
(1995) 01 SC CK 0041
In the Supreme Court Of India
Case No : SLP (C) No. 17363 of 1994

Dr A.P. Sanwaria

APPELLANT

Vs

Sudarshan Chopra (Ms) and Others

RESPONDENT

Date of Decision : 09-01-1995

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 — Section 15

Citation : AIR 1995 SC 1999 : (1995) CriLJ 3649

Hon'ble Judges : A. M. Ahmadii, C.J;M. K. Mukherjee, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. Special leave granted.

2. Heard counsel on both sides. Against the order passed by the Rent Controller ordering eviction, the present petitioner preferred an appeal under Section 15 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter called "the Act") which was delayed by about 12 days. Section 15 of the Act provides as under:

"Any person aggrieved by an order passed by the Controller may, within fifteen days from the date of such order or such longer period as the appellate authority may allow for reasons to be recorded in writing, prefer an appeal in writing to the appellate authority having jurisdiction."

On a plain reading of this section, it is clear that the appeal must be filed within a period of fifteen days or such longer period as the appellate authority may allow for reasons to be recorded in writing. Obviously, the appellate authority, therefore, has been conferred with the discretion to entertain an appeal even after the period of fifteen days if it sees sufficient reason to do so. True it is that in the instant case condonation was sought on the premise that Section 5 of the Limitation Act, 1963 applied. Even if it is assumed that the Rent Controller was persona designata and, therefore, Section 5 had no application, the appellate authority certainly had the power to extend the time in view of the express

language of Section 15 of the Act. We are, therefore, of the opinion that the High court was in error in thinking that the Appellate Authority had no power to extend the period of limitation. If the appellate authority had the power and it did see sufficient cause for extension of the period of limitation the High court in revision could not have interfered. We are, therefore, of the opinion that the High court order in this behalf is not well founded.

3. Counsel for the respondents, however, submitted that the High court had examined the matter on merit and had come to the conclusion that the order passed by the Rent Controller was unassailable. Since the appellate authority had not gone into the merits of the matter, the High court should have refrained from doing so. The appellate authority being the fact-finding authority ought to have been allowed to assess the evidence by going into the merits of the matter. Ordinarily, the revisional court does not reassess the facts. Therefore, we are of the opinion that in the instant case the High court should have refrained from going into the merits of the matter since the appellate authority had not examined the merits. The appellate authority will do so on remand uninfluenced by the High court order.

4. In the result, we allow this appeal, set aside the order of the High court and remit the matter to the appellate authority for disposal on merits. There will be no order as to costs.