

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Civil Writ Petition No. 22069/2018

1. Mohan Lal Verma S/o Badripraad, Aged About 75 Years, Resident H.N. 1853 Khajane Walon Ka Rasta, Infront Of Paladi House, Chokari Topkhana Desh, Jaipur
2. Rajesh Kumar Verma S/o Mohan Lal Verma, Resident H.N. 1853 Khajane Walon Ka Rasta, Infront Of Paladi House, Chokari Topkhana Desh, Jaipur
3. Tarun Kumar Verma S/o Mohan Lal Verma, Resident H.N. 1853 Khajane Walon Ka Rasta, Infront Of Paladi House, Chokari Topkhana Desh, Jaipur

-----Petitioners/Appellants

Versus

Rajendra Prasad Shah S/o Shri Heera Lal Ji Shah, Aged About 61 Years, Infront Of Paladi House, Chokari Topkhana Desh, Jaipur

-----RespondentTenant

Connected With

S.B. Civil Writ Petition No. 25759/2018

1. Mohan Lal Verma S/o Badri Bux, Aged About 75 Years, Resident H.N. 1853 Khajane Walon Ka Rasta, Infront Of Paladi House, Chokari Topkhana Desh, Jaipur.
2. Rajesh Kumar Verma S/o Mohan Lal Verma, Resident H.N. 1853 Khajane Walon Ka Rasta, Infront Of Paladi House, Chokari Topkhana Desh, Jaipur.
3. Tarun Kumar Verma S/o Mohan Lal Verma, Resident H.N. 1853 Khajane Walon Ka Rasta, Infront Of Paladi House, Chokari Topkhana Desh, Jaipur.

-----Petitioners/Appellants

Versus

Rajendra Prasad Shah S/o Shri Heera Lal Ji Shah, Aged About 61 Years, Infront Of Paladi House, Chokari Topkhana Desh, Jaipur.

-----Respondent/Tenant

For Petitioner(s)	:	Mr. Mangal Chand Taylor
For Respondent(s)	:	Mr. Saransh Saini with Mr. Vinod Kumar Sharma Ms. Sanjana Choudhary

HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment

Reportable

Date of hearing and conclusion of arguments	27.02.2026
Date on which the judgment was reserved	27.02.2026
Whether the full judgment or only the operative part is pronounced	Full Judgment
Date of pronouncement	19.03.2026

1. Both the writ petitions arise out of a common order dated 20.02.2018, passed by the learned Rent Tribunal, Jaipur Metropolitan, in an eviction petition. Since two appeals came to be filed, one by the landlord bearing Appeal No. 66/2018 and another by the tenant bearing Appeal No. 52/2018, and the same were disposed of by the learned Appellate Rent Tribunal vide order dated 21.08.2018, whereby Appeal No. 52/2018 was allowed, and Appeal No. 66/2018 was dismissed.
2. The landlord has preferred two writ petitions, one bearing number S.B. Civil Writ Petition No. 22069/2018 against the order passed in Rent Appeal No. 52/2018, and another writ petition bearing number S.B. Civil Writ Petition No. 25759/2018 against the order passed in Rent Appeal No. 66/2018. The writ petition bearing number S.B. Civil Writ Petition No. 22069/2018 is against the reversal of the finding on Issue No. 2 and the remand order; therefore, the facts are taken from the said writ petition. Since common facts are involved, both the writ petitions are decided together.

3. The facts giving rise to the present writ petitions are that the landlords filed a petition under Section 6 and 9 of the Rajasthan Rent Control Act, 2001 (hereinafter referred to as the 'Act of 2001') before the learned Rent Tribunal seeking eviction of the tenant and revision of rent.

