



268

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

CR-6775-2019 (O&M)

Date of Decision : 13.01.2026

ASHOK KUMAR AND ANR

.... Petitioners

VERSUS

MEERA @ MEERA SHARMA

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rajinder Sharma, Advocate for the petitioners.

Mr. Sharan Sethi, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed challenging the order dated 26.09.2019 passed by the Appellate Authority insofar as the application for amendment, which was filed before the Appellate Authority, was not decided and the matter was remanded back to the Rent Controller for deciding the same afresh.

2. Briefly the facts relevant to the present *lis* are that the respondent-landlord filed an ejectment petition. During the pendency of the ejectment petition an application for amendment was filed by the petitioner-tenants which remained pending and was not decided by the Rent Controller. Vide order dated 29.11.2013 the ejectment petition was allowed. Aggrieved by the same, an appeal was preferred by the petitioner-tenants. Vide order dated 04.12.2014 the Appellate Authority remanded the matter back to the Rent Controller. Once the matter was remanded back to the Rent Controller, the

Rent Controller vide order dated 16.01.2015 rejected the application for amendment. Aggrieved by the order dated 16.01.2015 rejecting the application for amendment, the petitioner-tenants herein filed civil revision being CR-1479-2015. The respondent-landlord aggrieved by the order dated 04.12.2014 passed by the Appellate Authority preferred a civil revision being CR-782-2015. Both the said civil revisions being CR-1479-2015 and CR-782-2015 were disposed off vide a common order dated 23.10.2018. CR-782-2015 was allowed and the remand order passed by the Appellate Authority was set aside. Since the remand order itself was set aside, the order passed by the Rent Controller dated 16.01.2015 was held to have automatically been set aside rendering CR-1479-2015 infructuous. The petitioner herein was given the liberty to file an application for amendment before the Appellate Authority. The matter once again was taken up by the Appellate Authority which vide order dated 26.09.2019 has set aside the ejectment order dated 29.11.2013 and remanded the matter back to the Rent Controller. The present revision petition has been filed by the petitioner-tenants challenging the order dated 26.09.2019 alleging that the said order is bad in law as the same has been passed without deciding the application for amendment, which liberty was given to the petitioner-tenants by this Court vide order dated 23.10.2018.

3. Learned counsel for the petitioner-tenants would contend that the order passed by the Appellate Authority is not sustainable in law inasmuch as while deciding the matter, the application for amendment, which was filed after the order passed by this Court on 23.10.2018, was not decided.

4. *Per contra*, learned counsel for the respondent-landlord would contend that since the application for amendment has not been dealt with specifically, the same would be deemed to have been dismissed and no specific order was required to be passed when the matter was being remanded back.

5. Heard.

6. In the present case this Court, while deciding civil revisions being CR-1479-2015 and CR-782-2015 on 23.10.2018, set aside the order passed by the Appellate Authority remanding the matter back and had given liberty to the petitioner-tenants to file an application for amendment before the Appellate Authority. Admittedly the application was not decided by the Appellate Authority as is apparent from the order dated 26.09.2019. The argument of the learned counsel for the respondent-landlord that since there is no specific order hence the application for amendment would be deemed to have been dismissed cannot be accepted. Once the application was filed, the Appellate Authority was required to deal with the same accepting or rejecting it. Further still, the Appellate Authority does not have the power to remand the matter back. The said issue came up for consideration before a Division Bench of this Court in **Raghu Nath Jalota V/s Romesh Duggal & Anr. [1979 (2) RCR (Rent) 501]** wherein it has been 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 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 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.

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) and also the fact that the Appellate Authority failed to decide the application for amendment, the impugned order dated 26.09.2019 is not sustainable in law. The same is accordingly set aside. The matter is remanded back to the successor Appellate Authority concerned for decision afresh on merits and keeping in view the law laid down by the Division Bench of this Court in **Raghu Nath Jalota** (supra), in accordance with the law. Parties shall appear before the successor Appellate Authority concerned on **27.01.2026 at 10.00 am.**

7. Present revision petition stands disposed off in the above terms.

Pending applications, if any, also stand disposed off.

13.01.2026
Aman Jain

(ALKA SARIN)
JUDGE

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