rent Controller except order of eviction. In this regard, learned counsel for the petitioner has relied upon a Division Bench judgment of this Court in the case of **Rajan alias Raj Kumar Vs. Rakesh Kumar, 2010(1) L.A.R. 662 (P&H D.B.) = 2010 (2) PLR 201**, in

which it has been held that the first date of hearing means the first date of hearing after determination of provisional rent and other expenses by the Rent Controller and if the tenant fails to deposit the provisionally assessed rent, then nothing remains to be done and an order of ejectment of the tenant has to be passed.

10. This Court has made various efforts for service of the respondent but he did not appear despite service and was at last proceeded against exparte on 20.10.2011.

11. I have heard learned counsel for the petitioner and perused the record with his able assistance from which I have found that the respondent in this case deserves to be evicted in view of the fact that he did not comply with the order dated 17.10.2008 by which rent was provisionally assessed and he was asked to tender the same on 30.10.2008 i.e. the first date of hearing. The ratio of law laid down in the case of **Rajan alias Raj Kumar Vs. Rakesh Kumar (Supra)** is fully applicable to the facts of this case.

12. In view thereof, the present petition is allowed and the tenant is directed to vacate the demised premises within a period of two months.

Petition allowed.

PUNJAB AND HARYANA HIGH COURT

Before: Ranjit Singh, J.

Civil Writ Petition No.17565 of 1991

Decided on: 22.09.2011

Inder Singh

Petitioner

Versus

The Assistant Registrar, Cooperative Societies, Jind
and others

Respondents

Present: Mr. Ashok Verma, Advocate, for the petitioner.

Mr. G.S. Sandhu, Advocate, for the respondents.

Haryana Co-operative Societies Act, 1984 (22 of 1984), Section 23 - Death of member – Nominee – Legal heirs – Right of – Nominee does not get any right to inherit the right of the deceased member -- Nominee has a limited right -- Section 23 of the Act, is not meant to have overreaching effect over the general law of inheritance and would not confer any right over the property of the deceased member merely on the ground of being a nominee -- Nominee may be entitled to ask for transfer of share on his name but this would not make others to loose their right of inheritance -- Transferring of share, if done, would be only an interim arrangement -- Inheritance has to be governed by the law of inheritance.

The factual position has been noticed above in detail. The petitioner claims his rights only on the basis of a nomination. The rights of a nominee were considered under similar circumstances in the case of Gopal Vishnu Ghatnekar (supra). The High Court has expressed a very clear view that the society may transfer the shares of the deceased member by virtue of nomination, but the persons entitled to the estate of the deceased do not loose their right to the same. It is noted that provision for transferring a share and interest to a nominee is meant only to provide for interregnum between the