

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

Civil Revision No.6047 of 2013(O&M)

Date of decision: 5.4.2017

Smt. Kaushalya Rani

...Petitioner

Versus

Gurminder Singh Kahlon

...Respondent

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

Present: Mr. Ashwani Kumar Chopra, Senior Advocate with
Mr. G.S. Bhandal, Advocate for the petitioner.

Mr. Rajiv Joshi, Advocate for the respondent.

G.S.SANDHAWALIA, J. (Oral)

The tenant challenges the order dated 27.5.2013 whereby leave to contest has been declined by the Rent Controller, Batala. Resultantly eviction order has been passed qua shop no.10.

It is not disputed that as per petition filed under Section 13-B of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as "the Act"), the claim of the landlord was that he has enough resources of funds and planned to open a huge multistoried shopping complex in all these shops which were bearing Nos.10,11 and 12 by reconstructing the same.

Counsel for the petitioner has relied upon the order of even date whereby leave to contest has been granted for shop bearing No.11. It is further case of the petitioner that even regarding shop no.12 leave to contest has also been granted.

Counsel for the respondent on the other hand submits that the impugned order is sustainable as much as valid reasons as such have been

given to deny leave to contest as all the ingredients of Section 13-B of the Act were made out.

As noticed the claim of the landlord was to demolish all the three shops. In two cases it is apparent that leave to contest has been granted. Therefore, the purpose as such for utilizing the premises cannot be at this stage be achieved by the landlord until eviction is also ordered from the other two shops. Reliance upon the judgment in **Mukand Lal Bawa Vs. Satwant Singh 2009 (3) PLR 809** in such circumstances is justified since eviction application against other tenants in different parts of the same building had been filed and leave to contest had been permitted. Then the landlord's objections against the same as such were rejected.

Another aspect which is to be noticed at this stage is that agreement to sell dated 29.3.2003 in favour of the son of the tenant who was also tenant in the adjoining shop had been set up in the application under Section 18-A of the Act and the same had also been rejected on the ground that it would be appropriately decided by the Civil Court wherein suit for specific performance is pending.

Mr. Chopra, senior counsel points out that suit for specific performance as such regarding all the three shops now also stands decreed on 13.12.2016.

Mr. Joshi, counsel for the respondent submits that appeal is pending against the said judgment and decree.

In view of the above circumstances another ground is made out for granting leave to contest as triable issue has arisen.

Accordingly, the present revision petition is allowed and the impugned order dated 27.5.2013 whereby leave to contest has been

declined by the Rent Controller, Batala is set aside and leave to contest is granted.

Keeping in view the fact that the eviction application is pending since 2013, it would be appropriate if the Rent Controller, Batala decides the same in a time bound manner preferably by 31st March, 2018.

April 05, 2017
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No