

2024-PHHC-142589



CR No.3589-2016 (O&M)

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

CR No.3589-2016 (O&M)

Date of decision : 26.09.2024

Sardari Lal (since deceased) through his LRs

..... Petitioners-Tenant

versus

Rattan Lal (since deceased) through his LRs & ors.

..... Respondents-Landlord

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Ashwani Kumar Chopra, Senior Advocate
with Mr. Vidul Kapoor, Advocate
for the petitioners.

Mr. Amarpreet Singh, Advocate
for respondent No.1 (i).

PANKAJ JAIN, J. (ORAL)

Tenant is in revision aggrieved of order dated 19.02.2016 passed by Appellate Authority under East Punjab Urban Rent Restriction Act, 1949 (for short 'the 1949 Act') whereby order passed by Rent Controller, Batala dated 07.12.2011 against the petitioner stands affirmed allowing eviction of the petitioner.

2. Landlord-Rattan Lal filed petition under Section 13 of the 1949 Act against the petitioner-tenant claiming that demised premises in form of a shop was let out to the petitioner in the year 1990 on a monthly rent of

**CR No.3589-2016 (O&M)**

Rs.300/-. The petitioner is liable to be ejected on the ground of non-payment of rent and that landlord needs the building for his own use. It was pleaded that landlord was employed as Peon in State Bank of Patiala. He stands retired two years prior to the date of institution of the eviction petition. He intends to start his own business and thus needs the shop. Rent was tendered by the tenant on the first date of hearing. The first ground for eviction ceased to exist.

3. Tenant contested *bona-fide* need projected by the landlord. It was claimed that the landlord has other shops. The same has been let out to other tenants. The present eviction petition was nothing but a ploy to increase the rent. It was further claimed that the landlord filed similar eviction petition earlier in time pleading *bona-fide* need and the same was dismissed by Rent Controller vide order dated 27.04.1999. The second petition being barred by principle of *res-judicata* was not maintainable.

4. On the basis of the pleadings following issues were framed by the Rent Controller :-

1. What is the rent? OPP

2. Whether the tender made by respondent is legal and valid tender? OPR.

3. Whether the demised premises are required by the petitioner for his personal use and occupation? OPP.

3-A. Whether the petition is barred by principle of resjudicata, as prayed for? OPR.

4. Relief.

**CR No.3589-2016 (O&M)**

5. Appreciating the evidence on record, Rent Controller came to the conclusion that the landlord successfully proved his need. Dealing with the defense raised by tenant, Rent Controller found that though landlord owns two more shops in addition to demised shop, but the same were in possession of two sons of landlord. Each of them were occupying a shop. Consequently, the tenant was ordered to be evicted. The landlord was having three shops including the demised shop. The other two shops adjoining the demised shop are in possession of sons of the landlord who are running their business of shoes and bags. Thus the need projected by the landlord was *bona-fide*.

6. In appeal preferred by the tenant the findings recorded by the Rent Controller stand affirmed by the Appellate Authority.

7. Learned senior counsel for the petitioner while assailing the findings recorded by the Rent Controller affirmed by the Appellate Authority submits that the falsity of the claim of the landlord has been proved on record. He refers to the pleading. In the eviction petition filed by the landlord it was specifically pleaded that the landlord is not in possession of any other shop in the urban area concerned. He submits that the same has been proved to be false. Landlord being owner of three adjoining shops is admitted. Even if the stand taken by the landlord with respect to one other shop being in possession of his son was found to be incorrect, Rattan Lal, AW5 admitted in his cross examination that one shop wherein his son was carrying on business of shoes is lying closed. In these circumstances, need

