

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

CR-7068-2017 (O&M)

Date of decision: 01.02.2023

Kamal Kishore

...Petitioner

Versus

Tarsem Lal Sharma (since deceased) through LRs

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Dheeraj Mahajan, Advocate for the petitioner.

Mr. Kanhiya Soni, Advocate for

Mr. Deepak Bhardwaj, Advocate for the respondents.

H.S. MADAAN, J. (Oral)

In an ejectment petition filed by petitioner Tarsem Lal Sharma against respondent Kamal Kishore seeking ejectment of the latter from a shop located at Gali Naiyan Wali, Amambara Chowk, Gurdaspur. On getting notice, the respondent had put in appearance and filed written reply, contesting the ejectment petition. During the course of proceedings, he had filed an application for permission to lead secondary evidence of rent note dated 11.10.2008 said to have been executed between the respondent and Smt. Savita Rani wife of Tarsem Lal Sharma. Prior to that, he had filed an application under Order 11 Rule 14 CPC for issuance of a direction to the landlord to prove the original rent note. In reply thereto, it was contended that the rent note dated 11.10.2008 is in possession of respondent-Kamal Kishore, in that way, the original rent

note was not produced. Thereafter, the respondent had sought permission to lead secondary evidence to prove that document, which request was rejected by the Rent Controller, vide impugned order. The respondent felt aggrieved and he has approached this Court by way of filing the present revision petition, notice of which was given to respondent Tarsem Lal Sharma (since dead) now represented by his LRs, who have put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record and I find that under the circumstances, the respondent should have been granted permission to lead secondary evidence of the rent note in question, of course, subject to fulfillment of necessary requirements as provided under Section 65 of the Indian Evidence Act. The rejection of the application was not justified. Therefore, the impugned order is not sustainable. The same is set aside and application for leading secondary evidence so moved by the petitioner, who is respondent in the ejectment petition is accepted, subject to fulfillment of requisite requirements of Section 65 of the Indian Evidence Act.

Of course, allowing the application does not mean that the document becomes admissible for the said reason. The question whether the document is admissible in evidence and how much weightage is to be attached thereto is to be decided by the Rent Controller, on the basis of evidence adduced and keeping in view the legal requirements.

Therefore, the revision petition is accepted accordingly. The interim order dated 11.10.2017 staying further proceedings before Rent Controller, Gurdaspur as such comes to an end.

Since the rent petition is stated to be pending since the year 2013, learned Rent Controller, Gurdaspur is directed to make earnest efforts to dispose it of finally by giving short adjournments preferably within a period of one year from the date of receipt of copy of this order there.

01.02.2023
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No