4. The grounds taken in the eviction petition were that the tenant had committed default in payment of rent; the shop in dispute was required for the personal and *bonafide* necessity of the son of the landlord for carrying on the business of tailoring; and further, that the tenant had acquired suitable alternative accommodation available of his own use. Along with the prayer for eviction, the landlords have also sought a revision of rent. The said petition came to be allowed by the learned Rent Tribunal vide judgment dated 20.02.2018 by deciding Issue No. 5 against the landlords and in favor of the tenant, and Issue Nos. 2 and 3 in favor of the landlords and against the tenant, which was subsequently corrected vide order dated 31.03.2018. The decree for eviction as well a decree for revision of rent was passed by the learned Rent Tribunal on the ground of *bonafide* need of the son of the landlord. The Issue Nos. 1 and 4 were not pressed by the landlords during the hearing before the learned Rent Tribunal.

5. Thereafter, the tenant and landlords preferred appeals before the learned Appellate Rent Tribunal. The learned Appellate Rent Tribunal, vide judgment dated 21.08.2018, dismissed the Appeal No. 66/2018 (preferred by the landlords) challenging the Issue No. 5 (Suitable accommodation being available) and allowed the Appeal No. 52/2018 (preferred by the tenant on issue of *bonafide*

need of landlord) challenging the finding on Issue No. 2. While reversing the finding recorded on Issue No. 2, the learned Appellate Rent Tribunal remanded the matter back to the learned Rent Tribunal with a direction that the learned Rent Tribunal shall take into consideration the subsequent events brought on record and permit the parties to carry out necessary amendments. The learned Rent Tribunal was further directed to frame appropriate issues in respect of such subsequent events; permit the parties to lead evidence thereon, and thereafter, decide the eviction petition afresh on merits.

6. Being aggrieved by the said order of remand dated 21.08.2018, passed by the learned Appellate Rent Tribunal as well as dismissal of his appeal, the landlords have preferred the instant writ petitions before this Court.

7. Learned counsel for the petitioners submitted that the learned Appellate Rent Tribunal has committed illegality in remanding the matter to the learned Rent Tribunal with a direction that amendments may be permitted in respect of every subsequent event. It was further directed that issues be framed on each such amendment, documents relating to every subsequent event be taken on record, and evidence be recorded on each such event before deciding the matter afresh.

7.1 Learned counsel for the petitioners further submitted that such a remand order is not contemplated under any provision of the Act of 2001.

7.2 It was further submitted that the proceedings before the learned Rent Tribunal as well as the learned Appellate Rent

Tribunal under the Act of 2001 are summary in nature and that the provisions of the Code of Civil Procedure, 1908, are not strictly applicable.

7.3 Learned counsel for the petitioners contended that in summary proceedings, as held in a catena of judgments, every subsequent event is not required to be permitted by way of amendment, nor it is necessary that evidence be recorded on each and every such event. It is submitted that in such summary proceedings, subsequent events can be taken into consideration on the basis of affidavits filed by the parties and can be decided thereof.

7.4 It was further contended that if the learned Appellate Rent Tribunal was of the view that certain subsequent events required consideration, it ought to have taken them into account on the basis of affidavits filed by the parties instead of remanding the matter. However, while remanding the case, the learned Appellate Rent Tribunal directed that most of the applications filed under Order VI Rule 17 CPC, which had earlier been rejected by the learned Rent Tribunal, be allowed and that all applications seeking to take documents on record, which had also been rejected earlier were allowed and direction was issued to decide the rent application afresh.

7.5 Learned counsel for the petitioners submitted that by issuing such directions, the learned Appellate Rent Tribunal has exceeded its jurisdiction, which is not contemplated under the provisions of the Act of 2001. It is therefore, prayed that the impugned order passed by the learned Appellate Rent Tribunal be quashed and set

aside and that the judgment and decree passed by the learned Rent Tribunal be restored.

7.6 It was further submitted that the decree for eviction was granted on Issue No. 2 and that the entire evidence of the parties with respect to the said issue was already available on record before the learned Rent Tribunal. Learned counsel also submitted that all alleged subsequent events had already been brought on record.

7.7 Learned counsel for the petitioners contended that, as per the law laid down by the Hon'ble Supreme Court of India and other High Courts, such subsequent events can be taken into consideration by the Court itself on the basis of affidavits filed by the parties. There is no requirement of permitting amendments, framing of additional issues, or recording of further evidence in respect of each subsequent event in summary proceedings.

