

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

CR No.578 of 2009 (O&M)
Date of decision : 02.08.2018

Narinder Singh Negi

...Petitioner

Versus

Harblas Kaul

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Harsh Bungar, Advocate for the petitioner.

Mr. Amit Dhawan, Advocate for the respondent.

ANIL KSHETARPAL, J. (ORAL)

The tenant-petitioner is in the revision petition against the order passed by the learned Rent Controller, dismissing the application filed under Section 18(A)(4) of the East Punjab Urban Rent Restriction Act, for grant of leave to contest.

Learned counsel for the petitioner-tenant has submitted that one shop, which has been described as shop No.4, eviction order has already been passed in favour of the landlord and possession whereof has been taken. He further submits that if one has a look at the alleged family settlement, which has been propounded by the landlord, two shops fall in the share of the landlord i.e. shop Nos.1 and 4. Shop No.1 is extreme east corner whereas shop No.4 is right in the middle out of six shops. He submits that entire family settlement was only to get the petitioner-tenant evicted.

On the other hand, learned counsel for the respondent has submitted that it is a part of one big building and, therefore, landlord is

entitled to evict the tenants from one building.

Keeping in view the stand taken by the respective counsels, this Court is of the view that the learned Rent Controller committed an error in refusing to grant leave to contest. Once, there was a doubt, the Court ought to have permitted the tenant leave to contest, so that tenant gets an opportunity to defend the case.

Without further commenting upon the merits and demerits of the parties, lest it may prejudice the case of the parties, this Court is of the considered view that the order under challenge is required to be set aside.

The case is remitted back to the Rent Controller to decide the petition after granting leave to contest. However, since the matter has remained pending in this Court for 9 years and the petition was filed in the year 2008, the learned Rent Controller is requested to take up this case on priority basis and decide the same preferably within a period of six months.

Parties through their counsel are directed to appear before the Rent Controller on 20.08.2018.

In view of the above, the present revision petition is disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

02.08.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No