**CR No.3589-2016 (O&M)**

of the landlord cannot be said to be *bona-fide*. He further submits that during the pendency of the eviction proceedings landlord has died and thus the projected need has ceased to exist. In order to support his contentions learned senior counsel for the petitioner has relied upon various judgments including *Shankar Lal Vs. Madan Lal and others (2011) 1 RCR (Rent) 139*, *Adil Jamshed Frenchman (D) by LRs. Vs. Sardar Dastur Schools Trust &ors., (2005) AIR (Supreme Court) 996*, *New Okhla Industrial Development Authority Vs. Ravindra Kumar Singhvi (Dead) through LRs., passed in Civil Appeal No.382 of 2012 decided on 15.02.2022*, *Joti Prasad Gongel Vs. Chand Bihari Lal (dead) through LRs, 2012(1) RentLR 52*, *Subhash Vs. Yash Pal, 2013(2) RentLR 360*, *Kuljit Kaur &anr. Vs. Som Nath Khurana &ors., 2015(1) RentLR 545*, *Banke Ram Vs. Shrimati Sarasvati Devi, 1977(1) RCR (Rent) 595*, *Pritam Singh Bakshi Vs. Mrs. Sukhdev Kaur &ors., 2014(2) RCR (Civil) 625*, *Bachhaj Nahar Vs. Nilima Mandal &anr., 2009 AIR (Supreme Court) 1103*, *Basant Kumar (deceased) through LRs. Vs. Romesh Kumar Deora, 2015(4) RCR (Civil) 977*, *Jaspreet Takhar W/o Mr. Kultar Singh Nat, Vs. Ghai Enterprises, 2013(1) RCR (Rent) 469*, *Ajit Singh &anr. Vs. Jit Ram &anr. 2008(4) RCR (Civil) 390* and *Kedar Nath Agrawal (dead) Vs. Dhanraji Devi (dead) by LRs. 2004(2) RCR (Rent) 498*.

8. *Per contra* learned counsel for respondent No.1(i), however, submits that both the authorities below have passed reasoned orders. He submits that though it has come on record that the landlord was having three



CR No.3589-2016 (O&M)

shops but at the same time it has also come on record that two of the shops were in possession of his two sons. One was running the business of bags, the other was running business of shoes. Since the son who was running business of shoes suffered losses, he closed the said shop but the same remained in his possession. The same cannot be said to be in his occupation. He thus submits that those two shops which are in possession of sons of the landlord would have no bearing on the *bona-fide* need projected by the landlord. Learned counsel for the landlord further submits that death of the landlord after the eviction order has been passed has no bearing on the present case. It is settled proposition of law that the rights of the parties stand crystallized on the date of filing of the petition. Any subsequent event cannot defeat the cause of action arisen in favour of the landlord.

9. I have heard learned counsel for the parties and have carefully gone through records of the case.

10. In order to appreciate the argument raised by learned counsel for the parties, Section 13(3) (a) of the 1949 Act needs to be perused. The same reads as under :-

13 Eviction of tenants –

(1) xxx xxx xxx

(2) xxx xxx xxx

(3) (a) A landlord may apply to the Controller for an order directing tenant to put the landlord in possession -

(i) in the case of a residential or a scheduled building if -

(a) he requires it for his own occupation;

**CR No.3589-2016 (O&M)**

- (b) *he is not occupying another residential or a scheduled building, as the case may be in the urban area concerned; and*
- (c) *he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area;*
- (ii) *in the case of a non-residential building or rented land, if -*
- (a) *he requires it for his own use;*
- (b) *he is not occupying in the urban area concerned for the purpose of his business any other such building or rented land, as the case may be and*
- (c) *he has not vacated such a building or rented land without sufficient cause after the commencement of this Act, in the urban area concerned;*
- (iii) *in the case of any building, if he requires it for the re-erection of that building, or for its replacement by another building, or for the erection of other buildings;*
- iv) *in the case of any building, if he requires it for use as an office or consulting room by his son who intends to start practice as a lawyer or as a "registered practitioner" within the meaning of that expression as used in the Punjab Medical Registration Act, 1916 (II of 1916), or for the residence of his son who is married, if -*
- (a) *his son as aforesaid is not occupying in the urban area concerned any other building for use as office, consulting room or residence, as the case may be; and*
- (b) *his son as aforesaid has not vacated such a building without sufficient cause after the commencement of this Act, in the urban area concerned;*

Provided that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord

**CR No.3589-2016 (O&M)**

shall not be entitled to apply under this sub-section before the expiry of such period;

Provided further that where the landlord has obtained possession of a residential, a scheduled or non-residential building or rented land under the provisions of sub-paragraph (i) or sub-paragraph (ii) he shall not be entitled to apply again under the said sub-paragraphs for the possession of any other building of the same class or rented land:

Provided further that where a landlord has obtained possession of any building under the provisions of sub-paragraph (iv) he shall not be entitled to apply again under the said sub-paragraph for the possession of any other building for the use of or, as the case may be, for the residence of the same son.”

