office was validly created, it matters not that the incumbent was not validly appointed. A person appointed as a Sessions Judge or Additional Sessions Judge or Assistant Sessions Judge, would be exercising jurisdiction in the Court of Session and his judgments and orders would be those of the Court of Session. They would continue to be valid as the judgments and orders of the Court of Session, notwithstanding that his appointment to such Court might be declared invalid. On that account alone, it can never be said that the procedure prescribed by law has not been followed.——"

27. Following the above, it has necessarily to be held that the awards rendered by the respondents S/Shri M. C. Bhardwaj and H. S. Kaushik are not necessarily vitiated on the sole ground that their appointments have herein been set aside.

28. The learned counsel for the petitioners were, however, vehement in their stand that they wish to assail the respective awards on merits, on a wide variety of grounds and seek the separate relief prayed for in the writ petitions. The issues of merits, therein are plainly not of such significance as to require determination by this Full Bench. I accordingly direct that these cases be now placed before a Single Bench for decision on merits on the remaining issues.

S. C. Mital, J,—I agree.

S. S. Sodhi, J,—I too concur.

N.K.S.

FULL BENCH

Before S. S. Sandhawalia, C.J., P. C. Jain and S. C. Mital, JJ.

DAYA CHAND HARDAYAL CLOTH COMMISSION AGENTS,—*Petitioner.*

versus

BIR CHAND,—*Respondent.*

Civil Revision No. 2232 *of* 1980.

May 17, 1983.

Haryana Urban (Control of Rent and Eviction) Act (XI of 1973)—*Sections* 15(1) & (2) *and* 24—*Punjab Urban Rent Restriction Act (VI of* 1947)—*Section* 15(1)(*a*)—*East Punjab Urban Rent Restriction Act (III of* 1949)—*Sections* 15(1)(*a*) & (*b*) *and* 21—*Punjab General Clauses Act (I of* 1898)—*Section* 22—*Specified orders only passed by Rent Controllers under the* 1947 *Act made appealable by a Government*

notification—This notification not changed after the repeal of the 1947 *Act by the* 1949 *Act and also by the repeal of* 1949 *Act by the Haryana Act of* 1973—*Fresh notifications, however, issued by the Haryana Government under the* 1973 *Act in regard to the appointment of appellate authorities—Words 'an order' used in section* 15(2) *of the* 1973 *Act—Whether refers to the orders made appealable by the notification issued under the* 1947 *Act—Any and every order of the Rent Controller—Whether appealable under section* 15(2) *of the* 1973 *Act.*

Held, that an analysis of sub-section (1) of section 15 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 makes it manifest that the State Government has been vested with the power to confer the appellate jurisdiction on such officers and authorities and in such classes of cases as may be specified in the order. Therefore, both the classes of cases in which the appeal is to be provided and the forum in which it would be filed are determined under section 15(1) of the statute. Clearly this is the dominant provision. Obviously till the State Government issues any general or special order by notification thereunder the succeeding provisions cannot even come into play. Therefore, the words 'an order' employed in the succeeding provision of section 15(2) has and can have referrence only to an order which has been made appealable and with regard to which the forum of an appeal has already been prescribed. 'An order' in the following provisions cannot possibly be construed as 'any order' of the Controller against which an appeal may be filed even though it is not so prescribed in the opening part of section 15. This appears to be its plain grammatical construction, and in any case the provisions of the same section have to be read harmoniously. When so done, the words 'an order' used in the later part have obvious reference to the order with regard to the classes of cases for which appeal has specifically been provided and the forum for their hearing particularly designated in the earlier part. Moreover, the clear and firm intention in section 15 seems to be that it does not make any and every order of the Controller as appealable. The powers to determine the classes of cases in which an appeal may lie and the forums in which they are to be filed have been vested in the State Government. If the words 'an order' used in sub-section (2) of section 15 are to be construed as 'any order' then it would plainly conflict with the opening part of section 15 whereby the State Government alone prescribes classes of cases in which the appeals are to be provided. It would be farcial and contradictory to assume that section 15 makes any and every order appealable, but nevertheless an authority subordinate to the Legislature namely, the State Government may take away that right and prescribe that an appeal would lie only with regard to a limited classes of cases and not in others. The notification published in the Punjab Gazette in 1947 under the Punjab Urban Rent Restriction Act, 1947 whereby the only orders of the Controller which were made appealable were the ones issued under sections 4, 10, 12 and 13 of the said Act continues to have force and validity under the later provisions of the East Punjab Urban Rent Restriction Act, 1949 as also under the subsequent Haryana Act of

