

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

**CR No.3046 of 2018(O&M)
Date of Decision: 23.05.2018**

Firm Brij Mohan Mehra and others

.....Petitioners.

Vs.

Inderjit Puri

.....Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Akhilesh Vyas, Advocate, for the petitioners.

RITU BAHRI, J. (ORAL)

Petitioners have come up in revision under Article 15 (5) of the East Punjab Urban Rent Restriction Act, praying for setting aside the impugned order dated 16.11.2017 (Annexure P-1) passed by the Court of learned Additional District Judge, Amritsar, whereby, applications filed by the petitioners were dismissed.

A perusal of the impugned order (Annexure P-1) shows that present application under Section 151 CPC has been filed that two important issues have been left untouched and there has been concealment of material facts by landlord and applicant will suffer irreparable loss, if present appeal is not remanded back. In paragraph 5, it has been observed that said issues of previous litigation has been dealt by the learned Rent Controller in para No.22 of the order where observations regarding previous ejectment petition is specifically mentioned. The judgment of the learned Rent Controller, Amritsar, has also been attached by the petitioners as (Annexure P-2) and in paragraph 22, it has been observed that previous ejectment petitioner was withdrawn on the basis of compromise on 24.05.2006 and present ejectment petitioner has been filed on 12.11.2013 after a long gap.

This argument of the tenant was considered for concealment of previous litigation and it has been observed that previous litigation was

compromised in 2006 and hence, there was a gap of 7 years, landlord filed the petitioner for bonafide necessity. The application has been rightly dismissed as the issue of previous litigation would not be a bar to entertain and proceed with the present petition. The Division Bench of this Court in the case of Raghu Nath Jalota Vs. Romesh Duggal and anr. 1979 (2) RCR (Rent) 501 has examined the provisions of Section 15(3) CPC and Order 41 Rules 23 and 25 with respect to East Punjab Urban Rent Restriction Act, 1949, it was held that Appellate Authority can make only further enquiry either by itself or through Controller. The object of Rent Act was to provide a summary and expeditious mode of disposal of case and rid the authorities of shackles of technical procedure of CPC. In paragraph 23 it has been observed as under:

“Even whilst making the present reference, the learned Judge has made similar observations that if the Appellate Authority is denuded of the power of remand and decision afresh, then it has to perform the function of the Rent Controller itself. With great respect, this view does not commend itself to us. The Plain language of Section 15(3) clearly provided both the alternatives in a wide range of discretion to the Appellate Authority. Re is entitled to make such further enquiry either himself or through, the Controller. It is thus plain that in appropriate cases, if the Appellate Authority so desires, the matter can be sent to the Controller for the recording of further evidence and even the findings to be arrived at thereon. This procedure can obviously be closely analogous to the calling of a report from the trial court under Order 41. Rule 25, Civil P. C. Therefore, the rear repeatedly expressed that the absence of the power of remand would inevitably and as a matter of law convert the Appellate Authority into a trial. court, in peculiar cases appears to be not well founded. If would be wasteful to reiterate all the reasons given above and on their basis, there is no option, but to overrule the judgment on this point.”

In the present case, the fact of previous litigation was not clarified as it was case of compromise as such, learned appellate Court has rightly

not remanding the case to the rent controller for fresh decision.

So in view of the above, the orders of the Courts below do not reflect any material irregularity or perversity which warrant interference. Hence the present revision stands dismissed.

(RITU BAHRI)
JUDGE

23.05.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No