11. It is thus evident that where landlord applies for eviction of tenant invoking Section 13 (3) (a) of the 1949 Act he is required to prove :-

a) bona-fide need

b) that he is not occupying any other building in the urban area concerned and

c) He has not vacated any such building without sufficient cause after the commencement of the 1949 Act in the said urban area.

As per settled law need pleaded by the landlord needs to be *bona-fide*. Mere desire of the landlord cannot be construed as need. Where on the one hand there needs to be element of need as opposed to mere desire or wish of the landlord, on the other hand it is the landlord who is the best judge of his requirement. It is neither for the tenant nor within the domain of the Court to dictate him terms or to advise him about alternate modes to satiate his need.

**CR No.3589-2016 (O&M)**

12. Mere *bona-fide* need is also not sufficient in terms of the bare provision. The other two ingredients also need to be satisfied. In case any of the other two ingredients stands breached, claim of the landlord is bound to fail. In ***Banke Ram Vs. Shrimati Sarasvati Devi, 1977(1) RCR (Rent) 595*** Full Bench of this Court while dealing with the question of pleading and proving the said two ingredients concluded as under :-

“12. In the present case, we are concerned only with the question as a principle of law as to whether it is essential to plead in an eviction application the ingredients of Sub-clauses (b) and (c) and not the question that if in a particular case these ingredients are not pleaded, but the parties have led evidence with regard to them, what will be the effect? In any given case, where facts have not been averred in the pleading, a number of questions can arise as to whether proper evidence has been adduced by the landlord regarding those facts which do not find place in the pleadings and secondly whether such evidence will be admissible or not and lastly, whether the tenant was taken by surprise or not and had led evidence with full knowledge of the requisite contentions raised by the landlord and whether the tenant has in those circumstances been prejudiced or not. The Court would be required to give full consideration to the contentions raised by the respective parties and the facts and circumstances of each case before giving its decision in favour of the landlord or the tenant, tout the decisions of the High Courts or the Supreme Court, in this regard, cannot be of any avail to detract from the validity of the proposition that it is necessary for the landlord to make averments regarding the ingredients of Sub-clauses (b) and (c). However, it may be made clear that when it is held that it is essential to plead the ingredients of Sub-clauses (b) and (c) in the eviction

**CR No.3589-2016 (O&M)**

application by the landlord, it should not be understood that under no circumstances, in the absence of pleadings, the evidence regarding the ingredients envisaged in Sub-clauses, (b) and (c) can be looked into. This is not peculiar to the eviction applications. Similar considerations come into operation even in the case of suits which are governed by the specific and detailed provisions of the Code of Civil Procedure regarding pleadings.

13. This Court, the other High Courts and the Supreme Court have had the occasion to make pronouncements one way or the other in cases where the evidence was led by parties in the absence of requisite pleadings. Those decisions will serve as guides in eviction proceedings under the Act.”

13. Supreme Court in the case of **Ajit Singh & anr. Vs. Jit Ram & anr. (2008) 9 SCC 699** observed as under :-

“11. From the aforesaid decision of this Court, it is therefore, clear that this Court has laid down authoritatively that a non-residential premises, if required by a son for user by him would cover the requirement of words used in the Section, i.e. "for his own use" in reference to a landlord. Therefore, if "his own use" has been interpreted by this Court in the above-said manner, then the requirements as laid down in Section 13(3)(a)(ii)(b) and (c) of the Act has to be interpreted in the same manner to hold that (a) the son of the landlord has to plead in the eviction petition that, (b) he is not occupying in the urban area concerned for the purpose of his business any other such building or rented land as the case may be; and (c) he has not vacated such a building or rented land without sufficient cause after the commencement of the Rent Act, in the urban area concerned.