1973 in view of section 22 of the Punjab General Clauses Act, 1898. By virtue of the notifications issued by the State of Haryana in 1973 and 1978 only the forum of the rent jurisdiction was sought to be changed and the other significant matter under section 15(1), namely, the classes of cases which were alone appealable was not even remotely touched. It is in this context that the designed use of the words 'previous notifications issued in this behalf' is to be construed. Obviously it refers and can refer only to previous notifications with regard to the particular subject matter to which the notifications were being issued. If the notification was being issued with regard to the forum of the rent jurisdiction it would supersede the relevant provisions of the notification with regard to the said forum only. It was not intended to and in fact cannot affect the notification pertaining to an altogether different matter of the classes of cases. Thus the notification issued by the State of Haryana in May, 1978 is confined only to the forum for the appellate jurisdiction and in no way affects the classes of cases which alone had been earlier appealable by notification issued in 1947 which continues to hold the field. Thereunder, the orders made by the Rent Controller under sections 4, 10, 12 and 13 of the Act alone are appealable and it cannot be said that any and every order passed by the Rent Controller has become appealable under section 15(2) of the Haryana Act. (Paras 7, 8, 12 and 16)

1. Delhi Cloth & General Mills Co. Ltd. etc. *vs.* Om Parkash (1981) 21 C.L.J 430.

2. Janardhan and others *vs.* Gian Chand and others, 1982(1) R.L.R. 410.

3. Girdhari Lal *vs.* Smt. Rattan Mala Jain and another, 1982(1) R.L.R. 22 *OVERRULED.*

Case referred by Hon'ble Mr. Justice I. S. Tiwana on 9th November, 1981 to a larger bench to decide an important question involved in the case. Larger Bench consisting of Hon'ble the Chief Justice Mr S. S. Sandhawalia and Hon'ble Justice I. S. Tiwana forwarded the matter to a Full Bench to set the controversy at rest on May 31, 1982. The Full Bench consisting of Hon'ble the Chief Justice Mr. S. S. Sandhawalia and Hon'ble Mr. Justice Prem Chand Jain and Hon'ble Mr. Justice S. C. Mital finally decided the question involved on May 7, 1973.

Revision Petition Under Section 15(5) of Haryana Urban Rent Act against the order of Shri Surinder Sarup, Appellate Authority Ambala dated 7th August, 1980 affirming the order of Shri T. C. Gupta, Sub-Judge II Class, (Rent Controller), Ambala, dated 20th March, 1979 assessing the arrears of and amount of interest and costs and giving the subsequent date for offering tender.

M. S. Liberhan, Advocate, *for the Petitioner.*

Narsingh Das Achint, Advocate, *for the Respondent.*

JUDGMENT

S. S. Sandhawalia, C.J.—

(1) Whether any and every order of the Rent Controller appointed under the Haryana Urban (Control of Rent and Eviction) Act, 1973, against which a party may claim to be aggrieved, would now become appealable under Section 15(2) of the said Act by virtue of notification No. S.O./71/HA-11/73/S.15/78, dated 8th May, 1978, is the somewhat significant question which falls for determination in this case by the Full Bench.

