

(1990) 07 DEL CK 0011

In the Delhi High Court

Case No : Civil Miscellaneous (Main) Appeal No. 158 of 1988

Om Prakash and Others

APPELLANT

Vs

Bhagwan and Others

RESPONDENT

Date of Decision : 10-07-1990

Acts Referred:

Delhi Rent Control Act, 1958 — Section 15(1)

Citation : (1990) 42 DLT 226 : (1990) 19 DRJ 138 : (1991) RLR 106

Hon'ble Judges : Mahinder Narain, J

Bench : Single Bench

Advocate : A.K. Verma and R.P. Jain, for the Appellant;

Judgement

Mahinder Narain, J.

(1) In this petition under Article 227 of the Constitution of India what is contended for by the petitioner will create an odd situation. The petitioner submits that the appeal, which has been filed by the respondents against the order of the Rent Controller deferring to make an order u/s 15(1) of the Delhi Rent Control Act, is not maintainable having been filed against a dead person. The odd situation, that will arise, is that the appeal before the Rent Control Tribunal is not maintainable and yet the order deferring the determination of the amount payable by the tenant u/s 15(1) of the Delhi Rent Control Act would not have been passed. There is a statutory requirement for passing of the order u/s 15(1) after hearing the parties

(2) Counsel for the petitioner, who appears for the legal representatives of the deceased tenant, does not dispute, after perusing the provisions of Section 15(1) of the Delhi Rent Control Act, that the power to defer does not exist.

(3) On a plain reading of the provisions of Section 15(1), it appears to me that the Rent Controller cannot defer the determination of the amount payable. He can adjourn the hearing to enable himself to hear the parties but the matter cannot be deferred in a manner similar to stay in proceedings sine die.

(4) In this view of the matter, by exercising powers under Article 227 of the Constitution", I set aside the order of the Rent Controller deferring the passing of the order u/s 15(1) of the Rent Control Act and direct the Rent Controller to proceed in the matter of passing an. order in terms of Section 15(1) of the Delhi Rent Control Act.

(5) In view of the orders passed today, the appeal pending before the Rent Control Tribunal has become infructuous. This petition stands disposed of