

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

142

Date of Decision : 23.10.2018

1. CR No.782 of 2015 (O&M)

Smt. Meera @ Meera Sharma

..... Petitioner

Vs.

Ashok Kumar and another

..... Respondents

2. CR No.1479 of 2015 (O&M)

Ashok Kumar and another

..... Petitioners

Vs.

Smt. Meera @ Meera Sharma

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present: Mr. Sharan Sethi, Advocate
for the petitioner (CR No.782 of 2015).

Mr. Om Pal Sharma, Advocate for
Mr. Rajinder Sharma, Advocate
for the petitioners (CR No.1479 of 2015)
for the respondents (CR No.782 of 2015).

AJAY TEWARI, J. (Oral)

This order shall dispose of above mentioned two revisions.

CR No.782 of 2015

This petition has been filed against the order of the appellate Authority whereby he remanded the case back to the Rent Controller.

The essential facts are that the petitioner had filed an eviction petition against the respondents taking the ground of non-payment of rent and bona-fide necessity. In the reply the respondents had claimed setting off of some amount of rent which respondent No.2 had deposited under Section 31 of the Punjab Relief of Indebtedness Act, 1934 (for short the Act). The Rent Controller passed a provisional assessment order wherein he did not consider the amount which was deposited by respondent No.2. The respondents however deducted the amount the respondent No.2 had deposited and paid the remaining amount of provisional rent. Ultimately they were evicted on the ground that they had not complied with the provisional assessment order. They filed an appeal in which they specifically took a plea that even the provisional rent was wrong as was the final order on the ground that the amount respondent No.2 had deposited had to be set off against the rent. The appellate Authority instead of deciding about the legality of that deposit remanded the case back to the Rent Controller for a fresh decision on that issue and that is how the petitioner is before this Court.

In my opinion, the revision has to be allowed. The appellate Authority had no occasion to remand the matter back for this purpose. All he had to do was to decide whether the amount deposited by the tenant could be set off against the rent or not.

In the circumstances, the petition is allowed. The order of the appellate Authority is quashed and the matter is remanded back to the appellate Authority for a decision on merits. Parties through counsel are directed to appear before the appellate Authority on 22.11.2018.

CR No.1479 of 2015

In view of the decision passed in ***CR No.782 of 2015*** this petition has been rendered infructuous because by this petition the petitioners have challenged an order passed by the Rent Controller on remand. Since in CR No.782 of 2015 the remand order itself has been set aside. The petitioners may if so advised file an application for amendment before the appellate Authority.

Dismissed as having been rendered infructuous.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

23.10.2018

pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No