

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

**CR-8709-2017 (O&M)**

**Date of Decision : 31.10.2022**

Gurcharan Singh

....Petitioner

VERSUS

Naresh Kumar

....Respondent

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present: Mr. Yogsimant Attari, Advocate for  
Mr. Rajinder Goyal, Advocate for the petitioner.

Mr. Jatinder Singla, Advocate for the respondent.

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**ALKA SARIN, J. (Oral)**

The present revision petition has been filed challenging the order dated 17.11.2017 whereby an application for leave to contest was allowed by the Rent Controller.

Learned counsel for the petitioner would contend that the leave to contest has been allowed only on the ground that the description as given in the sale deed dated 01.02.1971 (Annexure P-1) of the property in question and the rent note (Exhibit P-2) dated 07.07.2006 referred to different occupants of the adjoining houses as well as to different dimensions. Learned counsel has vehemently contended that the sale deed pertains to the year 1971 and the ejectment petition has been filed in year 2006 and hence the difference in the description as well as the dimensions of the properties. It is further contended that the second ground on which the application for leave to contest has been allowed is that the adjoining

shop had been given out on rent by the petitioner during the pendency of the rent petition and hence a doubt was cast on the genuineness of the case of the petitioner. Learned counsel would contend that the said shop has been given to the husband of the daughter of the petitioner and that it is not on rent.

Per contra, learned counsel for the respondent has contended that admittedly the description of the property in the sale deed and the rent note differs. Further the fact that the property is in possession of some third person is also not a factor which has been denied and hence triable issues arise in the present case.

Heard.

In the present case the undisputed facts are that the sale deed qua the property in question (Annexure P-1) dated 01.02.1971 and the rent note (Annexure P-2) dated 07.07.2006 are at variance so far as the description and dimensions of the property are concerned. It has also not been disputed by the learned counsel for the petitioner that the adjoining shop is in possession of a third person. It is, however, the contention that the third person is none else than the son-in-law of the petitioner and the property is not on the rent with him. Both the issues raised are triable issues.

Section 18A(5) of the East Punjab Urban Rent Restriction Act, 1949 reads as under :

*“18A(5) The Controller may give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the specified landlord or , as the case may be, the widow,*

*widower, child, grand-child or widowed daughter-in-law of such specified landlord [or the owner, who is non-resident India] from obtaining an order for the recovery of possession of the [residential building or scheduled building and/or non-residential building], as the case may be under [Section 13-A or section 13-B].”*

In the present case triable issues are made out and hence the order passed by the Rent Controller granting to leave to contest cannot be faulted with.

In view of the above, I do not find any merit in the present revision petition which is accordingly dismissed. However, in view of the fact that the ejectment petition was filed in the year 2013, the Rent Controller is requested to expedite the hearing of the ejectment petition.

Pending applications, if any, also stand disposed off.

**October 31, 2022**  
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**(ALKA SARIN)**  
**JUDGE**

NOTE : Whether speaking/non-speaking : Speaking  
Whether reportable : YES/NO