

(1999) 10 P&H CK 0175
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 644 of 1982

Dr. Amrik Singh Chatha and Others

APPELLANT

Vs

Bishamber Dass and Others

RESPONDENT

Date of Decision : 01-10-1999

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 — Section 13(1)

Citation : (2000) 126 PLR 281 : (2000) 1 RCR(Rent) 77

Hon'ble Judges : V.K. Bali, J

Bench : Single Bench

Judgement

V.K. Bali, J.—Before the matter could be taken up on merits, the learned Counsel representing respondents has raised a preliminary objection. He contends that the present eviction petition filed by Amrik Singh and other landlords could not possibly be maintained inasmuch as S.C.O. Nos. 1026-27, Sector 22-D, Chandigarh stood resumed and that by virtue of resumption, the landlord has lost all rights, title or interest. For the aforesaid contention, the Counsel relies on Babu Singh Bains v. Union of India and Ors 1997)115 PLR 250 (SC) wherein the Apex Court has held that once the original allotment stands cancelled and resumption by the Estate Officer becomes final, the allottee has no right or title to the allotment to site or building.

2. I have heard Mr. Dogra and Mr. Sarin, learned Counsel representing the parties, but I find that there is absolutely no substance in the contention raised by Mr. Dogra.

3. The facts of the case as necessary to deal with the contention raised by Mr. Dogra would reveal that earlier in point of time petitioners filed an application u/s 13 for eviction of the tenant-respondent. On 2.9.1978 litigating parties i.e. present parties to the dispute compromised the matter. The respondents agreed to stop misuser by 11.12.1978. So far as the order of resumption is concerned, the same was passed on 27.7.1978. Constrained the petitioner filed an appeal which was dismissed on 26.7.1978. Still being dissatisfied, the revision was

carried which came to be disposed on 17.8.1979. It is conceded position that an order not to resume was subject to two conditions namely that the forfeited amount shall be deposited by the petitioner and misuser shall be stopped by 31.8.1980. It is quite apparent from the records of that when misuser did not stop, petitioners were constrained to file a second petition for eviction which came to be filed on 27.1.1979. Meanwhile, it was not within the powers of the petitioner to stop the misuser by the tenant. Being not in a position and guilty of misuser, the order of resumption had to be revived. However, before the last date as stipulated in the order, the petitioner made an application for extension of time and the same was granted vide order dated 16.12.1980 and for second time upto 31.3.1981. Further, the facts would reveal that it was second petition of eviction which came be allowed in favour of the petitioners on 19.1.1981 i.e. before the time extended for the second time stood expired.

4. The facts as have been fully detailed above, would demonstrate that by the time the order of resumption came to be passed as finally ordered, not only the second eviction petition had been filed but the same has even been allowed. It is not, thus, a case, where eviction petition might have been filed later in point of time when the resumption order had attained finality. That being so, no other question arises for determination and the Court is of the clear view that the judgment cited by the learned Counsel for the respondents shall not apply to the facts of the case. In addition, it may be mentioned here that the Hon"ble Supreme Court even had allowed time to those who had indulged in misuser if they were to do away with the same in a specified time.

In view of what has been said above, the preliminary objection raised by Mr. Dogra is rejected.

Let the matter on merits come up for hearing on 19.8.1999.