

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

CR No.3883 of 2009 (O&M)
Date of decision : 21.09.2018

Jinender Kumar Jain

...Petitioner

Versus

Central Bank of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Shubham Kaushik, Advocate for the petitioner.

Mr. Anurag Jain, Advocate for the respondents.

ANIL KSHETARPAL, J. (ORAL)

CM No.16103-CII of 2009

For the reasons stated in the application, which is duly supported by an affidavit, delay of 6 days in filing the present appeal is condoned.

Application is allowed.

Main case

It is not in dispute that the respondent has already vacated the premises in dispute.

Petitioner-landlord had filed an application under Section 4 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter to be referred as “the Act of 1973”) for determining the fair rent.

Both the Courts below after applying the formula based on

Wholesale Price Index, has re-fixed the fair rent.

Learned counsel for the petitioner relied upon the judgment passed by Hon'ble the Supreme Court in case of **Ishwar Swaroop Sharma Vs. Jagmohan Lal, (2001) 1 SCC 218**. In the aforesaid case, Hon'ble the Supreme Court while interpreting the provisions, have held that after the period of contractual tenancy is over, if an application for fixation of the fair rent has been filed and decided, thereafter, the rent which is being received by the tenant cannot be treated as an agreed rent and hence the rent is liable to be determined on the basis of the market rent. It is undisputed that in this case, after the period of contractual tenancy was over, no application under Section 4 of the Act of 1973 was filed and this is the first application under Section 4 of the Act of 1973. Hence, the aforesaid judgment would not come to rescue the petitioner.

In view of the above, the present revision petition is dismissed.

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

21.09.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No