7.8 It was submitted that the *bonafide* requirement of the landlord is to be assessed as on the date of filing of the eviction petition. If every subsequent event is permitted to be brought on record by way of amendment, framing of issues, and recording of evidence, the trial would become endless.

7.9 It was also argued that while adjudicating landlord-tenant disputes under the Act of 2001, subsequent events, if any, can be taken into consideration by the Court on the basis of affidavits filed by the parties without permitting amendments, framing additional issues, or recording further evidence. Learned counsel for the petitioner thus, submitted that this is precisely the object

of Act of 2001 that is to provide a summary procedure for adjudication of landlord-tenant disputes.

7.10 Learned counsel further submitted that the learned Appellate Rent Tribunal cannot act as an Ordinary Appellate Court. The scope and powers of the learned Appellate Rent Tribunal are limited and must be exercised strictly within the framework of the provisions of the Act of 2001.

7.11 Learned counsel for the petitioners, therefore, contended that the learned Appellate Rent Tribunal has exceeded its jurisdiction while passing the impugned order remanding the matter to the learned Rent Tribunal with directions. Furthermore, the directions contained in the impugned order are, on the face of the record, without jurisdiction and therefore, deserves to be quashed and set aside.

7.12 Learned counsel further submitted that the primary ground taken by the learned Appellate Rent Tribunal for remanding the matter is that the learned Rent Tribunal had not properly considered certain material evidence available on record. Learned counsel submitted that even if it is assumed that some evidence had not been properly appreciated by the learned Rent Tribunal, it was well within the jurisdiction of the learned Appellate Rent Tribunal to examine the same and record its own findings by setting aside or correcting the findings recorded by the learned Rent Tribunal.

7.13 However, it was not within the jurisdiction of the learned Appellate Rent Tribunal to remand the matter in the manner done in the present case as if the Appellate Court was exercising

jurisdiction under the ordinary Appellate Jurisdiction available under the Code of Civil Procedure, 1908.

7.14 Learned counsel for the petitioner further submitted that the learned Appellate Rent Tribunal, without examining the relevance and necessity of summoning the documents, held that the order passed by the learned Rent Tribunal declining the applications for summoning of documents was incorrect. In doing so, the learned Appellate Rent Tribunal exercised its powers as if it was acting under Section 105 of the Code of Civil Procedure, 1908. However, such powers are not available to the learned Appellate Rent Tribunal under the provisions of the Act of 2001.

7.15 Learned counsel for the petitioners also contended that even otherwise the provisions of the Code of Civil Procedure, 1908 relating to remand, namely Order 41 Rules 23 to 25 CPC, do not contemplate the nature of remand as directed by the learned Appellate Rent Tribunal in the present case.

7.16 Learned counsel further submitted that as many as seventeen opportunities were granted to the respondent, however, no evidence was led by him and therefore the learned Rent Tribunal was justified in closing his evidence. Consequently, the evidence led by the petitioners remained unrebutted on record.

7.17 Learned counsel for the petitioners thus submitted that in such circumstances, permitting the respondent at this stage to lead evidence and direct consideration of each alleged subsequent event was wholly beyond the jurisdiction of the learned Appellate Rent Tribunal under the provisions of the Act of 2001.

7.18 Learned counsel for the petitioners, therefore, prayed that the present writ petition be allowed, the impugned order dated 21.08.2018 passed by the learned Appellate Rent Tribunal be quashed and set aside, and the order dated 31.03.2018 passed by the learned Rent Tribunal be restored.

7.19 Learned counsel for the petitioners has relied on the following judgments to buttress his submissions:

(i) **Gaya Prasad v. Shri Pradeep Srivastava;**

(2001) 2 SCC 604 (SC).

(ii) **Anil Bajaj & Anr. v. Vinod Ahuja; 2014 (2)**

WLC (SC) (Civil) 53.

(iii) **Subal Paul Vs. Malina Paul and Anr.;** *Civil*

Appeal No. 7806 of 2021, Supreme Court of India,

(decided on 13.02.2023).