2. Though the question aforesaid is primarily legal, yet the facts highlighting the issue deserve a somewhat detailed notice. The respondent-landlord herein had preferred a petition for ejectment under Section 13 of the Act against his tenant from a shop situated on Dev Samaj College Road, Ambala City on the ground of non-payment of rent from 1st of September, 1973, to the 31st of January, 1979 at a rate of Rs. 800 per mensem amounting to Rs. 52,000. In response thereto whilst contesting the same, the tenant admitted his liability to pay the arrears to the extent of Rs. 9,000 only at the rate of Rs. 250 per mensem. The Rent Controller by his impugned order, dated 20th March, 1979 accepted the rate of rent claimed by the landlord at Rs. 800 per mensem and computing the same for a period of three years from January 1, 1976 to December 31, 1978, directed the payment of Rs. 28,800 at the time of the next hearing. Besides the aforesaid arrears the tenant was also directed to pay an amount of Rs. 3,456 as interest thereon and Rs. 25 as costs of the litigation.

3. Aggrieved by the aforesaid order of the Rent Controller, the petitioner-tenant herein preferred an appeal before the Appellate Authority, i.e., the Additional District Judge, Ambala. Before him a preliminary objection was raised on behalf of the landlord that no appeal was competent against a mere interlocutory order of the Rent Controller computing the rent and directing the payment of the arrears thereof on the first hearing. The stand of the petitioner-tenant before the Appellate Authority was that by virtue of the aforesaid notification, dated 8th of May, 1978, any and every order of the Rent Controller had now become appealable under Section 15

of the Act. This contention however, did not find favour with the Appellate Authority, who in a considered judgment held that no appeal lay against the aforesaid order of the Rent Controller and the only remedy available to the petitioner was by way of revision.

4. This Civil Revision originally came up before I. S. Tiwana, J., sitting singly. Before him, the view expressed in *Delhi Cloth & General Mills Co. Ltd., etc.*, v. *Om Parkash*, (1) was assiduously assailed as incorrect, and further noticing the significance of the issue and the frequence with which it was likely to arise the matter was referred to a larger Bench. The Division Bench equally took the view that the question herein had wide ranging ramifications not only with regard to the law applicable in Haryana but perhaps equally to the analogous provisions in the East Punjab Urban Rent Restriction Act, 1949. The case was, therefore, referred for an authoritative decision by the Full Bench and that is how it is before us now.

5. In view of the reasons which appear hereafter and in particular because the notifications falling for construction are inter-related with those issued under the East Punjab Rent Restriction Act, 1947 it is not only apt but indeed imperative that this issue must be viewed in its true legislative background. It is unnecessary to delve any further than the Punjab Rent Restriction Act of 1941 which was enacted by the State of Punjab before even the partition of the country. Six years later, the Punjab Rent Restriction Act, 1947 was promulgated on the 14th April, 1947 and meaningful changes were introduced in the law and the earlier statute was subsequently re-cast. This Act applied to all urban areas in the undivided Punjab and, further, set up an altogether new machinery for determining fair rent and performing other functions under the said Act. This statute apparently continued to hold the field in the wake of the partition in East Punjab, and minor changes therein were later introduced by the East Punjab Act, 21 of 1948 which was promulgated on the 10th of April, 1948. To complete the history, it may be mentioned that the Punjab Rent Restriction Act, 1947 which was a Governor's Act, was to lapse after a period of two years on the 14th of August, 1949. Therefore, as a permanent measure, the East Punjab Urban Rent Restriction

(1) 1981 C.C.J. (Civil) 430.

Act, 1949 was enacted with necessary modifications. This statute continued to be in force in erstwhile Punjab till its re-organisation in the present States of Punjab and Haryana on the 1st of November, 1966. Thereafter, it equally remained in force both in Punjab as also in Haryana for more than seven years when it was substituted by the Haryana Urban (Control of Rent and Eviction) Act, 1973, with effect from 27th April, 1973.

