

Usha Chawla v. Rohit & anr.

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**IN THE COURT OF MS. RITU Y.K. BEHL (UID No. HR0084) APPELLATE
AUTHORITY, ROHTAK.**

CNR No. HRRH01-000653 of 2018.
CIS No. 2 of 2018
Rent Appeal No. 5 of 2018
Date of Instt: 30.01.2018
Date of Decision: 20.02.2018

Usha Chawla w/o late Sunil Chawla, aged 51 years, resident of House No. 1005,
Ward No. 3, Barrack No. 31, Gandhi Camp, Rohtak.

...Appellant

Versus

- 1) Rohit Girdhar;
- 2) Raman Girdhar;
sons of late Suresh Kumar Girdhar s/o Shyam Lal Girdhar, residents of
House No. 1715/3 Para Mohalla, Rohtak.

...Respondent-Petitioners

Appeal against the order dated December 20, 2017
passed by Sh. Harish Goyal, learned Rent Controller, Rohtak.

Present: Ms. Shashi Aggarwal, counsel for the appellant.
Sh. Deepak Sethi, counsel for the respondents 1 & 2.

JUDGMENT:

This judgment shall dispose of the appeal filed against the order
December 20, 2017, whereby the appellant has been ordered to be evicted from
double storey shop No. 1339/5 measuring 16.50 sq. yards situated at Bakshi
Market, Peerji Mohalla, near Railway Road, Rohtak (hereinafter referred to as
demised shop).

2. The facts relevant for the disposal of the instant appeal are that the
respondent-petitioners-Rohit Girdhar and Raman Girdhar had filed an eviction

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petition against the appellant-Smt. Usha Chawla on the plea that they were owners-cum-landlord of the demised shop which had been let out to the husband of the appellant by the previous owner-Lalit Kumar. The rent of the premises was Rs. 500/- per month. Upon notice, the appellant had put in appearance in person initially and thereafter, she was represented by Sh. Satyawan Kundu, legal aid counsel.

On the request of her counsel, the learned Rent Controller adjourned the matter to October 13, 2017 for filing of reply. On the next date of hearing, the reply was duly filed and the case was adjourned to December 4, 2017 for assessment of provisional rent. On that day, the learned Rent Controller assessed the rent at Rs.600/- per month after taking into consideration the pleadings and the submissions made by the counsel for the parties and directed the appellant to make payment of arrears of rent of 36 months total amounting to Rs. 26,000/- inclusive of arrears, interest and costs assessed by the Court. The appellant was directed to deposit the amount within 15 days, failing which she was liable to be evicted from the demised shop. The matter was then adjourned to December 20, 2017 for necessary compliance.

On December 20, 2017, no payment was made by the appellant, due to which the order of ejectment was passed against her.

3. Aggrieved by the eviction order, the appellant has filed the instant appeal.

4. Arguments have been advanced by the learned counsel for the parties and records of the case have been perused carefully.

5. The learned counsel for the appellant has submitted that the impugned order dated December 20, 2017 is liable to be set aside as the learned

Rent Controller has wrongly passed the order of eviction by assessing the rent without any documents nor has it considered the fact that the husband of the appellant has been paying rent to the previous owner-Lalit Kumar and that her husband is no more. Her counsel did not inform her about the order dated December 4, 2017 or December 20, 2017. She came to know about it only when she received copies of the said orders. It has, therefore, been prayed that the impugned order be set aside.

On the other hand, the learned counsel for the respondents submitted that there is no infirmity in the impugned order as it has been legally and validly passed. All material facts were taken into consideration while ordering the eviction of the appellant. He has, therefore, prayed for the dismissal of the appeal.

6. The perusal of the records of the case reflects that the respondent-petitioners had filed an eviction petition against the appellant. As per rules, the provisional assessment of rent was made by the learned Rent Controller per order dated December 4, 2017, whereby the provisional rent was taken to be Rs. 600/- per month having regard to the pleadings of the parties and the arguments advanced by their respective counsel. The learned Rent Controller assessed the arrears of rent and interest and cost payable thereon per order dated December 4, 2017. The appellant was directed to deposit Rs.26,000/- inclusive arrears, interest and cost within the statutory period of 15 days. The aforesaid order was passed in presence of the counsel for the parties. The matter was then posted for December 20, 2017, on which day as well the appellant did not make the payment though her counsel was present in the Court. Even till date, no payment has been made by the appellant. The tenant was bound to be evicted as per the statutory provision in case of non-payment within the stipulated period. There is thus no infirmity whatsoever

in the order dated December 20, 2017 passed by the learned Rent Controller ordering the eviction of the appellant. The impugned order thus does not call for any interference.

7. No other point was argued.

8. In view of the foregoing discussion, the appeal is dismissed. Memo of costs be prepared accordingly. A copy of this order be placed on Lower Court Record and the same be returned. Consign the appeal file to records.

**Announced in open Court.
20th day of February, 2018**

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Appellate Authority,
Rohtak.20.02.2018
(UID No. HR0084)**

Asha Rani
Stenographer Gr.I

**(Ritu Y. K. Behl)
Appellate Authority,
Rohtak/20.02.2018**

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Present: Ms. Shashi Aggarwal, counsel for the appellant.
Sh. Deepak Sethi, counsel for the respondents 1 & 2.

Heard on the application for condonation of delay and records of the case perused.

2. The learned counsel for the applicant has submitted that her previous counsel did not inform her about the passing of the impugned order and she came to know of it only when she received copy of the order on January 17, 2018.

Though no reply to the application has been filed by the respondents, it has been opposed on the plea that it is merely a delaying tactic and that the applicant has not explained the delay.

3. Having regard to the totality of the facts and circumstances, as also the fact that the applicant is a widow, who is not highly educated, this Court is inclined to take a lenient view in the matter. Even otherwise, it is always in the larger interest of justice to dispose the matters on merits rather than declining the matter on mere technicalities. Therefore, the delay in filing the appeal stands condoned and the **application for condonation of delay** in filing this appeal is **allowed**.

Arguments heard. Vide a separate judgment of even date, the appeal has been dismissed. Memo of costs be prepared accordingly. A copy of this judgment be placed on Lower Court Record and the same be returned. Consign the appeal file to records.

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