

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

**CR No. 4842 of 2014 (O&M)
Date of Decision: 05.02.2020**

Janta Pustkalya Bawal Trust

.... Petitioner

Versus

Sanjay Kumar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Jain, Advocate
 for the petitioner.

 Mr. M.K.Mittal, Advocate
 for the respondents.

ANIL KSHETARPAL, J. (ORAL)

The petitioner claims to be the landlord of shop marked with ABCD in the layout plan attached to the eviction petition, situated in Wilson Gang Bazar. A petition under Section 4 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 was filed for determining fair rent. Learned Rent Controller allowed the petition and revised the rent from Rs.82/- per month to Rs.92/- per month. The tenants filed appeal, which has been accepted by the Appellate Authority. Learned Appellate Authority has reversed the order of determining fair rent on the ground that the petitioner-Janta Pustkalya Bawal Trust has failed to show that it is the successor in interest of Janta Pustkalya Bawal. Learned counsel for the petitioner refers to Trust deed Ex. P2, the relevant clause whereof reads as under:-

**“Whereas the aforesaid Founder had been running a
Public Library for charity for the last about 43 years under
the name and style of “JANTA PUSTAKALYA BAWAL”**

and whereas the Founder is keen to get the Trust registered and is desirous of donating a further sum of Rs. 501/- which will be treated as corpus of the fund other than amount already spent on the land and building in which the “PUSTAKALYA” is housed besides the assets in the form of furniture and fixtures, books and periodicals of various languages on different subjects and electronic gadgets and some other movable property.”

He further refers to an application filed for permission to lead additional evidence in order to produce resolution of the society i.e. Janta Pustkalya Bawal deciding to dissolve the society and constitute a Trust.

This Court has heard learned counsel for the parties. Keeping in view the facts, which have been noticed above, this Court is of the view that the order passed by learned Appellate Authority is required to be set aside and the case should be remitted back to the learned Appellate Authority to permit the petitioner to prove the document sought to be produced in additional evidence and thereafter, decide the case.

This order has been passed keeping in view the fact that the property of a Society/Trust is in the possession of the tenant on payment of meagre rent and prima facie, the Appellate Authority has erred in returning the finding that the Trust is not successor of the society.

Keeping in view the aforesaid facts, order under challenge is set aside. The case is remitted back to the learned Appellate Authority to re-decide the appeal.

Parties through their counsel are directed to appear before the learned Appellate Authority on 20.02.2020.

Petition allowed.

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

(ANIL KSHETARPAL)
JUDGE

05.02.2020
Maninder

Whether speaking/reasoned : Yes
Whether reportable : No