

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

CR-2389-2023

Date of Decision :21.04.2023

Ramesh Kumar (since deceased) through LR

....Petitioners

Versus

Man Mohan Saini and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. G.C. Shahpuri, Advocate for the petitioners.

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Harsimran Singh Sethi, J. (Oral)

Present revision petition has been filed for setting aside the impugned order dated 11.04.2023 (Annexure P-6) passed by the Appellate Authority vide which, order dated 22.03.2023 (Annexure P/4) passed by the Rent Controller, has been set aside.

Learned counsel for the petitioners submits that even if for the sake of argument, it is assumed that the order passed by the Rent Controller dated 22.03.2023 (Annexure P/4) was not correct, the only jurisdiction with the Appellate authority was to set aside the said order and remand the same to the Rent Controller for fresh adjudication whereas, the Appellate authority has directed the Rent Controller to assess the rent @ Rs.500/- per month, which is not permissible.

Prima facie, the said argument is correct. Once, the order of assessment of rent was set aside and the case was being remanded back to the Rent Controller for assessing the provisional rent again in accordance with law on the basis of the evidence which has come on record, the

direction given by the Appellate authority to assess the rent @ Rs.500/- per month was not justified as the assessment of rent should have been left to the Rent Controller only to be decided afresh in accordance with law.

Keeping in view the above, order dated 11.04.2023 (Annexure P/6) passed by the Appellate Authority Yamuna Nagar at Jagadhari is upheld qua the remand of the case to the Rent Controller for the fresh assessment of the provisional rent but the direction given by the Appellate authority to assess the rent @ Rs.500/- per month is set aside. It is made clear that Rent Controller will assess the rent in accordance with law keeping in view the evidence already on record.

As the present order is being passed without issuing notice of motion to the respondents for the reason that matter had already been remanded back to the Rent Controller by the Appellate Authority where the respondent will have due opportunity to present his case again but in case the respondents will feel prejudice in any manner qua the present order, they will be at liberty to file an appropriate application for the revival of the present petition.

Present petition stands disposed of in above terms.

April 21, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No