



2026:AHC-LKO:62685

**A.F.R.
RESERVED**

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

RERA APPEAL No. - 160 of 2025

M/s Balaji Infracare Pvt. Ltd. Thru.
Authorized Representative Omkar
Nath Maheshwari

.....Appellant(s)

Versus

Vikas Sharma

.....Respondent(s)

Counsel for Petitioners(s)	: Romit Seth
Counsel for Respondent(s)	: Abhishek Khare, Aahuti Agarwal

Court No. - 19

HON'BLE SYED QAMAR HASAN RIZVI, J.

1. Sri Romit Seth, learned counsel for the appellant, and Sri Abhishek Khare, learned counsel for the respondent, are present.
2. By means of the instant appeal filed under Section 58 of the Real Estate (Regulation and Development) Act of 2016, (hereinafter referred to as 'Act of 2016'), the appellant has assailed the judgment and order dated 14.08.2025 read with the order dated 15.09.2025 passed on I.A. No. 1176 of 2025, by the learned Uttar Pradesh Real Estate Appellate Tribunal, Lucknow (hereinafter referred to as 'Tribunal') in Appeal No. 282 of 2021 (Vikas Sharma versus Balaji Infracare Pvt. Ltd.), whereby the learned Tribunal allowed the appeal preferred by the respondent and set-aside the judgment and order dated 26.11.2020 passed by the learned Real Estate Regulatory Authority, U.P. at Lucknow (hereinafter referred to as 'Regulatory Authority'), in Complaint No. LKO187/12/0558/2019.

3. The controversy, in its essential factual conspectus, emanates from the dispute between the appellant's Group Housing Project, 'Lav Kush Apartment', duly registered with the U.P. Real Estate Regulatory Authority under Registration No. UPRERAPRJ10155 and the respondent/allottee. The respondent, having shown interest in Flat No. 602 ad-measuring 2055 sq. ft.; booked the said unit on 08.09.2014, pursuant where to an Allotment Letter dated 18.09.2014 was issued in his favour.

4. It is the case of the appellant that despite completion of construction up-to successive floors and issuance of repeated 'demand letters' and reminders letters calling upon the respondent to clear the outstanding dues and to furnish stamp papers for execution of the agreement as mandated under Section 13 of the Act of 2016, the respondent remained in default against the sale consideration of Rs. 1,15,97,000/-, and between 08.11.2013 and 25.03.2019, deposited a total sum of Rs. 72,30,000/-. In view of the persistent default, the appellant was constrained to cancel the respondent's allotment *vide* letter dated 26.10.2019, pursuant thereby, the respondent, through his counsel, issued legal notices dated 21.11.2019 and 29.11.2019, which were duly replied by the appellant through its counsel on 05.12.2019.

5. Thereafter, the respondent filed a Complaint before the learned Real Estate Regulatory Authority, U.P., which was registered as Complaint No. LKO187/12/0558/2019. The learned Regulatory Authority, *vide* order dated 26.11.2020, directed the appellant to refund the amount of Rs. 72,30,000/- deposited by the respondent within 45 days through RTGS. For ready reference, the relevant part of the order dated 26.11.2020, is reproduced as under:

"दोनों पक्षों के तर्कों को सुना तथा पत्रावली पर उपलब्ध अभिलेखों का अवलोकन किया।

पत्रावली के अवलोकन से स्पष्ट है कि शिकायतकर्ता द्वारा रु० 72,30,000.00 (बहत्तर लाख तीस हजार रुपये मात्र) जमा किये गये हैं। विपक्षी द्वारा शिकायतकर्ता के पक्ष में दिनांक 18.09.2014 को आवंटन पत्र जारी किया गया था। शिकायतकर्ता द्वारा वर्ष-2014 में सिर्फ बुकिंग धनराशि का भुगतान किया गया था। विपक्षी द्वारा शिकायतकर्ता को विभिन्न तिथियों पर शेष