6. Having noticed the history and the broad identity of the rent legislation in the two sister States of Punjab and Haryana, I would first wish to examine the matter in the light of the provisions of the Acts themselves before adverting to the import of the notification issued thereunder. Herein what calls for pointed notice is virtually the total identity of the provisions of Section 15 which prescribed the appellate and the revisional authorities under both the statutes. This is best highlighted by juxtaposing the material parts of the two provisions:—

East Punjab Urban Rent Restriction Act, 1949	Haryana Urban (Control of Rent and Eviction) Act, 1973
S. 15(1)(a). The State Government may, by a general or special order, by notification confer on such officers and authorities as they think fit, the powers of appellate authorities for the purposes of this Act, in such area *or in such classes of cases* as may be specified in the order.	S.15(1). The State Government may, by a general or special order, by notification confer on such officers and authorities as it may think fit, the powers of appellate authorities for the purposes of this Act, in such area *or in such classes of cases* as may be specified in the order.
S. 15(1)(b). 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	S. 15(2). Any person aggrieved by an order passed by the Controller may, within thirty 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

Punjab	Haryana
in writing to the appellate authority having jurisdiction. In computing the period of fifteen days the time taken to obtain a certified copy of the order appealed against shall be excluded.	an appeal in writing to the appellate authority having jurisdiction. In computing the period of thirty days the time taken to obtain a certified copy of the order appealed against shall be excluded.
S.15(2). On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.	S. 15(3). On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

An analysis of the first sub-section of section 15 of both the statutes makes it manifest that the State Government has been vested with the power to confer the appellate jurisdiction on such officers and authorities and in such classes of cases as may be specified in the order. Therefore, both the classes of cases in which the appeal is to be provided and the forum in which it would be filed are determined under section 15(1) or 15(1)(a) of the respective statutes. Clearly this is the dominant provision. Obviously till the State Government issues any general or Special order by notification thereunder the succeeding provisions cannot even come into play. Therefore, the words, "an order" employed in the succeeding provision of Section 15(1)(b) and 15(2) of the respective statutes has and can have reference only to an order which has been made appealable and with regard to which the forum for appeal has been already prescribed. "An order" in the following provisions cannot possibly be construed as "'any order" of the Controller against which an appeal may be filed even though it is not so prescribed in the opening part of Section 15. This appears to be its plain gramatical construction, and in any case the provisions of the same section have to be read harmoniously. When so done, the words "an order" used in the later part have obvious reference to the order with regard to the classes of cases for which appeals have been specifically provided and the forum for their hearing particularly

designated in the earlier part. The distinct terminology used and the deliberate avoidance of the words "an order" in sub-section 2 and clause (b) of sub-section 1 of Section 15 of the respective statutes is most meaningful and significant.

7. The aforesaid view which I am inclined to take is forcibly buttressed when reference is made to sister statutes in the rent jurisdiction. Section 38 of the Delhi Rent Control Act, 1958, in terms provides that an appeal shall lie from every order of the Controller made under the said Act. Similarly, Section 31 of the Madhya Pradesh Accommodation Control (Amendment) Act, 1965 and Section 22 of the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 in express terms provide an appeal from every order or decree passed by the Court, respectively. It would thus be plain that wherever the Legislature wishes to make any and every order of the Rent Controller or of the Rent Court as appealable, then it employs clear cut terminology to the same effect. The Punjab Act of 1949 as also the Haryana Act of 1973 deliberately used distinct terminology and have designedly avoided making any and every order of the Controller appealable. Therefore, the cases under the Delhi Rent Control Act, the Madhaya Pradesh Accommodation Control Act, and the Rajashthan Premises of Rent Control Act have no relevance in the present situation and do not call for individual notice and indeed would highlight the distinction betwixt those statutes and the one which we are called upon to construe.

8. The issue can also be viewed from another angle. As would appear from the above, the clear and firm intention in Section 15 seems to be that it does not make any and every order of the Controller as appealable. The powers to determine the classes of cases in which an appeal may lie and the forums in which they are to be filed have been vested in the State Government. It the words "an order" used in the later part of section 15 are to be construed as "any order" then it would plainly conflict with the opening part of Section 15 whereby the State Government alone prescribes classes of cases in which the appeals are to be provided. It would be farcical and contradictory to assume that section 15 makes any and every order appealable, but nevertheless an authority subordinate to the legislature, namely, the State Government may take away that right and prescribe that an

appeal would lie only with regard to a limited classes of cases and not in others.