8. Per contra, learned counsel for the respondent submitted that the learned Appellate Rent Tribunal has rightly exercised its jurisdiction within the four corners of the provisions of the Act of 2001.

8.1 Learned counsel for the respondent further submitted that most of the applications seeking amendment, discovery of documents and for taking documents on record had been rejected by the learned Rent Tribunal and the learned Appellate Rent Tribunal, upon examining those orders, found them to be incorrect. Therefore, the learned Appellate Rent Tribunal has rightly passed the impugned order.

8.2 Learned counsel for the respondent contended that if interlocutory orders passed during the pendency of the eviction

proceedings are found to be incorrect, the learned Appellate Rent Tribunal is competent to remand the matter back for proper adjudication. Since several interlocutory orders were found to be erroneous by the learned Appellate Rent Tribunal, the remand order passed vide order dated 21.08.2018 does not warrant any interference by this Court.

8.3 Learned counsel for the respondent further contended that the applications filed by the respondent under Order 6 Rule 17 CPC had been wrongly rejected by the learned Rent Tribunal and the learned Appellate Rent Tribunal has rightly held the same to be incorrect. Therefore, the impugned order dated 21.08.2018 is justified and does not call for any interference by this Court. He, therefore, prayed that the present writ petitions be dismissed.

9. Heard learned counsel for the parties and perused the material available on record.

10. The issue involved in the present writ petitions is whether the learned Appellate Rent Tribunal can remand a matter back to the learned Rent Tribunal even when sufficient evidence is already available on record. Further, the question that arises for consideration is whether, in the present case, the remand order by the learned Appellate Rent Tribunal was justified. Whether the learned Rent Appellate Tribunal could have exercised its own jurisdiction by taking into consideration the subsequent events placed on record and deciding the appeal itself on merits instead of remanding the matter back to the learned Rent Tribunal for adjudication of the issue.

11. It is relevant to note that the Rajasthan Rent Control Act, 2001 is a complete code in itself. At this juncture, it is pertinent to

refer to Sections 19 and 21 of the Act of 2001, which read as under:

"Section 19. Appellate Rent Tribunal, Appeals and limitation thereof.-

(1) The State Government shall constitute such number of Appellate Rent Tribunals and at such places as may be deemed necessary by it, by notification in the Official Gazette.

(2) Where two or more Appellate Rent Tribunals are constituted for any area, the State Government may, by general or special order, regulate the distribution of business among them.

(3) An Appellate Rent Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Appellate Rent Tribunal) to be appointed by the High Court.

(4) No person shall be eligible to be appointed as Presiding Officer of the Appellate Rent Tribunal unless he is a member of [the District judge cadre Service] having not less than [three years] experience as such.

(5) Notwithstanding anything contained in sub-section (3), the High Court may authorize the Presiding Officer of one Appellate Rent Tribunal to discharge the functions of the Presiding Officer of the another Appellate Rent Tribunal also.

(6) From every final order passed by the Rent Tribunal, an appeal shall lie to the Appellate Rent Tribunal, within the local limits of whose jurisdiction the premises is situated and such an appeal shall be filed within a period of [sixty

days] from the date of final order alongwith copy of such final order.

(7) The Appellate Rent Tribunal, upon filing an appeal under sub-section (6), shall serve notice, accompanied by copy of appeal, on the respondent on the date fixed by the Rent Tribunal under section 17 for the appearance of the parties before it. If the respondent fails to appear on the date so fixed before the Appellate Rent Tribunal, he may be proceeded against ex- parte. In case the final order under section 17 was passed in ex- parte proceedings against any party, the Appellate rent Tribunal shall issue notice, accompanied by copy of appeal, fixing a date not later than thirty days, requiring the respondent to appear before it on the date so fixed and service of such a notice shall be effected through process server of the Tribunal or Civil Court as well as by the registered post, acknowledgment due and notice duly served by any of these methods shall be treated as sufficient service. Where however, the Appellate Rent Tribunal otherwise consider it necessary so to do in the interest of justice in the facts of the case, it may issue notice of appeal to the respondent in the manner indicated above.