धनराशि जमा करने हेतु मांग जारी किये गये थे, परन्तु शिकायतकर्ता द्वारा किसी भी मांग पत्र का अनुपालन नहीं किया गया। विपक्षी द्वारा रेरा के पोर्टल पर परियोजना की पूर्णता तिथि 31.12.2019 अंकित की गयी है।

उक्त से स्पष्ट है कि शिकायतकर्ता द्वारा न तो निर्धारित समय अवधि में शेष धनराशि का भुगतान कर कब्जा प्राप्त किया गया और न ही इकाई निरस्त करने हेतु कोई पत्र भेजा गया।

तदुसार शिकायतकर्ता का प्रार्थना-पत्र आंशिक रूप से स्वीकार किये जाने योग्य है।

विपक्षी को आदेशित किया जाता है कि आदेश की तिथि से 45 दिन में शिकायतकर्ता द्वारा जमा की गयी समस्त धनराशि को आर०टी०जी०एस० के माध्यम से शिकायतकर्ता द्वारा दिये गये बैंक खाते में वापस करना सुनिश्चित करें।

इस आदेश का उल्लंघन भू-सम्पदा (विनियमन तथा विकास) अधिनियम, 2016 की धारा-63 तथा अन्य सुसंगत प्राविधानों के अन्तर्गत दण्डनीय होगा।

आदेश पोर्टल पर अपलोड किया जाये।"

6. In compliance of the aforesaid order dated 26.11.2020; the appellant herein, remitted the amount of Rs. 72,30,000/- to the respondent on 08.01.2021.

7. Being aggrieved by the aforesaid order dated 26.11.2020, to the extent that delay interest was not awarded, the respondent preferred an Appeal before the learned Tribunal having Appeal No. 282 of 2021, praying, *inter alia*, that the order dated 26.11.2020 be set-aside to the extent of non-grant of delay interest, and that the appellant be directed to refund the deposited amount along with delay interest in terms of Section 18 read with Section 2(z) of the Act of 2016 and Rule 16 of the U.P. Real Estate (Regulation and Development) Rules, 2016.

8. To adjudicate the *lis* between the parties in appeal, the learned Tribunal, vide order dated 22.05.2025, framed the following issue:

"Whether the appellant allottee is entitled to interest on deposit upon cancellation of the unit by the respondent for default."

9. After hearing the parties and on the basis of the material available before it, the learned Tribunal, vide the impugned judgment and order dated 14.08.2025, disposed of Appeal No. 282 of 2021 by setting aside the order dated 26.11.2020 passed by the Regulatory Authority in Complaint No. LKO187/12/0558/2019, restoring the said Complaint to its original file and number, and directing the learned Regulatory

Authority to decide the legality and validity of the cancellation letter/communication dated 26.10.2019 in terms of Section 11(5) of the Act of 2016, within a period of twelve weeks. The operative part of the order dated 14.08.2025 is extracted herein below for convenience.

“10. In view thereof, on consent of the parties the appeal is being disposed by passing the following orders.

i. The impugned order dated 26.11.2020 passed in complaint No. LKO187/12/0558/2019 by U.P. RERA at Lucknow, is set aside and quashed.

ii. The complaint No. LKO187/12/0558/2019 is restored to its original file and number.

iii. Regulatory Authority shall decide the legality and validity of the cancellation letter/communication dated 26.10.2019 in terms of Section 11 (5) of the RERA Act of 2016.

11. It is expected that the learned Regulatory Authority shall decide the complaint expeditiously, preferably within twelve weeks from the first date fixed in the complaint, provided there is no impediment.

12. No order as to costs.”

10. Subsequently, the appellant herein preferred a modification application (I.A. No. 1176 of 2025) against the aforesaid order dated 14.08.2025, seeking modification/correction in the first sentence of paragraph No. 10. The learned Tribunal, accordingly, passed an order dated 15.09.2025 on I.A. No. 1176 of 2025, directing that the words “on consent of the parties” to be deleted and substituted by the words “on the request of appellant”.

