2025:PHHC:136746

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-1887-2025 (O&M)
Date of Decision : 29.09.2025

SUBHASH CHANDER .... Petitioner

VERSUS

PAWAN SEHGAL .... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. D.K. Tuteja, Advocate for the petitioner.

Mr. Deepak Girotra, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed challenging the order dated 25.02.2025 passed by the learned Appellate Authority, Rohtak whereby the Appellate Authority has set aside the order dated 27.03.2024 passed by the Rent Controller concerned and remanded the matter back with the directions to the Rent Controller to decide the rent petition afresh exercising jurisdiction as a Rent Controller after hearing both the parties afresh and giving finding on all the issues including the one framed by the Appellate Authority.

2. Brief facts relevant to the present *lis* are that the landlord-petitioner herein filed an eviction petition under Section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 which was decided vide order dated 27.03.2024 and the eviction of the tenant-respondent herein was ordered by the Rent Controller. The tenant-respondent herein was directed to vacate the premises on the ground of personal necessity within a period of three

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months. Aggrieved by the same an appeal was preferred by the tenant-respondent before the Appellate Authority. During the pendency of the appeal the tenant-respondent herein filed an application under Order 14 Rule 5 CPC read with Section 151 CPC for framing of an additional issue. Vide detailed order dated 14.02.2025 (running into 14 pages), an additional issue was framed which reads as under :

> '*1. Whether the rate of rent of demised shop is ₹8,000 per month since the month of May 2014 as averred by the petitioner in the present rent petition? OPP'*

It was further observed by the Appellate Authority as under :

> *'18. Also, during the course of arguments, the learned counsel for the parties have also submitted that the evidence led by the parties is sufficient to adjudicate the appeal regarding the present dispute between the parties. So, as the evidence on the record is sufficient to enable the Appellate Authority to adjudicate upon the present petition, so after faming and resettling the issue on the rate of rent, parties are directed to address the final arguments in the present appeal.*
>
> *19. The case law relied upon by learned counsel for the respondent-landlord are not applicable to the facts of the present case being distinguishable.*
>
> *20. So, in view of the aforesaid discussion and reasons and the aforesaid law laid down by the Hon'ble Punjab and*

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Haryana High Court, the present application stands allowed and is hereby disposed of. Papers be tagged with the main case file'.

Subsequently, vide the impugned order dated 25.02.2025, the order passed by the Rent Controller dated 27.03.2024 was set aside and the matter was remanded back for decision afresh after hearing the parties and after recording fresh evidence on all the issues including the one framed by the Appellate Authority vide order dated 14.02.2025. Hence, the present revision petition by the landlord-petitioner herein.

3. Learned counsel for the landlord-petitioner herein would contend that the Appellate Authority has no power to remand the matter back. In support of his argument, learned counsel for the landlord-petitioner has relied upon a Division Bench judgment of this Court in the case of **Raghu Nath Jalota V/s Romesh Duggal & Anr. [1979 (2) RCR (Rent) 501]**.

4. *Per contra*, learned counsel for the tenant-respondent herein would contend that the Appellate Authority can either call for a report or decide the matter itself. In the present case, since the Rent Controller while signing the order had signed the same as a Civil Judge therefore the order has rightly been set aside and the matter has rightly been remanded back to the Rent Controller concerned. It is further the contention of the learned counsel that the Rent Controller had rightly been directed to decide all the issues afresh including the one framed by the Appellate Authority.

5. Heard.

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6. A Division Bench of this Court in the case of **Raghu Nath Jalota** (supra) has held as under :

> *"15. Having cleared the ground with regard to the language of the Act and on principle, one must now inevitably advert to precedent. There appears to be a long and unbroken line of authority for the view enunciated above. Indeed, learned counsel for the respondent was forced to concede that apart from veiled rumblings of doubt, there was no judgement holding directly and squarely in favour of the respondent that Section 15(3) conferred any express or implied power of remand on the Appellate Authority for altogether a fresh decision. More than two decades ago, the matter fell directly for decision by Grover, J. in Moti Ram v. Ram Sahai. Civil Revn. No. 641 of 1957, decided on April 29, 1958 (Punj), under the provisions of Section 16(3) of the Patiala and East Punjab States Union Urban Rent Restriction Ordinance, 2006 Bk. which is in pari materia with the provisions under consideration, wherein it was observed as follows :*
>
> > *"It would be useful to refer to the provisions of Sub-Section (4) of Section 16 as well. According to that provision the decision of the Appellate Authority and subject only to such decision, an order of the Controller shall be final and shall not be liable to*

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be called in question in any Court of law. It is submitted that the Appellate Authority could make such enquiry as it thought fit itself or it could ask the Controller to make that enquiry but the appeal had to be disposed of by the Appellate Authority itself and since the decision of the Appellate Authority is to be final, it can have reference only to such decision as the Appellate Authority makes on the merits and it can have no reference to such an order of remand as has been made in the present case. It is quite clear that the statute makes no provision for an order of remand for retrial or fresh decision and the obvious intention of the legislature seems to, be that the Appellate Authority should itself decide the points, and if for the purpose of doing so, it becomes necessary to make some further enquiry that can be done by the Appellate Authority itself or through the Controller. It has been contended on behalf of the respondent that there is an inherent power in an Appellate Authority to remand a case for retrial and fresh decision. Such an inherent power exists in the Courts under the Code of Civil Procedure as there can be a remand under inherent powers apart from the provisions of

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> *O. 41 R. 23 of the CPC. In the first place there is no provision analogous to Section 151 of the CPC in the Rent Ordinance. Secondly, the language of Sub-Section (3) read with Sub-Section (4) of Section 16 makes it fairly clear that the Appellate Authority has to decide the dispute between the parties itself and there does not seem to be any warrant for reading into these provisions a general power of remand."*
>
> *XXXXX XXXXX XXXXX*
>
> *20. To conclude therefore the history of the legislation, its object and purpose, the specific language of Section 15(3) of the Act and both principal and precedent, attend to render an answer in the negative to the question formulated at the outset. It is, therefore, held that there is no jurisdiction in the Appellate Authority to remand the whole case to the Controller for entirely a fresh decision and the view in Moti Ram v. Ram Sahai, Civil Revn. No.641 of 1957 decided on April 29, 1958 and Krishan Lal Seth v. Shrimati Pritam Kumari, (1961) 63 Pun LR 865, is reaffirmed." (emphasis supplied)*

Keeping in view the law laid down by the Division Bench of this Court in **Raghu Nath Jalota** (supra), the order passed by the Appellate Authority remanding the matter back to the Rent Controller is not sustainable in law. The Appellate Authority was clearly in error in remanding the matter back to

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the Rent Controller inasmuch as there is no power with the Appellate Authority to remand the matter back. As noted above, the Appellate Authority should decide the issue by itself or, if it thinks necessary, fresh inquiry can be made by the Appellate Authority through the Rent Controller though in the present case the Appellate Authority vide order dated 14.02.2025 (running into 14 pages) had held that there was sufficient evidence led by the parties for the Appellate Authority to decide the issue itself.

7. In view of the above, the impugned order dated 25.02.2025 is set aside, being unsustainable in law. The parties to appear before the learned Appellate Authority concerned on **10.10.2025**.

8. The present revision petition stands disposed off accordingly. Pending applications, if any, also stand disposed off.

9. Needless to say, any observations made herein shall not be treated as an expression of opinion on the merits of the case.

29.09.2025 **(ALKA SARIN)**
Aman Jain **JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No

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