(8) The Appellate Rent Tribunal shall, thereafter, fix a date of hearing which shall not be later than forty five days from the date of service of notice of appeal on the respondent and the appeal shall be disposed of within a period of one hundred and eighty days from the date of service of notice of appeal on the respondent.

(9) Where the Appellate Rent Tribunal considers it necessary in the interest of arriving at a just and proper decision, it may allow filing of

additional affidavit or documents at any stage of the proceedings in appeal.

(10) The Appellate Rent Tribunal may in its discretion pass such interlocutory order, during the pendency of the appeal, as it may deem fit.

(11) (a) While deciding the appeal, the Appellate Rent Tribunal may after recording reasons therefore,-

(i) confirm, vary, set aside, reverse or modify the order passed, by a Rent Tribunal; or

(ii) if necessary in the interest of justice, remand the case to the Rent Tribunal along with such direction as it may deem fit.

(b) The Appellate Rent Tribunal shall issue appropriate recovery certificate according to the decision rendered by it.

(c) The decision of the Appellate Rent Tribunal shall be final and no further appeal or revision shall lie against its order.

(12) On the application of any of the parties and after notice to the parties and after hearing such of them as have desired to be heard, or of its own motion without such notice, the Appellate Rent Tribunal may at any stage transfer any case from one Rent Tribunal to any other Rent Tribunal for disposal.

(13) Where any case has been transferred under sub-section (12), the Rent Tribunal which has thereafter to try or dispose of such case may, subject to any special direction in the order of transfer, proceed from the stage at which it was transferred.

Explanation.-The expression "**final order**" referred to in sub-section (6) shall mean an order by which any proceeding pending before the Rent Tribunal is finally disposed of."

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"Section 21. Procedure and powers of the Rent Tribunal and the Appellate Rent Tribunal. –

(1) In every case before the Rent Tribunal and the Appellate Rent Tribunal the evidence of a witness shall be given by affidavit. However, the Rent Tribunal or the Appellate Rent Tribunal, where it appears to it that it is necessary in the interest of justice to call a witness for examination or cross-examination and such witness can be produced, may order attendance for examination or cross-examination of such a witness.

(2) The documents filed before the Rent Tribunal by the petitioner shall be distinctly marked by him as Ex-1, Ex-2 and so on in the red ink and the documents filed by the respondent shall be similarly distinctly marked by him as Ex-A1, Ex-A2 and so on in red ink and in the affidavits the documents shall be referred by these exhibit marks and signatures or other parts of the documents referred to in the affidavits shall be distinctly marked by the party filing the document as A to B or C to D and so on in red ink.

(3) The Rent Tribunal and the Appellate Rent Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (Central Act No.5 of 1908), but shall be guided by the principal of natural justice and subject to other provisions of this Act or the Rules made thereunder and shall have powers to regulate their own procedure, and for the purpose of discharging their functions under this Act they shall have, the same powers as are vested in a Civil Court under the Code of Civil Procedure,

1908 (Central Act No.5 of 1908) while trying a suit or an appeal in respect of following matters, namely:-

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) reviewing its decision;

(d) issuing commissions for the examination of witnesses or documents;

(e) dismissing petition for default or deciding it ex-parte;

(f) setting aside any order of dismissal of any petition for default or any order passed by it ex-parte;

(g) bringing legal representatives on record; and

(h) any other, matter as may be prescribed.

(4) Rent Tribunal shall not grant any adjournment without written application and recording the reasons therefore in writing.

(5) Any proceeding before the Rent Tribunal or Appellate Rent Tribunal shall deemed be to be a judicial proceeding within the meaning of sections 193 and 228 and for the purpose of section 196 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860) and the Rent Tribunal or the Appellate Rent Tribunal shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Central Act No.2 of 1974)."