11. Being aggrieved by the aforesaid orders dated 14.08.2025 read with the order dated and 15.09.2025, the appellant has preferred the instant Appeal under Section 58 of the Act of 2016.

12. The contention of the learned counsel appearing for the appellant, is that by remanding the matter for decision on the legality and validity of the ‘cancellation letter’, the learned Tribunal has travelled beyond the pleadings and prayer made by the respondent herein, before it, thereby granting a relief that was neither pleaded nor prayed for. In support of his contention, learned counsel placed reliance upon the decision of the Hon’ble Supreme Court rendered in the case of **Akella Lalitha versus**

Konda Hanumantha Rao and Another, reported in **2022 SCC OnLine SC 928**, wherein the Hon'ble Court observed as under:

“16.It is settled law that relief not found on pleadings should not be granted. If a Court considers or grants a relief for which no prayer or pleading was made depriving the respondent of an opportunity to oppose or resist such relief, it would lead to miscarriage of justice.”

13. It was further contended that although sub-section (1) and (3) of Section 18 of the Act of 2016 do not by itself prescribe period of limitation, but the provisions of the Limitation Act, 1963 stand attracted by virtue of Section 29(2) thereof read with Section 88 of the Act of 2016. Therefore, the issue of cancellation of the Unit, having remained unchallenged for nearly six years, could not be permitted to be reopened at such a belated stage. It was further submitted that, any subsequent attempt to reopen the validity of the said cancellation was legally impermissible, as the Unit had since been transferred to another purchaser, and that reopening the issue of validity of the cancellation at this stage would cause prejudice to the appellant and affect the rights and interests of the parties concerned.

14. Learned counsel for the appellant very emphatically argued that once the learned Tribunal, *vide* its order dated 22.05.2025, had itself confined the controversy by framing the issue regarding the allottee's entitlement to interest on the amount deposited upon cancellation of the unit for default; it ought to have confined its adjudication to that issue, instead of setting aside the entire order of the Regulatory Authority and remanding the matter for determination of the legality and validity of the cancellation.

15. It is asserted by the learned counsel appearing on behalf of the appellant that the Appeal filed by the respondent before the Tribunal was itself filed beyond limitation on a purportedly false plea of want of knowledge of the order dated 26.11.2020, and deserved dismissal on this ground alone.

16. *Per contra*, learned counsel for the respondent, at the very outset, raised objection as to the scope of the instant appeal, asserting that the

impugned order dated 14.08.2025, in substance, is simply an order whereby the learned Tribunal remanded the matter to the Regulatory Authority for a fresh decision on a specific issue pertaining to the validity and legality of the cancellation letter/ communication dated 26.10.2019 in terms of Section 11(5) of the RERA Act of 2016, without finally determining the rights of either party, whereas an appeal under Section 58 of the Act of 2016 lies only on the grounds specified in Section 100 of the Code of Civil Procedure, 1908, and its scope is confined to consideration of ‘substantial question of law’; in the absence of the same, no interference with the impugned order is warranted. Learned counsel accordingly submitted that the instant appeal deserves to be dismissed at the threshold for want of any ‘substantial question of law’.

17. It was further contended by the learned counsel for the respondent that no prejudice whatsoever is caused to the appellant, who remains at full liberty to contest all issues before the learned Regulatory Authority.

18. Learned counsel appearing on behalf of the respondent has very emphatically argued that the issue of legality and validity of the cancellation of allotment dated 26.10.2019, being germane to the claim of delay interest was required to be examined by the learned Regulatory Authority in terms of Section 11(5) of the Act of 2016, and that the learned Tribunal, having noticed that the said issue had remained undecided, rightly remanded the matter to the learned Regulatory Authority for decision thereon.

