

**SUPREME COURT OF INDIA**

Paramjit Singh

Vs.

Harnek Singh

C.A.No.3280 of 2010

(R.V.Raveendran and R.M.Lodha JJ.)

09.04.2010

**ORDER**

Leave granted.

1. Heard the parties.

2. An eviction petition was filed against the appellant on 4.2.2006. Notice was issued to appellant, but was not personally served. The appellant-tenant entered appearance on 9.8.2006. On 24.8.2006, the appellant-tenant filed an application for permission to defend the eviction proceeding wherein he specifically alleged that he obtained knowledge of the proceedings only on 9.8.2006. On the basis of the said averment, the application seeking leave to defend the case was filed within the period of 15 days of date of knowledge prescribed under Section 18-A(2) read with Schedule II of the East Punjab Urban Rent Restriction Act, 1949 ('Act' for short). The Rent Controller allowed the application seeking leave to contest the proceedings by his order dated 4.12.2007. The respondent filed a revision petition challenging the said order. The High Court has allowed the said revision petition filed by the respondent holding that the date of knowledge should be deemed to be 1.7.2006 and not 9.8.2006. It is also held that the Rent Controller has no jurisdiction to extend the period of 15 days even if sufficient cause was shown. The said order is challenged in this appeal by special leave.

3. It is not in dispute that no notice was personally served upon the appellant-tenant. The appellant-tenant in the application seeking leave specifically stated that he got notice only on 9.8.2006. There was no specific material to controvert the claim of the appellant-tenant that the notice was served on 9.8.2006. The Rent Controller rightly, therefore, proceeded on the basis that the date of knowledge was 9.8.2006. But the High Court, acting on inferences without any evidence to support it, has proceeded on the basis that the notice should be deemed to have been served on 1.7.2006 by way of 'munadi' (substituted service).

4. We are of the view that this was wholly unjustified. When the appellant-tenant had made a categorical statement that he obtained knowledge only on 9.8.2006, in the absence of personal service and in the absence of any satisfactory material to show that he had previous notice, the Court ought to have accepted the date of knowledge as 9.8.2006.

“At all events, the High Court, exercising revisional jurisdiction, ought not to have interfered with the finding recorded by the trial Court that the date of knowledge was 9.8.2006.”

5. We, therefore, allow this appeal, set aside the order of the High Court and restore the order of the Rent Controller granting leave to contest. Having regard to the facts and circumstances, we request the Rent Controller to dispose of the matter expeditiously.