

**Ram Kishan Vs. Ram Lal**

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**SooperKanoon Citation :** [sooperkanoon.com/695410](http://sooperkanoon.com/695410)

**Court :** Delhi

**Decided On :** Jan-31-1990

**Reported in :** 1990(18)DRJ190

**Judge :** S.B. Wad, J.

**Acts :** [Delhi Rent Control Act, 1958](#) - Sections 15(1)

**Appeal No. :** Second Appeal No. 138 of 1987

**Appellant :** Ram Kishan

**Respondent :** Ram Lal

**Advocate for Pet/Ap. :** B.S. Charya and; R.S. Yadav, Advs

**Judgement :**

**S.B. Wad, J.**

(1) In this second appeal the only question is whether the Rent Controller had the jurisdiction to pass an order under Section 15(7) of the Delhi Rent Control Act on 11-11-86. In the impugned order passed by the Tribunal it has been held that there was inherent lack of jurisdiction ab-initio and, therefore, the Rent Controller could not have passed the order under Section 15(7). The reason given by the Tribunal is that when the petition was filed by the landlord for the eviction of tenant in July 1985 the Rent Control Act was not applicable to the premises. The Tribunal,

therefore, took the view that the Rent Controller did not have the jurisdiction either to pass the order under Section 15(1) or 15(7). This order is challenged in this second appeal.

(2) As stated above the eviction petition was filed in July 1985. Written statement was filed on 28th September 1985 and no objection to the jurisdiction of the Rent Controller was taken. On 8-3-1986 the notification was issued by the Delhi Administration making the Rent Control Act applicable to the premises. On 29-3-1986 the Rent Controller, passed an order under section 15(1) of the Act directing the tenant to deposit the rent. The tenant failed to do it and, therefore, the Rent Controller passed the order under Section 15(7) of the Act striking of his defense on 11-11-1986. There is an obvious error in the reasoning of the Tribunal, the question to be decided is whether the court had the jurisdiction when the impugned order was passed. The impugned order was passed on 11-11-1986 and the notification was issued on 8-3-86 by the Delhi Administration making the Act applicable. therefore, it can be assumed that the petition was filed on 8-3-86 as the same was still pending. The order of the Rent Controller directing the deposit of rent under Section 15(1) of the Act was passed subsequent to the notification.

(3) Thus when the orders under Sections 15(1) and 15(7) of the Act were passed by the Rent Controller the Rent Controller had the jurisdiction to pass such orders. Counsel for respondent has referred to a decision of this court reported in 1985(9) Del RJ 301. In that case the' eviction order was passed by the Rent Controller under section 14(1)(j) without complying with the statutory requirement of Section 14(o) which was a condition precedent for passing an order under Section 14(1)(j) obviously, the question or jurisdiction raised in that case is quite different from the question raised in the present appeal. The only question that the court was called upon to decide in that case was where the statute lays down a condition precedent for exercising of a jurisdiction whether an order passed would be an order within jurisdiction along the condition precedent is not satisfied. To my mind , this judgment is clearly distinguishable and is not applicable in the present case.

(4) For the reasons stated above the impugned order of the Tribunal is act aside. The appeal fallowed with costs. Counsel fee is Rs. 750.00