19. It was also further submitted by the learned counsel for the respondent that the appellant had moved an application dated 08.09.2025 before the learned Tribunal, seeking deletion of the words “on consent of the parties” occurring in paragraph 10 of the judgment dated 14.08.2025, treated the same as typographical error. The said application came to be disposed of by the order dated 15.09.2025. It is specifically pleaded by the respondent in paragraph 21 of the counter affidavit, that the said application was never served upon him and that the order dated

15.09.2025 was passed without notice to him, or any opportunity of hearing. It was further submitted that even the rejoinder affidavit filed by the appellant brings no material on record to establish service of the said application upon the respondent, and that the order dated 15.09.2025 was thus passed without notice to the respondent, whereas the present appeal came to be instituted only thereafter, on 10.10.2025.

20. It is urged by the learned counsel appearing for the respondent that the appellant's own reply dated 05.12.2019 and the admitted absence of any completion or occupancy certificate render the impugned remand not merely permissible but necessary.

21. Heard learned counsel for the parties and perused the material available on record. Having considered the rival submissions of the learned counsels, this Court deems it appropriate to first advert to Section 58 of the Act of 2016, which is reproduced below for ready reference:

“58. Appeal to High Court. (1) Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the High Court, within a period of sixty days from the date of communication of the decision or order of the Appellate Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908:

Provided that the High Court may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

Explanation.—The expression “High Court” means the High Court of a State or Union territory where the real estate project is situated.

(2) No appeal shall lie against any decision or order made by the Appellate Tribunal with the consent of the parties.”

22. From a bare reading of the above provision it is evident that Section 58 of the Act of 2016 circumscribes the right of appeal under the Act by confining it to the grounds specified under Section 100 of the Code of Civil Procedure, 1908. Section 100 of the Code of Civil Procedure, 1908 reads as under:

“100. Second Appeal.- (1) Save as otherwise expressly provided in the body of this Code or by any other law for the time being in force, an appeal shall lie to the High Court from every decree passed in

appeal by any Court subordinate to the High Court, if the High Court is satisfied that the case involves a substantial question of law.

(2) An appeal may lie under this Section from an appellate decree passed ex parte.

(3) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.

(4) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(5) The appeal shall be heard on the question so formulated and the Respondent shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this Sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question.”

23. It is thus manifest that, having regard to Section 100 of the Code of Civil Procedure read with Section 58 of the Act of 2016, an appeal is entertainable when it involves a ‘substantial question of law’. The existence of a substantial question of law is, therefore, the *sine qua non* for invoking and exercising the jurisdiction of this Court under Section 58 of the Act of 2016.

24. The Constitution Bench of the Hon’ble Supreme Court in the case of **Sir Chunilal versus Mehta & Sons Ltd. versus Century Spg. & Mfg. Co. Ltd.**, reported in **1962 SCC OnLine SC 57** laid down the parameters for determining when a question of law assumes the character of substantial question of law. The relevant extract of the said judgment is reproduced herein below for ready reference:

“6.The proper test for determining whether a question of law raised in the case is substantial would, in our opinion, be whether it is of general public importance or whether it directly and substantially affects the rights of the parties and if so whether it is either an open question in the sense that it is not finally settled by this Court or by the Privy Council or by the Federal Court or is not free from difficulty or calls for discussion of alternative views. If the question is settled by the highest court or the general principles to be applied in determining the question are well settled and there is a mere question of applying those principles or that the plea raised is palpably absurd the question would not be a substantial question of law.”

25. Subsequently, in the case of **Hero Vinoth versus Seshammal**, reported in **(2006) 5 SCC 545**, the Hon’ble Supreme Court, dealing with