(emphasis supplied)

12. A perusal of Section 21 of the Act of 2001 makes it clear that the procedure prescribed under the Act applies equally to the learned Rent Tribunal as well as to the learned Rent Appellate

Tribunal. Both forums have been empowered to record the evidence of witnesses by way of affidavits. The provision further stipulates that whenever the Rent Tribunal or the Appellate Rent Tribunal deems it necessary in the interest of justice, they may call a witness for examination or cross-examination.

13. Section 21(3) of the Act of 2001 further clarifies that neither the Rent Tribunal nor the Appellate Rent Tribunal is bound by the procedure prescribed under the Code of Civil Procedure, 1908. Instead, both forums are required to be guided by the principles of natural justice and are empowered to regulate their own procedure for discharging their functions under the Act of 2001.

13.1 At the same time, the said provision also vests both the Rent Tribunal and the Appellate Rent Tribunal with powers akin to those of a Civil Court, including the power to summon and enforce the attendance of any person and examine him on oath; to require discovery and production of documents; to review their decisions; to issue commissions for examination of witnesses or documents; to dismiss petitions for default or decide them ex-parte; to set aside orders of dismissal for default or ex-parte orders; to bring legal representatives on record; and to exercise such other powers as may be prescribed.

14. A perusal of Section 19(9) of the Act of 2001 reveals that the learned Appellate Rent Tribunal is empowered to permit the filing of additional affidavits or documents at any stage of the appellate proceedings in order to arrive at a just and proper decision. Further, Section 19(11)(a)(ii) of the Act of 2001 provides that the learned Rent Appellate Tribunal may, in the interest of justice,

remand the case to the learned Rent Tribunal along with such directions as it may deem fit.

15. This Court, upon examining the powers conferred and the procedure prescribed under the Act of 2001, is of the firm opinion that when both the learned Rent Tribunal and the learned Appellate Rent Tribunal have been vested with similar powers regarding summoning and enforcing the attendance of persons and requiring discovery and production of documents, the learned Rent Appellate Tribunal ought not to have refrained from exercising its own powers. Merely because an application for discovery and production of documents had been dismissed by the learned Rent Tribunal, the learned Appellate Rent Tribunal ought not to have remanded the matter but should have exercised the powers vested in it under the Act of 2001 if necessary.

16. This Court finds that the power of remand should be exercised only in situations where the learned Rent Appellate Tribunal is unable to effectively exercise its jurisdiction under the Act of 2001. Such circumstances may arise where the learned Rent Tribunal has disposed of the petition on a preliminary issue without entering into the merits of the case, or in other similar situations. However, once the learned Appellate Rent Tribunal itself possesses the necessary powers under the Act of 2001, it ought not to remand the matter but should instead exercise those power itself.

17. One of the other grounds on which the learned Appellate Rent Tribunal remanded the matter was that the application filed by the respondent-tenant before the learned Rent Tribunal under Order XI Rules 12 and 14 CPC had been dismissed. However, it is

evident from the order of the learned Appellate Rent Tribunal that no reasons were assigned as to why the order of the learned Rent Tribunal dismissing the said application was perverse or unsustainable.

18. This Court therefore finds that instead of remanding the matter on the aforesaid ground, the learned Appellate Rent Tribunal, if it deemed it necessary, could have exercised its own powers available under Section 21 of the Act of 2001.

19. Another reason assigned for remanding the matter was the dismissal of various applications filed by the tenant under Order VI Rule 17 CPC seeking amendment of the written statement on the basis of subsequent events. The learned Appellate Rent Tribunal allowed all such applications filed by the tenant and thereafter remanded the matter back to the learned Rent Tribunal.

19.1 This Court finds that the proceedings under the Act of 2001 are summary in nature and are not strictly governed by the provisions of the Code of Civil Procedure. In a catena of judgments, this Court as well as other High Courts have permitted parties in summary proceedings to place subsequent events on record by way of affidavits. Both the learned Rent Tribunal and the learned Appellate Rent Tribunal are empowered to consider such subsequent events on the basis of affidavits and decide the matter accordingly. The intention behind prescribing such procedure is that if strict provisions of the Code of Civil Procedure are applied, the summary proceedings contemplated under the Act of 2001 would be converted into regular civil suit proceedings.

