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

**Civil Revision No.2285 of 2015 (O&M)
Decided on : 17.01.2017**

Vijay Kumar Verma

... Petitioner

Versus

Sukhbir Kaur Gill

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Vishal Aggarwal, Advocate
for the petitioner.

Ms. Harpreet Kaur Dhillon, Advocate
for the respondent.

G.S. Sandhawalia, J. (Oral)

The petitioner-tenant challenges the order dated 21.02.2015 passed by the Rent Controller, Ludhiana whereby the application under Section 18-A of the East Punjab Urban Rent Restriction Act, 1949 filed by him has been declined and leave to contest has been rejected.

The Rent Controller accordingly came to the conclusion that the ingredients of the Section 13-B were duly fulfilled in as much as the respondent-landlady had *prima facie* been able to show that she was a Non-resident Indian and wanted to return permanently and the requirement of a accommodation was a genuine. The ownership for the last five years before institution of proceedings was also accepted, which led to the passing of the order.

A perusal of the record would go on to show that the original owner was one Balwinder Pal Singh, husband of the respondent-landlady who died on 26.01.2008 without leaving any Will. Resultantly, the property was inherited by his mother Balbir Kaur, the respondent-landlady Sukhbir Kaur Gill and two sons Preet Kanwar Singh and Nain Kanwar Singh.

It is the case of the respondent-landlady that there was an oral family settlement of 13.04.2008 qua all the properties which was reduced into writing on 12.05.2013 (Annexure P-5), which led to the filing of the petition on 01.06.2013 and the respondent claimed a right to the shop in question exclusively on the basis of the same.

As noticed the family settlement was reduced into writing only in the year 2013 and the Rent Controller has accepted that there was an family settlement in the year 2008, on the basis of which it was reduced into writing. Thus, the ownership of the respondent-landlady had itself not crystallized for a requisite period of five years, which was a necessary requirement under the Act. Counsel has been able to demonstrate that the transfer of the ownership was only done in the year 2012, which would be clear from the TS-I Certificate issued by Municipal Corporation, Ludhiana by which the property was transferred in favour of the legal representatives.

This resultantly itself would be a ground for leave to contest itself and the impugned order as such cannot be justified, since as per oral family settlement in the year 2008, her mandatory exclusive ownership of five years qua the shop came into being only on 12.05.2013. It has also been demonstrated that rent receipts have been issued by the mother-in-law of the landlady in the year 2012 while it is the case of the respondent-landlady that on account of the fact that she was abroad, the receipts were issued by her.

The above factors would go on to show that there was sufficient material as such to allow the application for leave to contest, specially in view of the fact that apart from the shop in question, which is in possession of the petitioner there were three more shops which were also divided *inter se* the family members as per the family settlement which was reduced into writing. Resultantly, the Rent Controller would have necessarily to go into the various factors as the share of the respondent-landlady and as to whether she was a co-owner in all the properties or not on succession having opened up on 26.01.2008, and thus triable issues were arising.

In such circumstances, this Court is of the opinion that while declining the application for leave to contest, the Rent Controller did not act within the parameters prescribed and the petitioner-tenant has been seriously prejudiced as sufficient material was placed on record for the grant of the said permission and triable issues had been raised.

Counsel for the respondent faced with this situation submits that she would have no objection if directions are issued if the petition is decided within a time-bound period.

Keeping in view the consensus, thereafter, arrived at between the counsels, this Court is not averse to the said suggestion given by the counsel for the respondent-landlady. Accordingly, the order dated 21.02.2015 is set aside and leave to contest is granted. It is directed that the Rent Controller shall decide the issue on merits in accordance with law by 31.12.2017.

With the abovesaid observations, the present revision petition stands disposed of.

(G.S. SANDHAWALIA)
JUDGE

JANUARY 17, 2017
Naveen

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*