

117 CM-14999-CII-2018
RA-CR-156-CII-2018
IN CR-1688-2015

MAGH SINGH
V/S
SURJIT SINGH (SINCE DECEASED) THRO LRS AND
ANR

Present: Mr. Jagjot Singh Lalli, Advocate
for the applicant/review petitioner.

Mr. A.P. Kaushal, Advocate
for the caveator-respondent.

Prayer in this application filed under Order 47 Rule 1 read with Section 151 CPC is to review order dated 18.05.2018 passed by the Court whereby eviction on the ground of arrears of rent has been affirmed.

Counsel for the review petitioner would urge that the applicant filed SLP (Civil) No.15960 of 2018 which was dismissed as withdrawn and the applicant was allowed period of 30 days to file a review petition before the High Court. It is further submitted that the Rent Controller in para 14 of the judgment has held that the applicant (respondent No.1 therein) is liable to pay rent to the petitioner therein w.e.f. 01.01.2002 to 01.12.2008 and the subsequent period after tendering the rent in the Court till his eviction, so the petitioner cannot claim increase in rent at the rate of 10%.

Order XLVII Rule 1 CPC deals with review of judgment and a relevant extract therefrom reads as follows:-

“1. Application for review of judgement-

(1) Any person considering himself aggrieved-

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
- (b) by a decree or order from which no appeal is allowed, or
- (c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgement to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgement notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.”

Apart from the fact that application for review has been filed after delay of 38 days, no ground for review is made out.

Dismissed.

AUGUST 3, 2018
‘D. Gulati’

(REKHA MITTAL)
JUDGE