



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(219)

CR-4350-2022 (O&M)
Decided on:- 20.01.2025

Puneet Sehgal

...Petitioner

Versus

Himanshu Chadha

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Jagdish Manchanda, Advocate
for the petitioner.

Ms. Ekta Thakur, Advocate
for the respondent.

VIKAS BAHL, J. (ORAL)

1. Challenge in the present civil revision petition is to the judgment dated 11.07.2022 passed by the Appellate Authority vide which the judgment passed by the Rent Controller on 31.03.2022 has been set aside and the eviction petition filed by the respondent has been allowed.
2. Learned counsel for the petitioner has submitted that the respondent had filed a petition under Section 13(2)(i) of Haryana Urban (Control of Rent and Eviction) Act, 1973 for eviction of the present petitioner on the ground of arrears of rent and in the said petition, the present petitioner was proceeded against *ex parte*, vide order dated 29.09.2021 and subsequently, the eviction petition filed by the respondent



was dismissed. It is submitted that thereafter, the respondent filed an appeal and the Appellate Authority, without issuing any notice to the present petitioner, allowed the said appeal and also allowed the application filed by the respondent for eviction. It is submitted that the notice was not issued by the Appellate Authority by observing that the present petitioner-tenant was *ex parte* in the trial Court. It is further submitted that in spite of being *ex parte*, once the Rent Controller had passed the order in favour of the petitioner, then, vested right was created in favour of the petitioner to defend the said order of eviction and it was necessary for the Appellate Authority to issue notice in the said case before deciding the appeal. It is submitted that on the said short ground alone, the order dated 11.07.2022 deserves to be set aside and the matter deserves to be decided afresh. It is submitted that the petitioner has a good case on merits also.

3. Learned counsel for the respondent, on the other hand, has submitted that the petitioner has already handed over the possession of the property in question and the issue that primarily remains is with respect to the rate of rent as well as the period of rent and has submitted that the respondent had filed an application bearing CM-2296-CII-2023 for preponing the date of hearing and in the said application, in paragraph 3, it had been stated by the respondent that he had no objection in case the matter was remanded to the 1st Appellate Authority for decision in view of the objection taken by the learned counsel for the petitioner.

4. Keeping in view the abovesaid facts and circumstances and the fair stand taken on behalf of the petitioner as well as on behalf of the respondent, the present petition is partly allowed and the impugned order dated 11.07.2022 passed by the Appellate Court is set aside and the case is remanded to the Appellate Authority for a fresh decision. The appellate Authority would pass a fresh order after giving due opportunity to both the parties.

5. It is made clear that this Court has not opined on the merits of the case and the matter is remanded on the short point of no notice being issued by the Appellate Authority and the same being in violation of the principles of natural justice and thus, it would be open to both the parties to raise all the pleas before the Appellate Authority, which would be considered independently, in accordance with law by the Appellate Authority.

6. All the pending application(s), if any, stand disposed of in view of the present order.

January 20, 2025

naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No