9. Having construed the basic provisions of Section 15 itself, one may turn to the notifications issued thereunder on which primarily the argument on behalf of the tenant was sought to be rested. Herein it is common ground that the fountain head of the notifications is again the opening part of Section 15 itself. This visualises three distinct matters which may be prescribed by general or special orders by notification by the State Government. These are:—

(i) the classes of cases in which appeals would lie,

(ii) The forum for filing such appeals i.e., before such officers and authorities as may be prescribed, and

(iii) the geographical area with regard to each such forum.

As these three things are distinct and separate and plainly so prescribed, the matter is too plain to call for any further elaboration. Once that is so, it would follow that the State Government having authority to prescribe by a notification, the area, the forum and classes of cases, may do so either separately or by a composite notification to the same effect.

10. It is in the aforesaid context that the issuance of the first notification has to be viewed. It is common ground that Notification No. 1562-CR47/9228, dated 14th April, 1947 was published in the Punjab Gazette in the following terms:—

> In exercise of the powers conferred by sub-clause (a) of clause (1) of Section 15 of the Punjab Urban Rent Restriction Act, 1947, the Governor of Punjab is pleased to confer on all District and Sessions Judges in the Punjab in respect of the Urban Areas in their respective existing jurisdiction, the powers of Appellate Authorities for the purpose of the said Act, with regard to orders made by Rent Controller under Sections 4, 10, 12 and 13 of the said Act."

I would notice straightaway that there is not a hint of challenge to the validity and enforceability of the aforesaid notification and the fact that thereby the only orders of the Controller

which were made appealable were the ones issued under Sections 4, 10, 12 and 13, of the said Act. Nor is there any dispute that the aforesaid notification continued to have force and validity. Under the later provisions of the East Punjab Urban Rent Restriction Act, 1949, and indeed this is the case of the petitioner-tenant himself in the grounds of revision. This apart, *Lakhi Ram* v. *Sagar Chand and another*, (2) is clear authority that the aforesaid notification continued to hold the field under the subsequent statute in view of Section 22 of the Punjab General Clauses Act, 1898.

> "Now Section 4 deals with the determination of fair rent. Section 10 lays an embargo on the landlord to interfere with the amenities enjoyed by the tenant. Section 12 empowers the Controller to make an order, for necessary repairs on the failure of the landlord to do so, while section 13 deals with the eviction of tenants. Appeals apparently are provided only in these four contingencies. The notification no doubt was passed under the Punjab Urban Rent Restriction Act, 1947, which was repealed by section 21 of the East Punjab Urban Rent Restriction Act, 1949. It is, however, well to observe that sections 4, 10, 12 and 13 of the repealed Act dealt with identical situations in the corresponding provisions of the Act which is now in force.....".

The aforesaid judgment undoubtedly has held the field within this jurisdiction and was followed, and reiterated later in *Bikramajit Singh Pal* v. *Jaswant Singh*, (3). Consequently, there is no manner of doubt that the 1947 notification remained applicable in terms both in the State of Punjab and in the State of Haryana as well.

11. The Haryana Urban (Control of Rent and Eviction) Act, 1973, was enforced on April 27, 1973. Thereby the State Government made significant and radical changes with regard to the forums of the rent jurisdiction. This was first done by appointing Sub-Divisional Officers (Civil) as Controllers under Section 2(b) thereof and thus divesting the Subordinate Judges who had been earlier designated as Controllers under the pre-existing law. The

(2) 1963 P.L.R. 691.
(3) 1976 P.L.R. 16.

relevant notification No. 9037-2C(1)-73/26756, dated the 7th September, 1973 published in the Haryana Government Gazette (Extraordinary), dated 10th September, 1973, is in the following terms :—