the aforementioned question observed as under:-

“21. The phrase "substantial question of law", as occurring in the amended Section 100 Code of Civil Procedure is not defined in the Code. The word substantial, as qualifying "question of law", means of having substance, essential, real, of sound worth, important or considerable. It is to be understood as something in contradistinction with-technical, of no substance or consequence, or academic merely. However, it is clear that the legislature has chosen not to qualify the scope of "substantial question of law" by suffixing the words "of general importance" as has been done in many other provisions such as Section 109 of the Code or Article 133(1)(a) of the Constitution. The substantial question of law on which a second appeal shall be heard need not necessarily be a substantial question of law of general importance. In *Guran Ditta v. Ram Ditta* AIR 1928 PC 172 the phrase substantial question of law as it was employed in the last Clause of the then existing Section 100 Code of Civil Procedure (since omitted by the Amendment Act, 1973) came up for consideration and their Lordships held that it did not mean a substantial question of general importance but a substantial question of law which was involved in the case. In *Sir Chunilal* case AIR 1962 SC 1314 the Constitution Bench expressed agreement with the following view taken by a Full Bench of the Madras High Court in *Rimmalapudi Subba Rao v. Noony Veeraju* AIR 1951 Mad 969 (*Sir Chunilal* case AIR 1962 SC 1314).

When a question of law is fairly arguable, where there is room for difference of opinion on it or where the Court thought it necessary to deal with that question at some length and discuss alternative views, then the question would be a substantial question of law. On the other hand if the question was practically covered by the decision of the highest court or if the general principles to be applied in determining the question are well settled and the only question was of applying those principles to the particular fact of the case it would not be a substantial question of law.”

26. In the light of the authoritative pronouncement of the Hon’ble Apex Court, it can safely be observed that, to qualify as a ‘substantial’ question of law, the question must be debatable, must not already stand settled by the law of the land or by any binding precedent, and must have a material bearing upon the decision of the case and/or the rights of the parties. Further, for a question of law to be one “involved in the case”, it must first find foundation in the pleadings; it must emerge from the sustainable findings of fact recorded by the Courts of fact; and it must be necessary to decide such question for arriving at a just and proper decision of the case. The contours and ambit of the aforesaid principle was expounded by the Hon’ble Supreme Court in **Santosh Hazari**

versus Purushottam Tiwari, reported in **(2001) 3 SCC 179**. The Hon'ble Apex Court has been pleased to hold that an entirely new point raised for the first time before the High Court is not a question involved in the case unless it goes to the root of the matter. It will, therefore, depend on the facts and circumstance of each case whether a question of law is a substantial and involved in the case, or not; the paramount overall consideration being the need for striking a judicious balance between the indispensable obligation to do justice at all stages and impelling necessity of avoiding prolongation in the life of any *lis*.

27. In light of the aforesaid principles as laid down by the Hon'ble Supreme Court, this Court is now required to examine whether, on the facts and circumstances of the present case, the questions sought to be raised by the appellant give rise to any substantial question of law warranting indulgence by this Court under Section 58 of the Act of 2016.

28. A perusal of the impugned order dated 14.08.2025, shows that the learned Tribunal has set aside the order passed by the learned Regulatory Authority and directed to decide the legality and validity of the cancellation letter/communication dated 26.10.2019.

29. Now, before adverting on the question of remand it would be apt to go through the provision dealing with the same under the provisions of Civil Procedure Code. For convenience, Rule-23 of Order XLI of the Code of Civil Procedure, dealing with remand, is quoted here-in-below:-

"Rule 23. Remand of case by Appellate Court.- Where the court from whose decree an appeal is preferred has disposed of the suit upon a preliminary point and the decree is reversed in appeal, the Appellate Court may, if it thinks fit, by order remand the case, and may further direct what issue or issues shall be tried in the case so remanded, and shall send a copy of its judgment and order to the court from whose decree the appeal is preferred, with directions to re-admit the suit under its original number in the register of civil suits, and proceed to determine the suit; and the evidence (if any) recorded during the original trial shall, subject to all just exceptions, be evidence during the trial after remand.

The Following amendments concerning the Allahabad High Court were made by Uttar Pradesh Gazette, dated 1-6-1957. In Rule 23 -

a. (i) Insert the following after the words ‘and the decree is reversed in appeal’, namely:

“or where the Appellate Court while reversing or setting aside the decree under appeal considers it necessary in the interest of justice to remand the case, it”; and

(ii) delete the words “the Appellate Court” occurring thereafter and delete also the words

“if it thinks fit”, occurring after the words “may”.

