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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.2948 of 2016 (O&M)

Date of Decision: 22.01.2019

Chaman Lal

..... Petitioner

Versus

Om Parkash (Since Deceased) Th. His LRs.

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Shranav Katyal, Advocate,
for the petitioner.

Mr. B.B.S. Randhawa, Advocate,
for LRs. No.(i) to (iii) of the respondent.

SUDIP AHLUWALIA, J. (ORAL)

The sole grievance of the petitioner/landlord in this Revision Petition is that the Appellate Authority remanded back the matter to the Ld. Rent Controller for determination on the Issue No.5-A, which had been framed on the basis of an amended written statement filed by the respondent/tenant, but which issue had not been decided by the Ld. Rent Controller.

2. Submission of Ld. Counsel for the petitioner in this regard is that by virtue of Section 15(3) of the East Punjab Urban Rent Restriction Act, 1949, the Appellate Authority was itself obligated to decide the appeal

finally, and if so necessary, after making further enquiry as deemed fit or proper. Hence, the petitioner contends that the aforesaid issue even assuming that the same had been left undecided by the Ld. Rent Controller, also ought to have been finally decided by the Ld. Appellate Authority itself, since it had no jurisdiction to remand back the matter to the Ld. Rent Controller in view of a Full Bench decision of this Court reported in **CR No.965 of 1976** titled “**Raghu Nath Jalota Vs. Romesh Duggal and another**”, decided on **01.08.1979**, wherein it was held that:

“To conclude therefore the history of the legislation, its object and purpose, the specific language of Section 15(3) of the Act and both principal and precedent, attend to render an answer in the negative to the question formulated at the outset. It is, therefore, held that there is no jurisdiction in the Appellate Authority to remand the whole case to the Controller for entirely a fresh decision and the view in Moti Ram v. Ram Sahai, Civil Revn. No.641 of 1957 decided on April 29, 1958 and Krishan Lal Seth v. Shrimati Pritam Kumari, (1961) 63 Pun LR 865, is reaffirmed.”

3. The ratio of the aforesaid decision has thereafter been followed by this Court in **CR No.1646 of 2011** titled “**Smt. Prabha Sehgal Vs. Shri Subhash Sagoonja**” decided on **03.10.2011**, wherein it was held that:

“In view of the authoritative law laid down by the aforesaid authority, this revision petition is allowed and the impugned order of remand is modified to the extent that instead of deciding the whole case a fresh, the Rent Controller will record a finding on issue No.5-A, as framed by the Appellate Authority reproduced above after allowing the parties

opportunities to lead evidence as per the remand order. The Rent Controller will send the report within two months from the date of receipt of a copy of this order.”

4. The ratio of the **Raghu Nath Jalota** (supra) decision has also been followed by this Court in **CR No.3391 of 2008** titled “**Naresh Garg Vs. Parshotam Lal**” decided on **06.08.2010**, wherein it was held that:

“Consequently, the present revision petition is allowed and the impugned order passed by the appellate authority is modified to the extent that instead of remitting the matter to the Rent Controller, the appeal shall remain pending before the appellate authority, which shall frame an issue for determination of relationship of landlord-tenant and the Rent Controller shall only send a report on that issue after giving opportunities to the parties to lead evidence on the issues to be formulated by the appellate authority. The appellate authority shall frame issues, on which a report is to be sought from the Rent Controller, within a period of 15 days from the date of receipt of a certified copy of this order. The Rent Controller shall make every effort to send his report within a period of three months thereafter. After receipt of the report, the appellate authority shall decide the appeal in accordance with the provisions of law.”

5. Above being the undisputed position of law, in the opinion of this Court and in the given facts and circumstances, the Ld. Appellate Authority ought to have finally decided the appeal itself by announcing its own decision upon the additional Issue No.5-A, which was also the subject matter of the impugned judgment of the Ld. Rent Controller.

6. Consequently, the impugned order of the Ld. Appellate

Authority is set aside, and it is directed that the Ld. Appellate Authority shall proceed on to decide the appeal finally, after pronouncing its findings upon all the issues framed in the matter, including the additional Issue No.5-A.

7. Disposed off.

8. The appeal in this manner shall be finally decided by the Ld. Appellate Authority as expeditiously as possible, and preferably within a period of three months from the date of communication of this order.

9. Parties are directed to appear before the Ld. Appellate Authority on 21.02.2019.

22.01.2019

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No