

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.7504 of 2017 (O&M)

Date of Decision: 01.11.2017

Vidhya Sagar

... Petitioner

Versus

Chunni Lal and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sandeep Arora, Advocate,
for the petitioner.

RAJIV NARAIN RAINA, J.(Oral)

1. This revision petition has been filed under Section 15 (5) of the East Punjab Urban Rent Restriction Act, 1949 by the tenant against the order dated September 15, 2017 passed by the Appellate Authority, Jalandhar remitting the case to the Rent Controller for the reason that the matter was not decided on merits by the Rent Controller.

2. The tenant/s were proceeded against ex parte in the trial court and the evidence of the landlord was therefore also recorded ex parte respondent. Finding sufficient reason to reopen the case when proceeding ex parte was not justified, the Appellate Authority has issued a direction to the Rent Controller to afford an opportunity to respondents No.2 to 4/appellants to cross-examine the petitioner landlord and the witnesses examined by him or to be examined by him and after giving adequate opportunities to respondents No.2 to 4/appellants to adduce their evidence and send its report to the Appellate Court on or before March 26, 2018. The

Appellate Authority has relied on the judgment in Balwant Rai Tayal v. M/s Subash Oil Company, Hissar through Sh. Raghunath Sahad, 2003 (2) RCR (Rent) 148 to make the order of remand.

3. The view of this Court is that it would be proper exercise of power to remand the case to the Rent Controller when the matter is not decided on merits and the retrial was imperative to achieve the ends of justice. This is not a case of wholesale remand which is prohibited in view of the Division Bench of this Court in Raghu Nath Jalota v. Romesh Duggal and another, AIR 1980 (Punjab) 188.

4. As a result, the Appellate Authority has passed an order within jurisdiction and justifiably calls for a report by fixing a date to await the same and keeping the appeal pending for further consideration of the new material gathered. This is proper exercise of jurisdiction and I have no reason to interfere in the order and would hereby dismiss the present petition as devoid of merit.

(RAJIV NARAIN RAINA)
JUDGE

01.11.2017
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Whether speaking/reasoned	Yes
Whether reportable	No