19.1 The said position of law was reiterated in the case of **Murlidhar vs Nandkishore** ; 2006 (2) RLW 1687, wherein a Co-ordinate Bench of this Court while relying upon the case of **Radhey Shyam Soni v. Sumer Mal Phophalia**; 2006 WLC(UC) 493 held that subsequent events which have a material bearing on the relief claimed may be brought on record even at the appellate stage and the procedure for doing so need not necessarily be through formal amendment of pleadings. The Court may permit such facts to be brought on record by way of affidavits under Order XIX Rule 1 CPC instead of insisting upon a formal amendment of pleadings, as procedural law should not be burdened with unnecessary technicalities. The relevant paragraph of **Murlidhar** (supra) is reproduced herein under:

15. The Division Bench of this Court also very recently on 22nd March, 2006, Radhey Shyam Soni v. Sumer Mal Phophalia and Anr. D.B. Civil Special Appeal (Writ) No. 201/2006 has considered the identical issue and invoked the provisions of Order 19 Rule 1 CPC in place of Order 6 Rule 17 C.P.C. and allowed the application under Order 8 Rule 1(3). The relevant portion of the said judgment is reproduced here under for ready reference:

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We do not wish to make any comment on the relevance and possible effects of the subsequent even in the instant case. That is a matter to be considered by the Trial Court in the suit. But as observed in Ramesh Kumar v. Kesho Ram 1992 SC 700 to which reference was made on behalf of the respondent, the normal rule is that rights and obligations of the parties are to be adjudicated as they exist at the commencement of the lis, but

where subsequent events of fact or law have material bearing on the entitlement of the parties to relief, the court is not precluded from taking cognizance of the subsequent events to mould the relief. Reference may also be made to the provisions of Order 7 Rule 7 of the Civil Procedure Code.

Counsel for the respondent submitted that the suit was instituted in the year 1987 and if the application for amendment of the written statement is allowed it may cause prejudice to the respondent as it may give rise to chain of consequences. The desired purpose can be served by permitting the party to file affidavit as provided under Order 19 Rule 1 CPC as held in Ramesh Kumar v. Kesho Ram (supra).

He referred the following observations in the judgment.

When subsequent events are pleaded in the course of an appeal or proceeding of revision, the Court may, having regard to the nature of the allegations of fact on which the plea is based, permit evidence to be adduced by means of affidavits as envisaged in Rule 1 of Order 19, CPC. The Court may also treat any affidavit filed in support of the pleadings itself as one under the said provision and call upon the opposite side to traverse it. The Court, if it finds that having regard to the nature of the allegations, it is necessary to record oral evidence tested by oral cross-examination, may have recourse to that procedure. It may record the evidence itself or remit the matter for an inquiry and evidence. All these depend upon the factual and situational differences characterizing a particular case and the nature of the plea raised. There can be no hard and fast rule governing the

matter. The procedure is not to be burdened with technicalities.”

20. This Court further notes that the issue as to whether subsequent events should be incorporated by way of amendment in the pleadings had already been dealt with in the very same dispute between the parties. In S.B. Civil Writ Petition No.15430/2010 titled as Rajendra Prasad Shah vs Mohan Lal Verma & Ors., vide order dated 31.01.2011, this Court declined the prayer of the tenant seeking amendment of pleadings but granted liberty to file affidavits regarding the subsequent events and directed the learned Rent Tribunal to record its opinion and render findings thereon.

21. Despite the aforesaid order being on record, this Court finds that the learned Appellate Rent Tribunal applied the provisions of Section 105 CPC and Order 43 Rule 1 CPC while remanding the matter back to the learned Rent Tribunal. Such exercise of power by the learned Appellate Rent Tribunal was not correct and was not in consonance with the provisions of the Act of 2001.