30. A perusal of the aforesaid provision shows that Order XLI Rule 23 C.P.C., in its original form, confers upon the Appellate Court a discretionary power to remand a case only in a limited contingency, namely, where the court of first instance has disposed of the suit upon a preliminary point without recording findings on the other issues, and the decree founded thereon is reversed in appeal. In such an eventuality, the Appellate Court, if it considers it fit, may remand the case to the trial court with a direction to re-admit the suit under its original number and proceed to determine it on merits, and the evidence already recorded during the original trial is, subject to just exceptions, treated as evidence in the proceedings after remand. However, by virtue of the amendment introduced *vide* Uttar Pradesh Gazette dated 1.6.1957, the scope of Rule 23 stands considerably widened. The amendment engrafts an additional and independent ground for remand, namely, where the Appellate Court, while reversing or setting aside the decree under appeal, considers it necessary in the interest of justice to remand the case, even though the suit below may not have been disposed of merely on a preliminary point. Significantly, the words "if it thinks fit" and the requirement of attribution to "the Appellate Court" occurring after "may" were omitted *qua* this subsequently added limb, thereby indicating that once the Appellate Court forms the opinion that remand is necessary in the interest of justice, the exercise of that power is not left to a further

discretionary threshold of the kind retained for the original ground of remand under the unamended part of the Rule. In other words, the U.P. Amendment carves out two distinct situations warranting remand under Rule 23; first, the traditional ground of reversal of a decree passed on a preliminary point; and second, the independent ground of interest of justice, which the Appellate Court may invoke even where the suit has been disposed of on merits, provided it is satisfied that a remand is necessary for a just and complete adjudication of the controversy between the parties.

31. The Hon'ble Supreme Court in the case of **Shivkumar and others versus Sharanabasappa and others** reported in (2021) 11 SCC 277, categorically held that the appellate court has the inherent power to remand a case where it considers it necessary to do so in the interest of justice.

32. The Hon'ble Supreme Court, in the case of **J. Balaji Singh versus Diwakar Cole and Others** reported in (2017) 14 SCC 207, considered the provisions of Rule 23-A of Order XLIII of CPC; and the circumstances in which remand could be made, along with the scope of this Court's power when an order of remand is challenged. The relevant paragraph is extracted here-in-below, for convenience:-

15) Now coming to the facts of the case, we are of the considered opinion that once the first Appellate Court allowed the application under Order 41 Rule 27 of Code and took on record the additional evidence, it rightly set aside the judgment/decreed of the Trial Court giving liberty to the parties to lead additional evidence in support of their case which, in turn, enabled the Trial Court to decide the civil suit afresh on merits in the light of entire evidence. The first Appellate Court was, therefore, justified in taking recourse to powers conferred on the Appellate Court under Order 41 Rule 23-A for remanding the case to the Trial Court. We find no fault in exercise of such power by the first Appellate Court.

33. It is thus, evident that the scrutiny by this Court is necessarily confined to those facts, findings and conclusions that bear upon the order of remand. The jurisdiction in such a matter is limited to examining the legality and correctness of the order of remand passed by the first appellate court, and does not extend to matters beyond the remand itself. It is, therefore, the conclusions and findings of the first appellate court

culminating in the order of remand that now fall for consideration.

34. This Court finds that the learned Regulatory Authority, while passing the order dated 26.11.2020, failed to determine whether the letter/communication dated 26.10.2019, cancelling the Unit, followed by the subsequent invitation to the allottee, *vide* letter dated 15.12.2019, to pay the balance consideration and have the sale deed executed in his favour, attained finality, or the allotment remained alive and what consequences flow therefrom in the light of Section 11(5) read with Section 18 of the Act of 2016. This determination carries significance and is directed at a genuine, unresolved controversy which neither of the forums below have addressed. It would not be out of place to observe that a question of fact, however strenuously contested, does not metamorphose into a substantial question of law. It is sufficient to observe that the question arises from the facts and material on record, does not become a substantial question of law merely because it is disputed by the appellant.