**CR No.3589-2016 (O&M)**

12. In the present case, it was pleaded and proved that the said shop was required for the use of the son and, therefore, the pleadings of the son in regard to the aforesaid requirement, being mandatory, were satisfied, otherwise it would make the requirement laid down under the said provisions nugatory in view of the interpretation given by this Court in the aforesaid decision, with which we are in full agreement.”

14. Relying upon the aforesaid proposition, the argument raised is that the ownership of two other shops by the landlord being proved on record, the conditions which are quintessential to claim *bona-fide* need stand breached and thus, the eviction petition needs to be dismissed.

15. The legislature in its own wisdom has not used the word ‘ownership’ but has used the word ‘occupation’. Thus, the question involved in the present petition is:-

Whether landlord is in occupation of any other building in same urban area or that he has vacated the same without sufficient cause after the commencement of the Act of 1949?

16. From the order dated 21.11.2011 placed on record as Annexure P-1 by the petitioner-tenant, it is evident that the landlord in para No.2(iii) of the petition specifically mentioned that he has got no other vacant shop within the municipal limits of Batala except the shop in dispute. The aforesaid pleading thus satisfies the test laid down in ***Banke Ram’s case (supra)*** . While leading his evidence landlord appeared as AW5. He explained in his testimony that the two other shops adjoining the demises

**CR No.3589-2016 (O&M)**

shop are in possession of his two sons. Each of them is running his own business. He was confronted with the fact that one of the shops where his son was carrying on business of shoes is lying closed. He explained the closure of the shop saying that after his son suffered losses in business of shoes, he closed the shop. Courts below have found that the said closure was after filing of the instant petition. Apart from that no suggestion was put to landlord that son has returned him possession of shop. In view thereof, this Court finds no reason to interfere in the finding of facts recorded by the Rent Controller and affirmed by the Appellate Authority. Having held that it has been proved on record that the landlord was neither in occupation of any other building in the urban area concerned, nor has vacated such building without sufficient cause after the commencement of this Act, this Court finds that reliance placed by learned senior counsel for the petitioner on the judgments is misplaced and misconceived.

17. Coming on to the second issue raised by learned Senior counsel with respect to death of the landlord during the pendency of the eviction proceedings, it needs to be observed that the present proceedings were initiated by filing petition under Section 13 of the 1949 Act on 14.11.2002. Eviction petition was decided on 07.12.2011. Appeal was preferred by the tenant on 05.01.2012. The appeal could be decided only on 19.02.2016. Since 2016, instant revision petition is pending before this Court. Landlord-Rattan Lal died during the pendency of the instant revision petition. The law regarding effect of death of landlord on the eviction proceedings initiated by

**CR No.3589-2016 (O&M)**

him pleading *bona-fide* need is no more res-integra. Supreme Court in the case of ***Carona Ltd. Vs. Parvathy Swaminathan & sons (2007) 89 SCC 559*** held as under :-

“35. The learned counsel for the tenant then submitted that it was obligatory on the courts below including the High Court to take into consideration subsequent events. In support of the submission, our attention has been invited by the counsel to a leading decision of this Court in ***Pasupuleti Venkateswarlu v. Motor & General Traders, (1975) 1 SCC 770***. In that case, the plaintiff filed a suit for possession on the ground of personal requirement for starting business. A decree for possession was passed in his favour which was confirmed by the Appellate Court. At the stage of Revision, however, due to subsequent event of acquisition of non-residential building by the plaintiff-landlord, an application for amendment was made by the defendant-tenant. The High Court allowed the amendment. The plaintiff challenged the said order by approaching this Court. It was contended that the High Court committed an error in taking cognizance of subsequent event which was 'disastrous'. This Court, however, held that the High Court had not committed any illegality in doing so.

36. Referring to leading cases on the point, Krishna Iyer, J. stated;

"We feel the submissions devoid of substance. First about the jurisdiction and propriety vis-a'-vis circumstances which come into being subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suit or institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court and has a fundamental impact on the right to relief or the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision

**CR No.3589-2016 (O&M)**

or fairplay is not violated, with a view to promote substantial justice-subject, of course, to the absence of other disentitling factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial Court. If the litigation pends, the power exits, absent other special circumstances repelling resort to that course in law or justice. Rulings on this point are legion, even as situations for applications of this equitable rule are myriad. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the Court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed."

