

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 8023 of 2017(O&M)

Date of Decision:15.11.2017

M/s Ramesh Kumar Jain and Sons
and another

...Petitioners

Vs.

Darshan Lal

...Respondent

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

Present: Mr. Vishal Gupta, Advocate,
for the petitioners.

RAJIV NARAIN RAINA, J. (Oral)

The order of the Appellate Authority in remanding the case on the question of determination as to whether the landlord has another shop bearing No. 1582-B [other than the demised shop] will be treated as subject matter of a Report to be submitted to the Appellate Authority, Rupnagar by the Rent Controller and to this end Rent Appeal No. 12/12.10.2016 is restored on the board of the Appellate Authority, Rupnagar, to save the order from following running foul of the law in 'Krishan Lal Seth v. Pritam Kumari', 1961 PLR 865, 'Raghu Nath Jalota v. Romesh Duggal and another', 1979(2) RCR (Rent) 501 and 'Smt. Urmila Devi v. Davinder Singh', 2014(1) PLR 308 and the decision of this Court in Civil Revision No. 6123 of 2014, 'Rajesh Kumar and others vs. Gaurav and another' that the Appellate Court has no power to remand a case whole-sale to the Rent Controller for fresh determination.

Accordingly, this appeal is partially allowed.

The order dated 19.04.2017 shall stand modified as per this the present order. The Rent Controller would submit the report confined to the issue in remand before the Appellate Authority, Rupnagar, after completion

of process of adjudication as contained in the order dated 19.04.2017. The work left undone and incomplete by the Rent Controller will now be completed. This order has been passed *ex parte*-landlord as issuing notice of motion to offer hearing on this petition would be contrary to his interest as it would delay the proceedings with the inevitable stay order on the proceedings. To avoid such situation, the present path has been adopted to bring the impugned order in consonance with law. The Appellate Authority, Rupnagar on receipt of this order would fix a date by an adjournment of at least six months to await the report.

(RAJIV NARAIN RAINA)
JUDGE

15.11.2017

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Whether speaking/reasoned *Yes*

Whether reportable *No*