22. This Court further finds that while remanding the matter, the learned Appellate Rent Tribunal observed that the subsequent events had not been considered as permission for amendment had not been granted and the documents had not been taken on record. However, from a perusal of the orders passed by the learned Rent Tribunal, it is evident that each of the subsequent events which had been permitted to be brought on record by way of affidavits in S.B. Civil Writ Petition No.15430/2010, had in fact been considered by the learned Rent Tribunal. The learned

Appellate Rent Tribunal, however, incorrectly recorded that the learned Rent Tribunal had failed to consider the subsequent events as directed by the High Court.

23. This Court further finds that the learned Appellate Rent Tribunal failed to consider the binding judgment of the High Court on the issue. Had the learned Appellate Rent Tribunal considered the said judgment, it would have appreciated that subsequent events need not necessarily be incorporated by way of amendment in the pleadings. Instead, the learned Appellate Rent Tribunal allowed all the applications filed by the respondent-tenant under Order VI Rule 17 CPC and permitted the subsequent events to be incorporated in the pleadings, and thereafter remanded the matter back to the learned Rent Tribunal.

24. This Court finds that such exercise of power by the learned Appellate Rent Tribunal was contrary to the provisions of law. The learned Appellate Rent Tribunal applied the provisions of the Code of Civil Procedure without taking into consideration the special procedure prescribed under the Act of 2001. The routine remand of the matter has resulted in unnecessary delay in eviction proceedings.

24.1 If the learned Appellate Rent Tribunal was of the view that the learned Rent Tribunal had not recorded proper findings, or that certain documents were required to be summoned, or that subsequent events required consideration, it could have exercised such powers itself instead of remanding the matter back to the learned Rent Tribunal.

25. The Legislature, with the intention of expediting eviction proceedings, introduced summary procedures under the Act of 2001. Earlier, such matters were governed by the Rajasthan Premises (Control of Rent and Eviction) Act, 1950, under which proceedings were conducted as regular civil suits and often took several years to conclude. In view of the large pendency of rent litigation, the Legislature enacted the Act of 2001 to ensure expeditious disposal through summary proceedings. If the order of the learned Rent Appellate Tribunal is sustained, the summary proceedings contemplated under the Act of 2001 would effectively be converted into regular civil suit proceedings. On this ground as well, the order of the learned Rent Appellate Tribunal deserves to be quashed and set aside.

26. This Court also finds that the argument advanced by learned counsel for the petitioners, seeking restoration of the judgment passed by the learned Rent Tribunal cannot be accepted at this stage. The Hon'ble Supreme Court, in a *catena* of judgments, has held that while examining the legality of an order of remand, the appropriate course is to set aside the order of remand and direct the Appellate Court to decide the appeal on merits. This Court to arrive at the said conclusion relies on the judgment rendered in the case of **J. Balaji Singh vs Diwakar Cole & Ors.**; (2017) 14 SCC 207, wherein the Court observed and held as under:

"23. So far as the impugned order is concerned, the High Court, in our view, committed jurisdictional error when it also again examined the case on merits and set aside the judgment of the first Appellate Court and restored the judgment of the Trial Court. The High

Court, in our opinion, should not have done this for the simple reason that it was only examining the legality of the remand order in an appeal filed under Order 43 Rule 1(u) of the Code. Indeed, once the High Court came to a conclusion that the remand order was bad in law then it could only remand the case to the first Appellate Court with a direction to decide the first appeal on merits.”

27. With the above observations, S.B. Civil Writ Petition No. 22069/2018 is **allowed**. Accordingly, the order dated 21.08.2018, passed by the learned Appellate Rent Tribunal is set aside qua Appeal No. 52/2018 and the matter is remanded back to the learned Appellate Rent Tribunal to decide the said appeal on merits. The learned Appellate Rent Tribunal may exercise all such powers as available under Section 19 and 21 of the Act of 2001 and decide the appeal on merits preferably within a period of six months, keeping in view that the eviction petition has been pending since 2005.

28. Simultaneously, S.B. Civil Writ Petition No. 25759/2018, being against the concurrent findings on issue no. 5 is **dismissed** as no perversity has been demonstrated by the petitioners in the concurrent findings.

29. Pending application(s), if any, stands disposed of.

(BIPIN GUPTA),J