

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.3127 of 2015

Date of Decision.08.05.2015

Rajinder Singh

.....Petitioner

Versus

Tejinder Pal

.....Respondent

Present: Mr. Vaibhav Narang, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The appellate Court which was deciding an appeal on a summary eviction passed for non payment of the provisional rent remitted the matter to the Rent Controller again for consideration of the provisional rent. The landlord is before this Court to say that the Appellate Court has no power to remand under Section 15 of the East Punjab Urban Rent Restriction Act and there are case laws to that effect. The counsel refers to me a judgment of this Court in **Urmila Devi Vs. Davinder Singh 2014(1) PLR 308.** The decisions rendered by the Appellate Authority under Section 15 which deal with the merits of contention between the parties would require that if there is any inadequacy in evidence or if there is any subsequent event, the Appellate Court itself may call for a report from the trial Court and will not remand the matter. This principle ought not to be invoked in a situation where the decision of the Rent Controller was not on merits

but a summary ejectment on the failure to pay the provisional rent determined by it. If the Appellate Court was, therefore, holding that the determination which was made originally and which was sought to be reviewed but such review application was also rejected, the Appellate Court has the competency to bring the issue of the provisional rent to be redetermined in the manner directed by it. I will not find any fetter for the exercise of such a jurisdiction by the Appellate Court and the plea of want of jurisdiction of the Appellate Court to make a remand ought not to be extended also to a situation of a determination of provisional rent. I will find no cause for intervention in revision.

2. The order of the Appellate Court is maintained and the civil revision is dismissed. Be it clarified that the Rent Controller shall only determine the provisional rent first and take the matter further to the consequence of the compliance of such a direction and will not take up all the issues for consideration without determination of provisional rent in the manner directed by the Appellate Court.

(K. KANNAN)
JUDGE

May 08, 2015
Pankaj*