

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision : 11.1.2018

312	CR No.-4914-2012 (O&M)
SHRI GAUSHALA	PETITIONER
VS	
ARJUN	RESPONDENT
312-2	CR No.-2974-2013 (O&M)
SHRI GAUSHALA	PETITIONER
VS	
SATYAWAN	RESPONDENT
312-3	CR No.-3024-2014 (O&M)
SHRI GAUSHALA	PETITIONER
VS	
VINOD KUMAR	RESPONDENT
312-4	CR No.-3081-2014 (O&M)
SHRI GAUSHALA	PETITIONER
VS	
AMIR SINGH	RESPONDENT
312-5	CR No.-3126-2014 (O&M)
SHRI GAUSHALA	PETITIONER
VS	
SHYAM KUMAR	RESPONDENT

312+ connected cases

312-6

CR No.-7526-2013 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

SH. KRISHAN CHAND

....RESPONDENT

312-7

CR No.-7503-2013 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

SURESH

...RESPONDENT

312-8

CR No.-7509-2013 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

ANIL KUMAR

....RESPONDENT

312-9

CR No.-7502-2013 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

BUTA SINGH

....RESPONDENT

312-10

CR No.-6888-2013 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

JAI BHAGWAN

....RESPONDENT

312-11

CR No.-6885-2013 (O&M)

SHRI GAUSHALA

....PETITIONER

312+ connected cases

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I attest to the accuracy and
integrity of this document

VS

SATISH KUMAR

....RESPONDENT

312-12

CR No.-7522-2013 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

NARAYAN SINGH

....RESPONDENT

312-13

CR No.-6964-2016 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

SUNIL KUMAR

....RESPONDENT

312-14

CR No.-1544-2015 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

BISHAMBER

....RESPONDENT

312-15

CR No.-1545-2015 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

RAJ KUMAR

....RESPONDENT

312-16

CR No.-1546-2015 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

AZAD SINGH

....RESPONDENT

312-17

CR No.-1547-2015 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

ANIL KUMAR

....RESPONDENT

312-18

CR No.-1548-2015 (O&M)

SHRI GAUSHALA

....PETITIONER

VS

TEK RAM

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Munish Kumar Garg, Advocate
Mr. Mukesh Verma, Advocate for
Mr. Raj Kumar Gupta, Advocate
for the petitioner(s).

Mr. Sandeep Singh Ghangas, Advocate
for the respondent in CR No. 4914-2012.

Mr. Arvind Kumar Chauhan, Advocate
for the respondent in CR Nos. 7502 of 2013, 1548 and 1544
of 2015.

Mr. Dharam Pal, Advocate for
Mr. Sanjiv Sheoran, Advocate
for the respondent in CR No. 2974, 6888, 7503, 7522, 7509 of
2013, 3081 and 3024 of 2014.

AJAY TEWARI, J.(Oral)

This group of appeals has been decided together as the
landlord is the same person and facts are similar.

These appeals have been filed against the concurrent
judgments of the Courts below for fixing the fair rent.

Brief facts of the case are that the land lord had entered into

an agreement to let out the premises to the various tenants in the year

1993. In the year 1999 the landlord had moved an application for fixation of fair rent. The Rent Controller taking the rent of 1993 had agreed to file the fair rent as per provisions under Section 4(3) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter for short 'the Act'). After five years the landlord filed yet another application for fixation of fair rent. The Rent Controller took the earlier determination of fair rent as agreed rent and proceeded to again fix the rent as per the provision of Section 4(3) of the Act. The appellate authority concurred with that view and that is how landlord is before me.

Learned counsel for the petitioner has argued that the fair rent fixed by the Rent Controller in the earlier application cannot be taken to be agreed rent and once that is so the Rent Controller should have determined the fair rent on the basis of prevalent rent in the locality rather than revert to the rent assessed by the Rent Controller in the first application under Section 4 of the Act. In this connection he has referred to the judgment of the Supreme Court in the matter of “**Ishwar Swaroop Sharma vs. Jagmohan Lal 2000 (2) RCR (rent) 649.**” In that case also, the Supreme Court had held as follows :-

“10. Therefore for the purpose of determining fair rent Section 4 (2)(b) draws a distinction between cases where the parties have agreed to the rent and cases where rent is payable otherwise than by agreement. In the first case, the agreed rent is to be taken as the base and the increase determined according to the formula provided in Section 4(3). In the second case, the base is the market rate.”

In an another Full Bench judgment of this Court in the matter
of “Asharafi Devi Memorial Charitable Trust vs. Ram Kumar 2008
(1) RCR (rent) 137” the Court held as follows:-

“8. The aforementioned enunciation of law in Ishwar Swaroop Sharma's case (supra) does not leave any manner of doubt that if on the date of filing of the application under Section 4 of the Act for determination of fair rent, the agreed rent was still in vogue thus, it has to be regarded as the basic rent and the same was to constitute the basis for determining fair rent.”

Against the backdrop of the above exposition of law, it has to be held that the first computation of fair rent which was made in the application moved in the year 1999 cannot be taken to be agreed rent.

Consequently, the basis on which fair rent has determined by the Courts below has to be set aside. The matter is remanded back to the Rent Controller to decide the application under Section 4 afresh as per the rent prevailing in the locality. All the revisions are allowed.

Since the main case has been decided, the pending C.M, if any, also stand disposed of.

11.1.2018
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No