

CR No.3945 of 2019
Date of Decision: 1.7.2019

Ashwani Mehta

.....Petitioner

Versus

Saroj Bala

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Ravi Kant Sharma, Advocate, for the petitioner.

NIRMALJIT KAUR, J. (ORAL)

The present revision petition has been filed against the order dated 20.5.2019, vide which, the Appellate Court declined the prayer of framing the additional issue with respect to rate of rent. While dismissing the said application, the Additional Civil Judge noted that one of the issues framed was whether the plaintiff is entitled to recovery of ₹ 28,36,687/- and that the said issue covered the issue of whether the rent fixed was correct or not.

Learned counsel for the petitioner while praying for setting aside the order and allowing the framing of additional issue submitted that the Rent Controller had fixed the rent as provisional rent. The petitioner is being forced to pay rent as per the provisional rent. Once, the Rent Controller has fixed the rent, that would be taken as the final rent, hence, the petitioner cannot deny that rent. Reliance has been placed on the judgment rendered in the case of **Jaspal Singh Kohli and another** vs. **Prabhdeep Singh and others**, 2016 (3) RCR (Civil) 883, wherein it was held that the framing of issues in suits are invariably a procedural approach and that what is brought for consideration by the defence should also be taken into consideration along with plaintiff's contention.

Heard.

There is no dispute to the law laid down in the case of Jaspal Singh Kohli (supra). There is also no doubt that the Rent Controller fixed the said amount as the rent to be deposited by the tenant. However, the said rent was admittedly provisional rent. Obviously, it cannot be held to be the final rent to be paid by the tenant. It was in these circumstances that the Additional Civil Judge while dismissing the application of the petitioner held that issue No.1, which is to the effect as to “whether the plaintiff is entitled for recovery of ₹ 28,36,687/- along with interest from the tenant” covers the relevant dispute between the parties and the defendant could very well show that the calculation as given by the plaintiff is wrong. Hence, in view of the above facts, the framing of additional issue shall only result in further delay as this Court too is of the view that issue No.1 already framed covers the issue raised by the petitioner and the liberty that he can always show the Court calculation has already been granted by the Additional Civil Judge (Sr. Divn.) Panchkula in his order dated 20.5.2019.

Dismissed accordingly.

(NIRMALJIT KAUR)
JUDGE

1.7.2019
sharmila

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