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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

**C.R.No. 4829-2014 (O&M)
Date of decision: 21.05.2019**

Rajiv Kumar

...Petitioner

Versus

Bharat Bhushan

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. M.S.Kathuria, Advocate
for the petitioner.

Mr. Sandeep Arora, Advocate
for respondent.

JAISHREE THAKUR, J. (Oral)

This revision petition has been filed seeking to challenge the orders of the Rent Controller as well as the Appellate Authority dismissing the ejectment application of the petitioner herein, filed under Section 13 of the East Punjab Urban Rent Restriction Act 1949, primarily on the ground that the ejectment application is barred by the principle of *res judicata*.

In short, the petitioner herein had filed a eviction petition on the ground of non payment of rent and personal necessity which was contested by the respondent, herein.

It was pleaded by the respondent-tenant that the petition is barred under Section 11 of the Code of Civil Procedure, 1973(in short 'CPC') as the petitioner had on earlier occasions too filed similar applications which were dismissed in default. It is argued that, in fact, the remedy available to the petitioner herein would be to apply for recalling of

the orders dismissing the rent petitions in default.

I have heard learned counsel for the parties and, prima facie, I am of the opinion that principles of Section 11 of the CPC would not be applicable to the proceedings under the Rent Act and also on the ground that there was no decision on merits.

At this stage, both counsel for the parties are in agreement that the matter needs to be remanded back to the Rent Controller, Nakodar, District Jalandhar to decide the ejectment application on the merits of the case.

In view of the consensus that has been arrived between the parties, the impugned orders passed by the Rent Controller and the Appellate Authority dismissing the ejectment application on the principle of *res judicata* are hereby set aside and the matter is remanded back to the Rent Controller, Nakodar to give a decision on merits.

Parties are directed to appear before the Rent Controller on 10.07.2019.

21st May, 2019

Shabha

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*