

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

**C.M. NO.16209 CII OF 2015 &
C.R. NO.4483 OF 2015**

DATE OF DECISION: NOVEMBER 30, 2015

Ashok Kumar

.....Petitioner

VERSUS

Gagan Vohra

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

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

Present: Mr. Gourave Bhayya Gilhotra, Advocate,
for the petitioner.

Mr. Yogesh Goel, Advocate,
for the respondent.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No.16209 CII of 2015

C.M. is allowed.

Documents, Annexures P-3 and P-4, are taken on record.

C.R. No.4483 of 2015

On 16.09.2015, a preliminary objection was raised with regard to maintainability of the present revision petition on the ground that the impugned order dated 21.03.2015 passed by the Appellate Authority under the East Punjab Urban Rent Restriction Act, 1949 has been dismissed on one of the grounds that the said appeal was not maintainable and, therefore, the consequential revision in any case would not be maintainable. This was

asserted while relying upon the order dated 21.03.2015 passed by the Appellate Authority in an earlier appeal, which had been filed by the appellant i.e. R.A. No.4/17.01.2015, challenging the order of Rent Controller dated 31.10.2014, which reads as under:-

“Present: Appellant with Sh.S.S.Bhatia Adv.

Sh.R.K.Talwar Adv. counsel for respondent.

Ashok Kumar appellant suffered statement that he withdraws the present appeal on some technical ground and the same may kindly be dismissed as withdrawn with liberty to file afresh.

In view of the statement of appellant Ashok Kumar, present appeal is dismissed as withdrawn. File be consigned to the Record Room.”

To this objection, counsel for the petitioner has referred to the order passed by this Court in Narinder Nath and ors. Vs. Government of Jammu and Kashmir 1999 (1) RCR 497 to contend that the said objection would not be sustainable as it would not act as a *res judicata*.

I have perused the order passed by this Court in Narinder Nath's case (supra) and find that the issue involved in the said case was identical to the one as in the present case. The order dated 21.03.2015 as passed in the present case is in the same terms as was in the case of Narinder Nath (supra).

In the light of the said order, the objection about the maintainability of the present revision petition, as raised by counsel for the respondent, stands rejected.

I have heard counsel for the parties and on considering the arguments as have been raised by both the counsel and on perusal of the

impugned order, it is clear that the certified copies of the orders were attached alongwith earlier appeal and after withdrawal of the same, a fresh appeal was filed within a period of three days with the request for exemption from filing the certified copies of the orders. Further, on the same very day, he had applied for the certified copies, which were supplied to him on 04.04.2015 and the same were placed on record. Learned lower Appellate Court has, therefore, returned a wrong finding that the appellant has not filed the certified copies of the orders and, therefore, the appeal was not maintainable. That apart, the finding recorded by the Court below that the appeal is hopelessly time barred also would not be sustainable in the facts and circumstances of the present case as have been mentioned above.

The present revision petition is, therefore, allowed and the impugned order dated 28.05.2015 passed by the Appellate Authority, Ludhiana, is set-aside. It is expected that the appeal, which stands revived, shall be decided on merits by the Appellate Authority, Ludhiana, within a period of 60 days from the date of receipt of certified copy of this order. Parties to appear before the Appellate Authority on 08.12.2015.

Copy of the order be given *dasti* to counsel for the parties under the signatures of Reader of this Court.

November 30, 2015
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE