

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

RA-CR-17-2019 with
CM No.4736-CII of 2019 in
CR No.970 of 2019
Date of Decision: December 13, 2019

Harmesh Lal

...Petitioner

Versus

Anil Kumar

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. S.K. Sandhir, Advocate
for the applicant-respondent.

Mr. Sunil Agnihotri, Advocate
for the non-applicant/petitioner.

JAISHREE THAKUR, J. (Oral)

CM-4736-CII-2019

Allowed as prayed for, subject to all just exceptions.

Annexures R1 to R6 are taken on record.

RA-CR-17-2019

This is a review application that has been filed by the applicant-respondent seeking review of the order dated 08.02.2019 passed by this Court in Civil Revision No.970 of 2019.

Counsel for the applicant-respondent (tenant) would contend that the Civil Revision No.970 of 2019 filed by the petitioner-landlord had been disposed of *in limine* with a direction to the Appellate Authority to

decide the case in terms of the judgment as rendered in ***Rakesh Wadhavan vs. M/s Jagdamba Industrial Corporation, 2002(5) SCC 440***. It is argued that the petitioner-landlord herein had not brought to the notice of the court that in the previous litigation that had been filed by the landlord through the power of attorney holder Sh. Paramjit Singh i.e. RA No.25 dated 25.09.2013 had been dismissed, in which the rate of rent had been noticed to be ₹ 1400/- per month. The appeal against the said order was also dismissed by the Appellate Authority, however, subsequently a fresh rent petition was preferred in which the provisional rent has been assessed at ₹ 4500/- per month, which order was challenged before the Appellate Authority. However, during the pendency of the said appeal, the rent petition came to be allowed by the Rent Controller on the ground of non-payment of provisionally assessed rent, as such, the appeal filed against the provisional assessment order was withdrawn with the liberty to take the grounds in the main appeal to be preferred against the order allowing the rent petition. Thereafter, the applicant-respondent challenged the order assessing the provisional rent, as well as the eviction order before the Appellate Authority. It is argued that order dated 08.02.2019 passed by this court in Civil Revision No.970 of 2019 is now being construed before the Appellate Authority that the eviction has to be allowed on the ground of non-payment of provisional rent at ₹ 4500/- per month in compliance of the order of the Rent Controller, which order is under challenge before the Appellate Authority. It is submitted that the applicant-respondent has a right for argument before the Appellate Authority in appeal to challenge the order provisionally assessing the rent, as against what had been determined at ₹

1400/- per month in the previous litigation, as well as the subsequent order of eviction passed by the Rent Controller.

Per contra, counsel for the non-applicant/petitioner (landlord) would contend all pleadings were placed before this Court, while the matter had been argued.

After hearing the counsel for the parties, this court is inclined to recall the order dated 08.02.2019 passed in Civil Revision No.970 of 2019, as this court was not made aware of the earlier petition, which was dismissed, in which rent had been determined at ₹ 1400/- per month and that an appeal qua the same had been also preferred. It is also worthwhile that there has been a change of counsel on behalf of the petitioner. As such, the order dated 08.02.2019 passed in Civil Revision No.970 of 2019 is recalled and the Civil Revision No.970 of 2019 is dismissed, however, with a direction to the Appellate Authority seized of the appeal to decide the pending appeal on its own merit expeditiously, preferably within a period of three months from the date of receipt of certified copy of this order.

The review application and the misc. applications, if any pending therein, are disposed of accordingly.

December 13, 2019

vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No