



In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 114 of 2020 (O&M)

Date of Decision: 28.03.2025

Sunder Dass Ishar Devi Dharamshala Trust

... Petitioner(s)

Versus

M/s Ram Lal

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Nitish Garg, Advocate
for the petitioner(s).

Mr. K.B.Raheja, Advocate
for the respondents.

Anil Kshetarpal, J.

1. The petitioner before this Court sought eviction of the tenant by filing an application under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as “the 1949 Act”). It was allowed by the Rent Controller vide judgment dated 29.09.2018. Two appeals were filed before the Appellate Authority. An application for permission to lead additional evidence was filed by the landlord because he examined AW.2 Randhir Gupta, the Building Expert, however, a complete opportunity to cross-examine the witness was not given to the tenant. The Appellate Authority has also noticed this error. Consequently, the Appellate Authority remitted the matter back to the Rent Controller.

2. On 28.02.2025, the following order was passed:-

*“Learned counsel representing the petitioner contends that appellate authority under the East Punjab Urban Rent Restriction Act, 1949 does not have enabling power to remit the matter back to the Rent Controller. He relies upon **Raghu Nath Jalota vs. Romesh Duggal and another 1980 AIR (Punjab) 188, Smt. Shakuntla Devi vs. Ramji Lal 1981 (1) RCR (Rent) 719, Mohd. Hussain vs. Mohd. Ashgar 2017 (2) RCR (Rent) 3 and Jangi Ram since deceased) through his legal representatives vs. Ashok Kumar(CR-6399-2019 decided on 12.09.2023).***

Learned counsel representing the respondent prays for some time to examine the same before assisting the Court.

List on 28.03.2025, in the urgent list.

3. This Court has heard the learned counsel representing the parties at length.
4. If the impugned order passed by the Appellate Authority is analyzed with reference to Order XLI Rule 23A of the Code of Civil Procedure, 1908, it is not sustainable. If the tenant was not granted an opportunity to cross-examine the witness, the Appellate Authority could have summoned the witness and allowed the tenant to cross-examine him as the Appellate Court is a Court of both facts and law.
5. The learned counsel representing the respondents submits that during the pendency of this revision petition, the Rent Controller has permitted the tenant to cross-examine the witness.
6. Keeping in view the aforesaid facts, the present revision

petition is partly allowed and the impugned order passed by the Appellate Authority to the extent it remitted the matter back to the Rent Controller, is set aside. The Rent Controller is directed to forward the deposition, which has already been recorded, to the Appellate Authority. Thereafter, the Appellate Authority shall proceed with the matter, in accordance with law.

7. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

March 28, 2025
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No