35. Taking into consideration a holistic view of the matter, this Court is of considered opinion that the remand made by the learned Tribunal does not travel beyond the pleadings or the statutory scheme of the Act of 2016 for the obvious reason that the complaint itself raised the issue concerning the cancellation of the unit, while the respondent, in his rejoinder affidavit before the learned Regulatory Authority, specifically questioned the cancellation as unilateral and without sufficient cause, with reference to Section 11(5) of the Act of 2016. The proviso to Section 11(5) itself confers upon an aggrieved allottee the right to approach the Authority against cancellation if not in accordance with the terms of the agreement for sale, is unilateral, or is without sufficient cause. The determination of the legality and validity of the said cancellation was, therefore, necessary for deciding the claim for interest under Section 18 of the Act of 2016, for which the respondent herein had approached the learned Regulatory Authority. This issue was, therefore, not merely incidental, but germane to and goes to the root of the

appellants' claim for interest. The learned Tribunal, having noticed the said lacuna, has rightly remanded the matter to the learned Regulatory Authority for determination of the said issue.

36. As is evident from the pleadings, that the appellant, by its reply dated 05.12.2019, issued after the cancellation letter dated 26.10.2019, called upon the respondent to deposit the balance sale consideration of Rs.43,67,000/- along with the specified charges, within thirty days and to have the sale deed executed in his favor, stating that only upon failure to make such payment would it be presumed that the respondent was not interested in execution of the sale deed. Thus, the appellant's own contemporaneous conduct gives rise to a live question regarding the effect and legal consequences of the letter/communication dated 26.10.2019. As such the learned Tribunal has neither adjudicated upon the rights of the parties nor conclusively determined the dispute between them and has rightly remanded the matter to the learned Regulatory Authority for deciding the legality and validity of the cancellation letter/communication dated 26.10.2019 in terms of Section 11(5) of the Act of 2016. Therefore, this Court at this stage is not required, to express any final opinion as to whether such conduct amounted to waiver or revocation of the cancellation; the said question remains to be considered by the learned Regulatory Authority upon remand.

37. It is trite in law that an Appellate Court do not ordinarily interfere with an order of remand, particularly where such order does not finally determine the rights of the parties or cause any grave injustice or prejudice to either of them.

38. In view of the discussion made herein above, this Court finds that the impugned order do not suffer from any infirmity, perversity or jurisdictional error so as to warranting interference by this Court. The learned Tribunal must, therefore, be held to have rightly exercised its appellate jurisdiction in remanding the matter to the learned Regulatory Authority for determination of the issue which had remained undecided.

39. Once a matter is remanded, the learned Regulatory Authority to whom the matter is remitted is required to decide the issue on merits, in the light of the directions contained in the remand order, after affording due opportunity of hearing to the parties concerned. The parties are, therefore, at liberty to place their respective cases before the learned Regulatory Authority and to establish their claims by raising all such pleas and grounds as may be available to them in law. As such, this Court does not consider it necessary to separately adjudicate upon the merits of the rival contentions raised by the parties on various other grounds taken in the appeal.

40. Suffice it to observe that none of the grounds urged by the appellant qualifies as a substantial question of law, within the meaning of Section 100 of the Code of Civil Procedure, 1908 as engrafted into Section 58 of the Act of 2016, so as to warrant entertaining the instant Appeal or interfering with the order of remand, in the appellate jurisdiction conferred upon this Court under Section 58 of the Act of 2016.

41. Resultantly, the instant appeal fails and is **consigned to records**. No order as to costs.

(Syed Qamar Hasan Rizvi,J.)

September 7, 2026

Manoj K.