

**(1989) 01 P&H CK 0098**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : Civil Revision No. 3659 of 1987**

|                                                               |            |
|---------------------------------------------------------------|------------|
| M/s Stainco Enterprises Private Limited Faridabad and another | APPELLANT  |
| Vs                                                            |            |
| Shri Pyare Lal                                                | RESPONDENT |

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**Date of Decision :** 30-01-1989

**Acts Referred:**

**Citation :** (1989) 1 RCR(Rent) 438

**Hon'ble Judges :** J.V. Gupta, J

**Bench :** Single Bench

**Advocate :** R.S. Mittal and Sh. P.L. Verma, for the Appellant; H.L. Sarin and Ms. Jaishree Thakur, for the Respondent

**Final Decision :** Dismissed

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## Judgement

J.V. Gupta, J.—This revision petition is directed against the order of the Appellate Authority dated August 29, 1987 whereby the order of the Rent Controller dated May 14, 1987, declining to assess the rent due on the first date of hearing was rejected.

2. The landlord filed the ejectment application on February 9, 1987, inter alia on the ground that the tenant was in arrears of rent from April 1, 1986 to February 1, 1987. The rent was at the rate of Rs. 3,600/- per month. May 1, 1987, was the first date of hearing before the Rent Controller. On that day, the case was adjourned to May 13, 1987. Since the Rent Controller was on leave that day the case came up for hearing on May 14, 1987, when the tenant made an application that the rent due be assessed as according to him, the landlord was not entitled to 11 months rent as claimed in the ejectment application. That prayer was rejected by the Rent Controller with the observation:

Ld. counsel for the Respondent however still insists on the assessment of the rent but as already observed rent is not to be assessed by the Rent Controller. Rent demanded or lesser rent as per own case of the Respondent has not been tendered.

Aggrieved against the same, the tenant filed the appeal which was dismissed on August 29, 1987

3. The learned Counsel for the Petitioners submitted that the landlord was not entitled to the rent for the month of January, 1987 and, therefore, it was the duty of the Rent Controller to assess the same on the first date of bearing. On the other hand, the learned Counsel for the landlord Respondent submitted that it was not open to the Rent Controller to determine the arrears of rent on the first date of hearing. It was the duty of the tenant to tender the rent whatsoever was due according to him. If such a tender has been made, it will be later on decided by the Rent Controller whether the said tender was valid or not. The only duty of the Rent Controller on the first date of hearing was to calculate the interest on the arrears of rent claimed by the landlord or on the amount which the tenant wanted to tender and the costs. In support of the contention, the learned Counsel relied upon *Union of India v. Karam Singh* (1969) 71 P L R 248 *Nasib Singh v. Om Prakash* (1979) 81 P. L. R. 502, *Mohan Singh v. Dina Nath* 1982 (1) R. C. J. 662, *Ishwar Dass Vs. The District Food and Supplies Department, Gurgaon*, *Badri Parshad v. Rameshwar Dass* 1985 H. R. R. 282.

4. After hearing the learned Counsel for the parties, I do not find any merit in this revision petition. Under the Haryana Urban (Control of Rent & Eviction) Act, 1973, duty is cast upon the Rent Controller to assess the interest and costs on the first date of hearing, as held by this Court in *Ishwar Dass's* case (*supra*).

5. Consequently, this revision petition fails and is dismissed with costs.