

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-7267-2013 (O&M)

Date of decision: 5.2.2015

Manjit Kaur and others

..... Petitioners

Versus

Mrs. Kanta Rani and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the 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?*

PRESENT: Mr. Dinesh Ghai, Advocate for the petitioners.

Mr. KR Dhawan, Advocate for respondent No. 1.

R.P. NAGRATH, J. (ORAL)

The petitioners have invoked revisional jurisdiction of this Court under Section 15 (5) of the East Punjab Urban Rent Restriction Act, 1949 (for short 'the Act') seeking to set aside the order dated 7.9.2013 (Annexure P-2) passed by the learned Appellate Authority, Chandigarh whereby appeal against the order dated 8.6.2012 (Annexure P-1) of learned Rent Controller, Chandigarh, was dismissed as not maintainable.

After the provisional assessment of rent was made by the learned Rent Controller on 4.5.2012, the date for tendering the rent was fixed for 8.6.2012, on the basis of above-stated order. On 8.6.2012, the eviction order Annexure P-1 was passed by the Rent Controller. That order was assailed before the Appellate Authority and it was observed

that appeal is not maintainable in view of decision of this Court in **Tirlok Singh Anand Vs. M/s Prem Chand and sons and others, 2013 (1) RCR (Civil) 488.**

I have heard learned counsel for the parties and perused the impugned order as well as the paper-book and find that the observations of the Appellate Authority are quite incorrect and the order Annexure P-2 cannot be sustained in the eyes of law. The eviction order dated 8.6.2012 (Annexure P-1) was passed under Section 13 of the Act and as per the decision of **Tirlok Singh's case (supra)**, appeal is maintainable against the final order. It is a different matter that the tenant could challenge the provisional assessment of rent by filing revision but when an order of ejectment has been passed only appeal against that order is maintainable.

Learned counsel for the respondent vehemently contended that the petitioners are not the tenants of respondent and that there was an admission of the petitioners in the written statement. I am of the view that these contentions can be raised before the Appellate Authority.

In view of the above, the instant revision is allowed and the impugned order dated 7.9.2013 (Annexure P-2) is set aside. The Appellate Authority is directed to decide the appeal, in accordance with law.

The parties are directed to appear before the Appellate Authority on 2.3.2015.

Till then the order dated 8.6.2012 (Annexure P-1) passed by the Rent Controller, shall not be executed.

February 5, 2015
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(R.P. NAGRATH)
JUDGE