> "In exercise of the powers conferred by clause (b) of section 2 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, and in supersession of all previous Notifications issued in this behalf, the Governor of Haryana hereby appoints the Sub-Divisional Officers (Civil) to perform the functions of a Controller under the said Act, within the limits of their respective jurisdiction.
>
> Provided that the persons performing the functions of a Controller immediately before the issue of this notification shall continue to exercise the said powers in respect of the cases pending with them.—"

In line with the above, the appellate forum was also shifted from the District Judges to the Deputy Commissioners in Haryana by the under-mentioned terms of notification No. 9037-2c(1)-73/26753, dated September 7, 1973 :—

> "In exercise of the powers conferred by Sub-section (1) of Section 15 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, and in supersession of all previous notifications issued in this behalf, the Governor of Haryana hereby confers on all the Deputy Commissioners in the State the powers of appellate authorities for the purposes of the said Act in the areas of their respective jurisdiction;
>
> Provided that the persons exercising the powers of appellate authorities immediately before the issue of this notificashall shall continue to exercise the said powers in respect of the cases pending with them."

To complete this aspect it may be recalled that by virtue of subsection (6) of Section 15, the revisional powers were conferred on the Financial Commissioner in substitution of the High Court in which they stood vested by the previous statute.

12. Now the core question is whether the aforesaid 1973 notifications abolished the well-settled classes of cases in which alone an appeal was provided earlier by the 1947 notification or left the same intact. In this context what first calls for notice is that though Section 24 of the Haryana Act, 1973 repealed the East Punjab Urban Rent Restriction Act, 1949 as applicable in Haryana, yet it in terms provided as follows by sub-section (2) thereof:—

> "Notwithstanding such repeal, anything done or any action taken under the Act so repealed (including any rule, notification or order made) which is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act as if this Act were in force at the time such thing was done or action was taken, and shall continue to be in force, unless and until superseded by anything done or any action taken under this Act.

It is plain from the above that this would sanctify the continuation of the earlier 1947 notification unless there is clear indication that the State Government intended to abrogate or supersede the same. I am unable to read any such clear intent from the mere promulgation of 1973 notification and indeed in the background, in which it is read everything points to the contrary. It seems to be plain that by virtue of the notification issued on September 7, 1973, it was only the forum of the rent jurisdiction which was sought to be changed. In all the three hierarchies this was done by making the Sub-Divisional Officers (Civil) as Controllers in place of the Subordinate Judges, the appellate jurisdiction was shifted from the District Judges to the Deputy Commissioners, and the revisional jurisdiction was similarly changed from the High Court to the Financial Commissioner by a change in section 15 itself. The sole intent and visible object herein is thus with regard to the change of forum alone. The other significant matter under section 15(1), namely, the classes of cases which were alone appealable was not even remotely touched. It is in this context that the designed use of the words "previous notifications issued in this behalf" is to be construed. Obviously it refers and can refer only to previous notifications with regard to the particular subject-matter for which the notification was being issued. If the notification was being issued with regard to the forum of the rent jurisdiction it would

supersede the relevant provisions of the notification with regard to the said forum only. It was not intended to and in fact cannot affect the notification pertaining to an altogether different matter of the classes of cases. To say that the 1973 notification which was concerned solely with the conferment of appellate power on Deputy Commissioners and thus determined the forum of the appeals, would in any way affect the classes of cases which were earlier appealable or vice-versa would in my view be a contradiction in terms. To read the notification as a blank supersession of the previous notifications would be ignoring the significant words "issued in this behalf", as also the larger and the basic object of the changes which followed the enactment of 1973 Act.

13. Once the aforesaid view of 1973 notification is taken, the later one issued on May 8, 1978 straightaway falls into its proper place and perspective. This notification is again not to be cons trued in isolation or in a vaccum. It is not for us to comment, but it seems manifest that the experiment of the State Government after the enforcement of the Haryana Urban (Control of Rent and Eviction) Act, 1973, with effect from April 27, 1973 to shift the rent jurisdiction from judicial forums of the Subordinate Judges; the District Judges and the High Court to those of the Sub-Divisional Officers (Civil); Deputy Commissioners, and the Financial Commissioner, proved a dismal failure and indeed boomeranged somewhat disastrously. The statesman like decision was taken by the Government and implemented by enacting the Haryana Urban (Control of Rent and Eviction) Amendment Act, 1978, which whilst making other amendments in the statute put the clock completely back in this respect. This is evident from the following relevant part of the Statement of Objects and Reasons of the Bill:—

> ".....The power of the Controller as well as that of the appellate and revision authority are proposed to be restored to the judiciary....."