37. In our judgment, the law is fairly settled. The basic rule is that the rights of the parties should be determined on the basis of the date of institution of the suit. Thus, if the plaintiff has no cause of action on the date of the filing of the suit, ordinarily, he will not be allowed to take advantage of the cause of action arising subsequent to the filing of the suit. Conversely, no relief will normally be denied to the plaintiff by reason of any subsequent event if at the date of the institution of the suit, he has a substantive right to claim such relief."

18. Similarly in the case of ***Usha P.Kuvelkar Vs. Ravindra Subrai Dalvi (2008) 1 RCR (Civil) 108***, Supreme Court held as under :-

"11. It was tried to be argued by the learned counsel for the respondent that since the landlord had died, the need had expired with him and that the question will have to be examined again regarding the bonafide personal need of the landlord. The question is no more res integra and is covered by the decision of this Court in



CR No.3589-2016 (O&M)

Shakuntala Bai & Others vs. Narayan Das &Ors. [(2004) 5 SCC 772]. This Court has observed:

“...The bona fide need of the landlord has to be examined as on the date of institution of the proceedings and if a decree for eviction is passed, the death of the landlord during the pendency of the appeal preferred by the tenant will make no difference as his heirs are fully entitled to defend the estate.”

*In the same decision a contrary note expressed by this Court in **P.V. Papanna vs. Padmanabhaiah [(1994) 2 SCC 316]** was held to be in the nature of an obiter. This Court in **Shakuntala Bai &Ors.** (supra) referred to the decision in **ShantilalThakordas vs. ChimanlalMaganlalTelwala [(1976) 4 SCC 417]** and specifically observed that the view expressed in **ShantilalThakordas’s** case did not, in any manner, affect the view expressed in **Phool Rani vs. Naubat Rai Ahluwalia [(1973)1 SCC 688]** to the effect that where the death of landlord occurs after the decree for possession has been passed in his favour, his legal heirs are entitled to defend the further proceedings like an appeal and the benefit accrued to them under the decree. Here in this case also it is obvious that the original landlord **Prabhakar Govind Sinai Kuvelkar** had expired only after the eviction order passed by the Additional Rent Controller. This is apart from the fact that the landlord had sought the possession not only for himself but also for his family members. There is a clear reference in Section 23(1)(a)(i) of the Act regarding occupation of the family members of the landlord. In that view the contention raised by the learned counsel for the respondent must be rejected.”*

19. This Court in the case of **Smt. Darshna Devi Vs. Kewal Krishan, 2015(1) RentLR 71** dealing with the same issue held as under :-

“9. It is settled principle that the cause of action is to be seen on the date of application and merely because the landlord has died during the pendency

**CR No.3589-2016 (O&M)**

of litigation would not be a ground to set aside the relief which the land had earned after leading evidence. Reliance can be placed upon the judgment of this Court in M/s Gagan Traders and another Vs. Jaspreet Singh and another 2010(4) PLR 38 wherein the judgment of the Apex Court in Kamleshwar Prasad Vs. Pradumanju Aggarwal 1997(1) RCR 591 and Shakuntala Bai and others Vs. Narayan Dass and others 2004(5) SCC 772 were kept in mind while dismissing the revision petition of the tenant. Similar view has also been taken by the Apex Court in Usha P. Kuvelkar and others Vs. Ravindra Subrai Dalvi 2008(1) Civil Court Cases 291 wherein it has been held that the requirement is to be seen at the time of filing of the petition. The landlord had himself stepped into the witness box and deposed regarding his need and both the Courts below had found his bonafide requirement just and honest and that it was not for the tenant to dictate the terms and tell where the landlord should settle and carry on his business.

