

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 7745 of 2009 (O&M)
Date of Decision: 30.6.2010

Joginder Singh

.....Petitioner

Versus

Sandeep Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

Present: Shri Naveen Sharma, Advocate, for
Shri K.S. Sidhu, Advocate, for the petitioner.

Shri Harsh Garg, Advocate, for the respondent.

HEMANT GUPTA, J (Oral).

Challenge in the present petition is to the order passed by the learned trial Court on 3.11.2009, whereby an application filed by the petitioner for leave to defend the suit under Order 37 CPC was allowed on furnishing of security in the sum of Rs.1 lac.

The plaintiff-respondent has filed suit for recovery on the basis of pronote dated 12.2.2003. The petitioner has only denied the execution of the pronote, but has not produced any prima-facie evidence in support of the plea that the pronote has not been executed.

Hon'ble Supreme Court in Baldev Singh Bajwa v. Monish Saini, (2005)12 Supreme Court Cases 778, while considering somewhat similar provisions contained in Section 13-B of the East Punjab Urban Rent Restriction Act, 1949, has held to the following effect:-

“.....We hold that allegations made by the NRI landlord of his requirement shall be presumed to be genuine and bona-fide unless rebutted by the tenant by placement of cogent and material facts and evidence in support thereof at the stage of “leave to contest” before the Controller. We feel that any other interpretation would completely whittle down and deny the tenant’s right to show and prove that the landlord does not in fact, or in law require the suit premises.”

In the absence of any plausible defence disclosed in the application for leave to defend, the impugned order passed by the learned trial Court, granting leave to defend subject to furnishing of security, cannot be said to be suffering from any patent illegality or material irregularity, which may warrant interference by this Court in exercise of its revisional jurisdiction.

Hence, the present revision petition is dismissed.

[HEMANT GUPTA]
JUDGE

30.6.2010
ds