

Ranjit Singh Vs. Parkash Devi

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Court : Delhi

Decided On : Apr-20-2010

Judge : Shiv Narayan Dhingra, J.

Acts : Delhi Rent Control Act - Sections 14(2) and 15(1); ;[Constitution of India](#) - Article 227

Appeal No. : C.M.(Main) No. 43 of 2002

Appellant : Ranjit Singh

Respondent : Parkash Devi

Advocate for Def. : G.D. Tehri, Adv.

Advocate for Pet/Ap. : Alok Lakhanpal and; Pankaj Kishore Gupta, Adv.

Disposition : Petition dismissed

Judgement :

Shiv Narayan Dhingra, J.

1. The petitioner was tenant in respect of premises No. F-14/28, Second Floor, Model Town-II, Delhi-110009. A suit for eviction was filed by the respondent/landlady on the ground of non-payment of rent. While the landlady alleged that rate of rent was Rs. 950/-per month, the petitioner alleged that rate of

rent was Rs. 300/- per month. Both the sides led evidence on the issue of rate of rent. After considering the evidence, Additional Rent Controller vide judgment dated 6th November, 2001 came to conclusion that the rate of rent was Rs. 950/- per month. An order under Section 15(1) of Delhi Rent Control Act was passed by Additional Rent Controller for deposit of arrears of rent at this rate and since the arrears of rent were deposited, benefit under Section 14(2) of Delhi Rent Control Act was given to the tenant.

2. The petitioner, however, preferred an appeal before the Additional Rent Control Tribunal against the order of Additional Rent Controller dated 6th November, 2001 on the issue of rate of rent. The Additional Rent Control Tribunal vide order dated 4th December, 2001 dismissed the appeal and upheld the decision of Additional Rent Controller that the rate of rent was Rs. 950/- per month. After dismissal of the appeal by the Additional Rent Control Tribunal and after grant of benefit under Section 14(2) of Delhi Rent Control Act, the petitioner filed an application for review before the Additional Rent Controller for reviewing the judgment. Obviously, the review was not maintainable and was dismissed by the Additional Rent Controller. Against dismissal of this review, the petitioner preferred an appeal which was also dismissed by the Additional Rent Control Tribunal.

3. The present petition has been filed by the petitioner assailing the order of Additional Rent Control Tribunal dismissing appeal of petitioner against order of learned Additional Rent Controller dismissing review and also against the order dismissing appeal.

4. It is settled law that under Article 227 of the [Constitution of India](#), this Court has no power to act as a court of second appeal and a petition under Article 227 can be entertained only where a sub-ordinate court had exceeded jurisdiction or has failed to exercise jurisdiction vested in it. The sole contention raised by the petitioner is that the petitioner had got hold of additional evidence after dismissal of the appeal filed before Additional Rent Control Tribunal and this additional evidence showed that the rent of premises was Rs. 300/- per month and not Rs. 950/- per month. There is no provision under law for taking on record additional evidence after dismissal of the appeal and there is no provision under law that a

review can be entertained by the trial court after an appeal has been preferred and dismissed.

5. The present petition filed by the petitioner is a misuse of judicial process and another step taken by the petitioner to protract the litigation. The petition is liable to be dismissed with cost being a totally frivolous petition and is hereby dismissed with cost of Rs. 25,000/-.

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