

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

C.R. No.525 of 2016

Date of Decision : 16.02.2016

M/s Classpro Remedies Private Limited

..... Petitioner

Versus

M/s Gupta Construction Company

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Kanwar Pahul Singh, Advocate
for the petitioner.

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?

AJAY TEWARI, J. (Oral)

This revision has been filed for setting aside the order dated 04.12.2015 rejecting application under Section 10 C.P.C. filed by the tenant to stay the proceedings in the petition.

The landlord-respondent had filed the extant petition under Section of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (for short "*the Act*") praying for fixation of fair rent from the date of the petition. The petitioner filed the application under Section 10 CPC claiming that earlier two petitions had been filed by the landlord-respondent alleging that in the unregistered lease deed there was an escalation clause and therefore the tenant was bound to pay the escalated rent every year under the

term of that clause. However, since that lease deed was unregistered both the Courts below rejected the applicability of the escalation clause. That matter was carried by the landlord-respondent to this Court. It was in these circumstances that the petitioner-tenant prayed that the proceedings in the petition for fair rent should be stayed till a decision on that issue. By the impugned order the Rent Controller held that the issue was totally different and dismissed the application and that is why the petitioner-tenant is before this Court.

Learned counsel has argued that till the entitlement of the landlord-respondent for escalation in rent is determined the extant petition cannot be held to be maintainable.

In my opinion, this argument is fallacious. If those revision petitions are allowed it would mean that the landlord-respondent is entitled to escalation in rent every year @ 15% p.a. but it would have no bearing on what would be the fair rent today. That fair rent has to be determined under Section 4 of the Act and an escalation clause has no application for fixation thereof; and on the contrary, even if the revision petitions are dismissed and it is held that the landlord-respondent is not entitled to yearly escalation he can still claim fair rent from the date of the fresh petition.

Consequently, the present revision petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

February 16, 2016

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**(AJAY TEWARI)
JUDGE**