

CR No.7835 of 2017 (O & M)
CR No.7836 of 2017 (O & M)
CR No.7837 of 2017 (O & M)
CR No.7859 of 2017 (O & M)

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

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CR No.7835 of 2017 (O & M)
Date of Decision:09.08.2018

Harjiwanpal Singh Gill

...Petitioner

Versus

Maghi Ram

...Respondent

CR No.7836 of 2017 (O & M)

Harjiwanpal Singh Gill

...Petitioner

Versus

Manjit Singh

...Respondent

CR No.7837 of 2017 (O & M)

Harjiwanpal Singh Gill

...Petitioner

Versus

Sudarshan Angrish

...Respondent

CR No.7859 of 2017 (O & M)

Harjiwanpal Singh Gill

...Petitioner

Versus

Darshan Kumar (since deceased) through LRs

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.K. Rana, Advocate
for the petitioner (in all petitions).

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Mr. S.C. Arora, Advocate
for the respondent (in CR-7837-2017)

ANIL KSHETARPAL, J.(ORAL)

By this common order, four revision petitions bearing No.CR No.7835, 7836, 7837, 7859 of 2017 shall stand disposed of as counsels have agreed that issue to be determined is common.

Learned Rent Controller keeping in view the market rent prevailing in the area assessed provisional rent ignoring the rent receipts produced by the tenant and also ignored the fact that tenancy is approximately 30 years old in all the cases. Appeal preferred against the aforesaid order has been accepted by the learned Appellate Authority and the learned Rent Controller has been directed to re-assess the provisional rent.

On 03.08.2018, learned counsel for the petitioner in all the revision petitions had contended that the order passed by the learned Rent Controller assessing provisional rent was not appealable. He referred to a Division Bench judgment of this Court in **“Tirlok Singh Anand vs. M/s Prem Chand and Sons and others, 2013 (1) RCR (Civil) 488”**.

Taking note of the aforesaid binding precedent, learned counsel for the parties were called upon to argue the revision petitions treating these revision petitions are filed by the tenants against the order passed by the learned Rent Controller assessing the provisional rent. This Court in the peculiar facts of the case has decided to exercise powers under Section

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the High Court to suo moto invoke the power of revision. The order passed on 03.08.2018 is extracted as under:-

“Learned counsel for the petitioner contends that the appeal before the Appellate Authority was not maintainable against the order passed by the Rent Controller assessing the provisional rent. However, when the learned counsel for the petitioner was called upon to defend the order passed by the Rent Controller, assuming that these revisions are to be treated as revisions filed against the order passed by the Rent Controller, he prays for time.

List this matter on 09.08.2018 in the urgent list.

It is made clear that no further request for an adjournment shall be entertained.

A photocopy of this order be placed on the files of other connected cases.”

Today, counsels have been heard against the orders passed by the Rent Controller. It is apparent that while assessing the provisional rent, the learned Rent Controller was much impressed by rent payable for the adjoining buildings.

No doubt, there is no lease deed or rent note but tenants have produced rent receipts in support of their plea that rent payable is much less than what is being claimed by the landlord. At this stage, there was no occasion for the Rent Controller to doubt correctness of the aforesaid rent

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Still further, Rent Controller while assessing the provisional rent does not assess mesne profit, which is permissible only after an eviction order has been passed while deciding the main petition and relationship of landlord and tenant has come to an end and appellate authority is determining the mesne profit before grant of injunction. However, such jurisdiction does not vest with the Rent Controller particularly when no order has been passed in the main petition.

Keeping in view the aforesaid facts, it would be more appropriate if this Court does not make any observation on the merits of the case. The order passed by the Rent Controller is set aside. Rent Controller is directed to re-decide the application for provisional rent afresh after taking into consideration material/documents placed on file.

Parties through their counsel are directed to appear before the Rent Controller on 27.08.2018.

Learned counsel for the landlord submits that proceedings in the main petition be expedited. He submits that petitions filed in the year 2015, are pending.

Keeping in view the aforesaid facts, learned Rent Controller is requested to expeditiously disposed of the main petitions after granting short adjournments.

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

09.08.2018
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No