

CR No.738 of 2013 (O&M)
Date of decision: 24.05.2017

Mohinder Singh ...Respondent

None for the respondent.

Counsel for the petitioner has submitted that for the adjoining shop occupied by one Chunni Lal Gian Chand, the petition under Section 13-B was dismissed after contest on 24.01.2009 (Annexure P2). He submits that once that is so, the order passed, as such, is not justified and therefore, leave to contest should be granted as the *bona fides* as such, of the landlord have been doubted on account of the fact that he had failed to appear and the power of attorney had appeared. A perusal of the said judgment would go on to show that the attorney of the respondent had admitted that other shops were adjoining the premises and out of them, 4 shops were lying vacant. In such circumstances, the eviction petition had been dismissed after leading of evidence.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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It has been held by a Three Judges Bench of the Apex Court in *Precision Steel & Engineering Works Vs. Prem Deva Niranjana Deva Tayal* *1982 (3) SCC 270* that if a triable issue is raised, leave to contest should be granted.

Resultantly, this Court is of the opinion that keeping in view the fact that for the adjoining tenanted premises, eviction petition has been dismissed on merits, it would be in the interest of justice that leave to contest be granted, so that the petitioner is also placed on same pedestal.

Accordingly, the petition is allowed and order dated 24.12.2012, declining the leave to contest is set aside and the petitioner is permitted to file written statement.

24.05.2017

sailesh

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No

(G.S. SANDHAWALIA)
JUDGE