
(2003) 02 P&H CK 0251
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1526 of 1981

Bhagat Singh Sodhi and Another

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 26-02-2003

Acts Referred:

Haryana Urban (Control of Rent and Eviction) Act, 1973 — Section 13(3), 15(5)

Citation : (2003) 134 PLR 702 : (2003) 2 RCR(Rent) 141

Hon'ble Judges : V.M. Jain, J

Bench : Single Bench

Advocate : Ashish Kapoor, for the Appellant; R.S. Rai, for the Respondent

Final Decision : Allowed

Judgement

V.M. Jain, J.—This revision petition has been filed against the order dated 27.1.1981, passed by the appellate authority, whereby the appeal, filed by the tenant, was accepted, the order, passed by the Rent Controller, was set aside and the ejectment petition, filed by the landlord, was dismissed.

2. Sodhi Bhagat Singh, landlord, filed ejectment petition u/s 13 of the Haryana Urban (Control of Rent & Eviction) Act, 1973 (hereinafter referred to as the Act), against Union of India (tenant) for the ejectment of the tenant from the house in dispute, alleging therein that on 18.4.1963, Union of India, through Superintendent of Post Offices, Rohtak, had taken the premises in dispute on rent @ Rs. 150/- per month and had started running the post office and that on 18.4.1964, the Superintendent, Post Offices, Rohtak, on behalf of the Union of India, executed a rent-note in favour of the landlord, for a period of five years. The landlord sought the ejectment of the tenant from the premises in dispute, on the ground that he required the house in dispute for his own occupation and that the tenant had not paid rent since October, 1977. The ejectment petition was contested by the tenant, admitting that the Union of India was a tenant under the landlord. It was alleged that the house in question was let out by the landlord for use and occupation as Post Office and as such, the premises in dispute was

not a residential building but was a commercial one and hence, the landlord was not entitled to seek eviction of the tenant, on the ground of personal necessity. It was alleged that the tenant had already paid the rent from October 1977 and in order to avoid technical objection, the tenant tendered Rs. 2100/- as arrears of rent for the months of October 1977 to November 1978 as claimed by the landlord, besides interest and costs. However, the tenant reserved the right to claim back the rent, already paid for the month of October, 1977. After hearing both the sides, the Rent Controller found that the ground of non-payment of rent was not available to the landlord. With regard to personal need, it was held that the landlord required the house in question bona fide for the personal use. It was further found that the building was let out to the tenant for running the Post Office and that it was not a non-residential building and that the landlord was entitled to seek ejectment of the tenant from the building in question, on the ground of personal necessity. Accordingly, the order of ejectment was passed against the tenant. However, the appeal, filed by the Union of India (tenant) was accepted by the appellate authority, the order of ejectment, passed by the Rent Controller, was set aside, and the ejectment petition, filed by the landlord, was dismissed by the appellate authority, vide order dated 27.1.1981. Aggrieved against the same, the landlord filed the present revision petition in this Court.

3. I have heard learned counsel for the parties and have gone through the record carefully.

4. Learned counsel for the petitioner-landlord submitted before me that the house in question which was let out to the tenant, for running the Post Office, could not be termed as a non-residential building, in as much as the house did not cease to be a residential building. Reliance was placed on the law laid down by this Court in the case reported as *The Director of Department of Language, Haryana, and Anr. v. Smt. Surjit Kaur* 1984(2) R C R 511. It was further submitted that if the residential building was let out even for a non-residential purposes, still the building continues to be a residential building and the landlord was entitled to seek eviction from the demised premises, inasmuch as the landlord had not taken the permission of the Rent Controller convert the residential building into a non-residential building, as required u/s 11 of the Act.

5. There is considerable force in these submissions of the learned counsel for the petitioner-landlord. From a perusal of the allegations, made in the pleadings of the parties and the evidence, led by the parties, it stands fully proved on the record that the building in question was a residential building at the time when the landlord rented it out to the Union of India, for running the Post Office. There is nothing on the record to show that any permission of the Rent Controller was obtained for converting the residential building into a non-residential building. That being so, the building would continue to be a residential building and the landlord would be entitled to seek ejectment of the tenant, on the ground of personal necessity. Furthermore, in *The Director of Department of Language, Haryana v. Smt. Surjit Kaur* 1984(2) R C R 511 (supra), it was held by this Court

that where the building was constructed as a house and that simply because it was let out for office purposes, it did not cease to be a residential one and for the purposes of the Rent Act, the building will continue to be a residential building as it was never let out for the purposes of business or trade. In this view of the matter, in my opinion, the landlord would be entitled to seek ejectment of the tenant from the demised premises, on the ground of personal necessity. In my opinion, the learned appellate authority had erred in law in holding that the landlord was not entitled to seek ejectment of the tenant from the building in question, on the ground of personal necessity.

6. With regard to the bona fide personal requirement of the landlord to seek ejectment of the tenant; as referred to above, the learned Rent Controller had found that the landlord required the premises bona fide for his personal use. This finding, recorded by the Rent Controller, has not been upset by the appellate authority. On the other hand, the order of ejectment, passed by the Rent Controller, was set aside only on the ground that the building was not a residential building but was a non-residential building. This, finding of the appellate authority has been reversed by me above. After going through the findings and the evidence, in my opinion, the learned Rent Controller was perfectly justified in holding that the landlord required the premises bonafide for his personal use and the landlord was entitled to seek ejectment of the tenant from the house in question, on the ground of personal necessity.

7. For the reasons recorded above, the present revision petition allowed, the order dated 27.1.1981, passed by the appellate authority, is set aside and the order of ejectment is passed against the respondent-tenant, with no order as to costs.

8. Considering that the respondent is running a Post Office in the building in question, the respondent is allowed three months time from today, to vacate the premises.