

In the High Court of Punjab and Haryana at Chandigarh

**CR- 3640 of 2012(O&M)
Date of Decision: 26.2.2019**

Mohinder Kumar and others

---Petitioners

versus

Saroj and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Raj Kumar Rana, Advocate, for the petitioners
Mr. Amit Jaiswal, Advocate, for the respondents**

Rekha Mittal, J.

The present petition directs challenge against order dated 9.3.2012 passed by the Appellate Authority, Ambala whereby appeal preferred by the respondents against eviction order dated 28.7.2011 passed by the Rent Controller, Ambala was allowed, order of eviction was set aside and application for eviction was dismissed.

Counsel for the petitioners would contend that as the respondents did not raise an issue that Sh. Harish Chand @ Hari Chand is not the special power of attorney through whom the eviction application was filed by Mohinder Kumar and others, original power of attorney was not produced before the Rent Controller. It is further argued that Rent Controller framed issues No. 3 to 5 with regard to non-maintainability of the petition in the present form; petition being bad on account of non-joinder and mis-joinder of parties and locus standi of the petitioners to file the eviction application but these issues were decided against the respondents, in view of findings recorded in para 13 of the order passed by the Rent Controller. Counsel would apprise the court that the Appellate

Authority has allowed the appeal primarily on the ground that power of attorney in favour of Harish Chand @ Hari Chand has not been produced and proved before the Rent Controller. He would further state that the petitioners filed CM No. 2647-CII of 2019 for permitting them to place on record original power of attorney executed on 16th day of August, 2005.

Counsel for the parties are *ad idem* that the impugned order passed by the Appellate Authority may be set aside and the matter is remitted to the Appellate Authority for decision of the appeal afresh on the basis of materials already on record and additional evidence to be adduced by the petitioners to produce and prove the special power of attorney in favour of Harish Chand @ Hari Chand and thereafter evidence in rebuttal, if any, to be adduced by the respondents.

In view of the above, the present petition stands disposed of. Impugned order dated 9.3.2012 passed by the Appellate Authority, Ambala is set aside. The matter is remitted to the Appellate Authority, Ambala for decision of the appeal afresh on the basis of materials already on record and additional evidence to be adduced by the petitioners to produce and prove special power of attorney and evidence in rebuttal, to be led by the respondents. Parties through their counsel are directed to appear before the successor court of Smt. Navita Singh, the then Appellate Authority, Ambala on 14.3.2019. The Appellate Authority shall dispose of the appeal within a period of six months of the parties putting in appearance. No order as to costs.

(Rekha Mittal)
Judge

26.2.2019

PARAMJIT	Whether speaking/reasoned	: Yes
	Whether reportable	: Yes/No