

CR No.8581 of 2015 (O&M)

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

CR No.8581 of 2015 (O&M)

Date of Decision: December 21, 2015

Jaidev Duggal

...Petitioner

Versus

Narinderjit Kaur Anandpuri

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sumeet Mahajan, Senior Advocate with
Mr. Amit Kohar, Advocate
for the petitioner.

Mr. M.S. Jandiala, Advocate and
Mr. Sanjeev Duggal, Advocate
for the caveator.

AUGUSTINE GEORGE MASIH, J. (Oral):

Notice of motion.

Mr. M.S. Jandiala, Advocate, accepts notice on behalf of the
respondent. Caveat discharged.

Challenge in this revision petition is to the order dated
28.08.2015 passed by the Rent Controller, Phagwara, whereby, an
application for leave to contest petition, stands dismissed.

It is the contention of the learned Senior Counsel for the
petitioner that one of the grounds which have been raised specifically in
the leave to contest application was that the building in which the
property in dispute is situated, is a big one and the petitioner is already
in possession of an adjoining shop, which shop has been got vacated

from Smt. Sarla Khanna who was in occupation of the said shop and in support thereof, he has referred to the site plan (Ex.P-6) which has been filed by the respondent-landlord with the eviction petition showing it to be a shop in possession of Khanna Traders. After getting the said shop vacated, the same has been rented out to Chain Singh and Amrik Singh who are doing their business of car accessories. He contends that in reply thereto, nothing has been said specifically with regard to the specific assertion of the petitioner except for a general denial that the contents of para 1 sub para (v) of the application are wrong, hence denied. He contends that there being no specific denial on the part of the respondent-landlord which goes into the crux of the matter that the landlord does not require the premises for her personal use as has been asserted by her, rather, it is only for the purpose of getting it vacated and again rent it, the issue is triable and therefore, the leave to contest should have been granted by the Rent Controller. He prays that the present revision petition may be allowed.

Counsel for the respondent, on the other hand, asserts that Chain Singh and Amrik Singh are nephews of the landlady and are not running the business of car accessories nor are they the tenants. He asserts that there is no evidence on record brought by the petitioner which could have been relied upon by the Rent Controller to grant leave to contest and therefore, the impugned order is in accordance with law, which does not call for any interference by this Court.

I have considered the submissions made by the learned

counsel for the parties and with their able assistance, have gone through the impugned order as also the pleadings which have been placed on record.

A perusal of para 1 sub para (v) of the application for leave to contest clearly mentions that the building in dispute is a big building of which petitioner was in possession of a shop as tenant. An adjoining shop which is also owned by the landlady, after having got vacated from Smt. Sarla Khanna, about a month ago, has been let out to Chain Singh and Amrik Singh who are doing their business of car accessories. This is a part of the averments of the said paragraph. In response to the said averment in this regard as has been asserted is that para 1 sub para (v) of the application is wrong, hence denied, there is no specific denial of the facts stated in the application. Since there is no specific denial of the specific averment on the part of the petitioner-tenant by the respondent-landlord, in the considered view of this Court, leave to contest should have been granted by the Rent Controller.

In view of the above, the present petition is allowed. Impugned order dated 28.08.2015 passed by the Rent Controller, Phagwara, is set aside. Parties to appear before the Rent Controller, Phagwara, on 05.01.2016.

December 21, 2015

Harish

**(AUGUSTINE GEORGE MASIH)
JUDGE**