

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

CR No.1399 of 2010 (O&M)
Date of decision : 09.08.2018

Satish Kumar

...Petitioner

Versus

Om Parkash

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Amit Jain, Advocate for the petitioner.

Mr. Abhishek Dhull, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

Dispute in the present case is for fixation of the fair rent under Section 4 of the Haryana Urban (Control of Rent and Eviction) Act, 1973.

The landlord claimed that since on the previous occasion, the authorities have fixed the fair rent, therefore, such fair rent cannot be treated as an agreed rent as provided in Section 4(2)(b) of the Act. He relied upon the judgment passed by Hon'ble the Supreme Court in the case of **Ishwar Swaroop Sharma Vs. Jagmohan Lal, (2001) 1 SCC 218.**

Learned counsel has further referred to an unreported judgment of this Court passed in CR No.1300 of 2006 titled as Jagmohan Lal Vs. Ishwar Swaroop Sharma, decided on 09.03.2006, wherein this Court had held that once fair rent has been fixed by the Rent Controller, the fair rent as fixed, cannot be treated as an agreed rent.

Learned counsel for the petitioner has also submitted that Section 4(2)(b) shall be applicable as construction of the building was completed on 21.12.1961.

Since, both the Court below have not considered this aspect of the matter, hence, this Court is of the considered view that the matter is required to be remanded back to the Rent Controller to re-decide the matter, in accordance with law.

Parties through their counsel are directed to appear before the Rent Controller on 23.08.2018.

In view of the above, the present revision petition stands disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

09.08.2018

Pawan

(ANIL KSHETARPAL)

JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No