10. The principle that weighed with the Apex Court was that proceeding takes long time to culminate and that maxim 'actus curiae neminemgravabit' would come into play 'since an act of Court shall prejudice no man.' The principle of law thus laid down in Shakuntala Bai's case (surpa) reads as under:-

“15. As the preamble shows the Madhya Pradesh Accommodation Control Act, 1961 has been enacted for expeditious trial of eviction cases on the ground of bona fide requirement of landlords and generally to regulate and control eviction of tenants. If the subsequent event like the death of the landlord is to be taken note of at every stage till the decree attains finality, there will be no end to litigation. By the time a second appeal gets decided by the High Court, generally a long period elapses and on such a principle if during this period the landlord who instituted the proceedings dies, the suit will have to be dismissed without going into merits. The same thing may happen in a fresh suit filed by the heirs and it may become an unending process. Taking into consideration the

**CR No.3589-2016 (O&M)**

subsequent events may, at times, lead to rendering the whole proceedings taken infructuous and colossal waste of public time. There is no warrant for interpreting a Rent Control legislation in such a manner the basic object of which is to save harassment of tenants from unscrupulous landlords. The object is not to deprive the owners of their properties for all times to come.”

20. Thus trite it is that the rights of the parties need to be determined as they stood on the date of institution of the suit. Where plaintiff has no cause of action on the date of filing of the suit, he cannot be allowed to take advantage of the cause of action arising subsequent to filing of the suit. Conversely, any subsequent event cannot be held to deny the relief to the plaintiff to which he had a substantive right to claim on the date of institution of the suit. It took 14 long years for the landlord in the Courts to get eviction of the tenant on the ground of *bona-fide* need. After waiting for 14 years he could not enjoy the vacant possession but unfortunately died. The time spent by the Courts in adjudicating upon the claim of the landlord cannot be held against him. Resultantly, the plea raised by learned senior counsel for the petitioner-tenant *sans* merit and deserves to be rejected. Before parting with the judgment, I may hastenly add here that the scope of revision under Section 15 (5) of the 1949 Act is too narrow. Section 15 (5) of the 1949 Act reads as under :-

“(5) The High Court may, at any time on the application of any aggrieved party or on its own motion, call for and examine the records relating to any order passed or proceeding taken under this Act for the purpose of satisfying itself as to the legality or

**CR No.3589-2016 (O&M)**

propriety of such order or proceedings and may pass such order in relation thereto as it may deem fit.”

21. While interpreting similar provision as contained under Section 25-B (8) of the Delhi Rent Control Act, 1958, Supreme Court in the case of **Anoop Singh (dead) by LRs Vs. K.N.Garg (2006) 13 SCC 291** observed as under :-

*“xxx xxx The Revision Petition was filed before the High Court under Sub-Section (8) of Section 25-B of the Delhi Rent Control Act, 1958 (for short "the Act") Under proviso to Sub-Section (8) of Section 25-B of the Act, High Court, in order to satisfy that an order made by the Rent Controller was in accordance with law or not, could examine the matter. The scope of the Revision petition filed before the High Court was only to see whether there was any error of law in the order passed by the Rent Controller and it could not reappraise the evidence unless the finding of fact recorded by the Rent Controller was perverse one. In support of his submission, learned counsel has placed reliance upon a decision of this Court in the case of **Sarla Ahuja v. United India Insurance Company Ltd. reported in 1998(8) SCC 119** which was a case under proviso to Section 25-B (8) of the Act and in that case, the High Court reversed the order passed by the Rent Controller after re- appreciating the evidence. This Court set aside the order on the ground that there being nothing to show that the finding recorded by the Rent Controller was perverse one, the High Court was not justified in reversing the same while exercising its powers conferred upon it under proviso to Section 25-B(8) of the Act. In our view, present case is squarely covered by the aforesaid decision of this Court as neither the*

**CR No.3589-2016 (O&M)**

High Court has come to the conclusion that the finding of fact recorded by the Rent Controller was perverse one nor we are of the view that the same was a perverse one. This being the position, we have no option but to set aside the impugned order.”

22. Same views were echoed by Constitution Bench in the case of ***Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh 2014(4) RCR (Civil) 162*** interpreting Section 15(5) of the 1949 Act observed as under :-

45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts.

**CR No.3589-2016 (O&M)**

Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.

23. In view of above, while holding that the findings recorded by the authorities below do not suffer from any infirmity, this Court finds that the scope of revision as enumerated under Section 15(5) of the 1949 Act restricts this Court from appreciating the evidence and substituting its opinion.

24. Consequently, there being no merit in the present revision petition, the same is ordered to be dismissed.

26.09.2024*Pooja Sharma-I***(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No