To effectuate this purpose, sub-section (6) of Section 15 was amended to restore the revisional power from the Financial Commissioner to the High Court. Similarly, in sub-section (1) of section 20. the power to transfer proceedings was shifted from the Financial Commissioner to the High Court. To reverse the earlier change from the judicial forums to that of the executive, Section 20-A was substituted by the following provisions:—

> "....."
>
> (a) all proceedings pending before Sub-Divisional Officers (Civil) appointed to perfom the functions of the Controllers shall stand transferred to the Subordinate

Judges from the date of their appointment under clause (b) of section 2 to perform the functions of the Controllers;

(b) an appeal from the order of the Sub-Divisional officer (Civil) appointed to perform the functions of the Controller shall lie to the District Judge conferred with the powers of the appellate authority and a revision from the order of such appellate authority shall lie to the High Court; and

(c) if any appeal from the order of the Sub-Divisional Officer (Civil) appointed to perform the functions of the Controller has been filed with the Deputy Commissioner conferred with the powers of the appellate authority or if any revision from the order of the Deputy Commissioner conferred with the powers of the appellate authority has been filed with the Financial Commissioner the same shall stand transferred to the District Judge and the High Court, respectively."

Apart from the changes made in the Act itself, notifications were issued on May 8, 1978 appointing all the Subordinate Judges as Controllers and the District Judges as the appellate authorites in the under-mentioned terms:—

"No. S.O. O/H.A.-11/73/S.2/78.—In exercise of the powers conferred by clause (b) of section 2 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 and in the supersession of all previous notifications issued in this behalf, the Governor of Haryana hereby appoints all the Subordinate Judges as Controllers within the limits of their respective jurisdiction"

* * *
* * *

"No. S.O./71/HA-11/73/S.15/78.—In exercise of the powers conferred by sub-section (1) of section 15 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, and in supersession of all previous notifications issued in this behalf, the Governor of Haryana hereby confers on all the District Judges in the areas of their respective jurisdiction, the powers of Appellate Authorities."

It is against this background that the aforequoted second notification has to be viewed. All that has been said earlier with regard

to the preceding 1973 notification is applicable to this one equally as well and indeed with greater force. To repeat, this notification again was singularly confined to determine the forum of the appellate jurisdiction alone. It was intended merely to reverse what had been done earlier by the 1973 notification in shifting the appellate forum to all the Deputy Commissioners. It is significant that the aforequoted first notification of May 8, 1978 as well had used identical terminology and in my view the designation of Controllers cannot possibly be read as a blanket supersession of all earlier notifications under the Act. This would be equally true of the later notification of May 8, 1978. The scope of this notification is meaningfully confined by the words 'issued in this behalf' which in express terms refers to the special purpose for which they were promulgated. These notifications have to be seen in the larger mosaic of abandoning the experiment of shifting the rent jurisdiction from the judicial to the executive forums. These had little and indeed nothing to do with the classes of cases which alone had been earlier made appealable and with regard to making any change therein, there was neither any hint nor cause at all. I am unable to read any alteration or supersession of the notification with regard to the appealable classes of cases here.

