

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.4337 OF 2008
(Arising out of S.L.P. (C) No.5238 of 2006)

Punit Ahluwalia

...Appellant(s)

Versus

Gurjeewan Garewal

...Respondent(s)

O R D E R

Heard learned counsel for the parties.

Leave granted.

Before the Rent Controller, in an eviction proceeding, a petition under Section 10 of the Code of Civil Procedure, 1908 [for short, “C.P.C.”] was filed for stay of further proceeding before the Rent Controller till the disposal of the Title Suit pending between the parties before the civil court. The said prayer was rejected on merits after due consideration. Thereafter, instead of moving the higher court, the tenant again applied before the Rent Controller by filing a petition for grant of stay though this time the petition was labelled as a petition under Section 151 C.P.C. The said application was allowed by the Rent Controller and further proceeding before him was stayed till the disposal of the civil suit in the absence of any further material or fresh cause of action for filing the same. The said order has been unfortunately confirmed by the High Court of Punjab and Haryana. Hence, this appeal by special leave.

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Learned counsel appearing on behalf of the appellant submitted that the Rent Controller having rejected the petition under Section 10 C.P.C. on merits was not justified under law in entertaining the second petition for grant of stay by only changing its label from Section 10 to Section 151 C.P.C. in the absence of any fresh cause of action or new ground or further materials. Learned counsel further submitted that the High Court of Punjab and Haryana has dismissed the revision application without even considering that there was any justification whatsoever for the Rent Controller to entertain the second petition for stay. Learned counsel appearing on behalf of the respondent tried to take us through the merit of the suit. In our view, merit of the suit is not subject matter in the present appeal. The only question which called for consideration of the High Court and this Court is as to whether upon the second petition for grant of stay prayer should have been granted or not. It appears that the High Court for the reasons best known to it had side-tracked the main issue and disposed of the revision application, which was wholly unjustified. In our view, the Rent Controller was not at all justified in entertaining the second petition for grant of stay and granting stay. In our considered view, the High Court has failed to exercise jurisdiction vested in it in refusing to entertain the revision application and interfere with the order passed by the Rent controller.

Accordingly, the appeal is allowed, impugned order passed by the High Court as well as the Rent Controller

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whereby it stayed the proceeding before it are set aside and the Rent Controller is hereby commanded to dispose of the proceeding within six months from the date of receipt/production of copy of this order. After disposal of the case it must report the matter to this court. It is made clear that unnecessary adjournments shall not be granted to any of the parties and all attempts made by the tenant to prolong the litigation shall be defeated.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
July 11, 2008.