

CR-3241-2015 (O&M)

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-3241-2015 (O&M).

Decided on: May 19, 2015.

Javed Sulmani @ Aquib Javed Sulemani

..... Petitioner(s)

Versus

Amarjit Kaur and another

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Kunal Mulwani, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL).

This is a revision petition under Section 15 (5) of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the Rent Act') challenging the assessment of provisional rent pertaining to the rented premises. As per the judgment of Hon'ble Apex Court in **Harjit Singh Uppal Vs. Anup Bansal, 2011 (3) RCR (Civil) 247**, an order determining the provisional rent would be an appealable order under Section 15 (1) (b) of the Rent Act.

Counsel for the petitioner submits that the judgment of Hon'ble the Apex Court in **Harjit Singh Uppal's case (supra)** has been distinguished by a Division Bench of this Court in **Tirlokh Singh Anand Vs. M/s Prem Chand and Sons and others, 2013 (1) RCR (Civil) 488**.

After hearing the counsel for the petitioner and going through the above cited judgments of Hon'ble the Apex Court

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and the Division Bench of this Court, I am of the considered opinion that taking into consideration the spirit of Article 141 of the Constitution of India, observations in **Harjit Singh Uppal's case (supra)** are binding upon this Court and would govern the proposition of order determining provisional rent by Rent Controller as an appealable order.

I have carefully considered the judgment of Hon'ble the Apex Court in context to the law laid down in judgments dealing with law of precedence and obiter dicta recently while deciding civil revision No.3290 of 2014, Ajay Partap Singh Vs. Gurdila Singh and others, decided on 13.5.2015, wherein I have held that the observations in **Harjit Singh Uppal's case (supra)** do not seem to be merely obiter dicta.

This petition is disposed of in limine as not maintainable. It will be open to the petitioner to avail the alternative statutory remedy of filing appeal within a period of 15 days claiming the benefit of Section 14 of the Limitation Act.

May 19, 2015.
rka

(M.M.S. BEDI)
JUDGE