13. Even otherwise on larger considerations I find myself unable to subscribe to the view that either the Legislature or the State Government by issuance of the aforesaid notification had intended to effect a radical change of making any and every order of Rent Controller as appealable. The sole purpose and object of the rent laws in creating the special forum was to expedite the process and to take the matter away from the rather tedious speed in the ordinary civil courts. This was aptly highlighted by the Division Bench in *Raghu Nath Jalota* v. *Ramesh Duggal and another*, (4) in the following terms:—

> ".....The underlying purpose was to rid the authorities under the Act from the shackles of technical procedure and to provide a summary and expeditious mode of disposal, is further evident from the fact that originally only one appeal was provided by the statute to the Appellate Authority and all further appeal or revisions were barred by Sec. 15 (4) of the Act. It was not till 1956 that by the Punjab Act XXIX sub-section (5) was added to

(4) A.I.R. 1980 Pb. & Hy. 188.

Section 15 of the Act vesting the High Court with special revisional jurisdiction thereunder."

If any and every order of the Controller is to be made appealable and that in turn may become either revisable under sec. 15(6) or supervisable under Art 227 of the Constitution of India then by a process of interpretation we would not be subserving the cause of expeditious disposal of the rent matters but only creating further road blocks therein. I have already pin pointed in considering Section 15 that if the intention of the Legislature was that any and every order of the Controller is appealable, then section 15 (1) and (2) would not be cast and framed as they are. In any case, if the legislature intended to make a significant change of this kind the proper and indeed the only method was the amendment of section 15 designedly to that effect. It could then follow the existing example of Delhi, Madhya Pradesh and Rajashan States where the statute in terms provided for every order or decree to be appealable. One cannot easily assume that so meaningful a change was sought to be introduced by a mere side wind by issuing a notification and then by implication withdrawing the same.

14. It remains now to advert to precedents within this jurisdiction having a direct bearing on the point. In *Delhi Cloth and General Mills Co. Ltd. etc.* v. *On Parkash,* (supra) the matter seems to have been treated as one of first impression and was disposed of by a solitary observation that a plain reading of section 15(2) revealed that the appellate authority can hear appeals against any order passed by the Rent Controller. It would appear that the learned counsel for the parties were sorely remiss in not bringing to the notice of the Bench the correct perspective of the legislative history of the rent laws within the State or the sequence of the notifications issued in this regard. It is unnecessary to labour the point and because of the elaborate reasons in the earlier part of the judgment it appears to me, with the greatest respect, that the solitary observation in the judgment is not good law and is hereby overruled.

15. In *Janardhan and others* v. *Gian Chand and others,* (5), the learned Single Judge expressly relying on *Delhi Cloth and General Mills' case* (supra) followed the same with a brief elaboration of the matter. I would wish to record that another judgment

(5) 1982(1) RLR 410.

referred to in *Makhan Lal* v. *Ram Chand and others,* (6), has no direct bearing on the point and in any case in view of the rule in *Quinn* v. *Letham* cannot be read as the ratio of the said judgment. For the identical reasons mentioned above, with respect *Janardhan and others' case* on this point is hereby overruled. In the brief order recorded in *Girdhari Lal* v. *Smt. Rattan Mala Jain and another,* (7), the learned Single Judge has again considered the issue as one of first impression without adverting to either the history of the legislation or the detailed reasons considered in this Full Bench. With the greatest deference *Girdhari Lal's case* also, therefore, is not sound law and is hereby overruled.

16. On a true perspective of the legislative background, the language of the Act and in particular of the relevant notifications, I would hold that notification No. S.O. 71/HA-11/73/S-15/78, dated May 8, 1978 is confined only to the forum for the appellate jurisdiction and in no way affects the classes of cases which alone had been earlier made appealable by notification No. 1562-CR 47/9228, dated 14th April, 1947, which continues to hold the field. Thereunder, the orders made by the Rent Controller under sections 4, 10, 12 and 13 of the Act alone are appealable. The answer to the question posed at the outset has thus to be rendered in the negative.

17. The significant question aforesaid having been answered in these terms, we would affirm the order of the appellate authority holding to the same effect. The civil revision is consequently dismissed, but in view of the controversial isisues raised, the parties are left to bear their own costs.

Prem Chand Jain, J.—I agree.

S. C. Mital, J.—I agree.

S.C.K.

(6) 1978(2) R.C.J. 638.
(7) 1982(2) RLR 22.

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