
(1978) 04 P&H CK 0002
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 816 of 1977

Jai Bhagwan

APPELLANT

Vs

Suraj Parkash Bhatia

RESPONDENT

Date of Decision : 06-04-1978

Acts Referred:

Punjab Relief of Indebtedness Act, 1934 — Section 31

Citation : (1978) 04 P&H CK 0002

Hon'ble Judges : Rajendra Nath Mittal, J

Bench : Single Bench

Advocate : R.S. Mittal, for the Appellant; Adarsh Goyal, for the Respondent

Final Decision : Dismissed

Judgement

Rajendra Nath Mittal, J.—Briefly, the facts of the present case are that Jai Bhagwan is the landlord of the property in dispute and Suraj Parkash is his tenant. The tenant had been depositing rent u/s 31 of the Punjab Relief of Indebtedness Act, from 1961 to 1968, in the Court of Subordinate Judge 1st Class, Panipat. The total amount of deposits comes to Rs. 2461.23. On May 9, 1977, Suraj Parkash tenant filed an application for withdrawal of the amount. In the meanwhile, Jai Bhagwan landlord also approached the Court and moved an application on May 20, 1977 stating that he being the landlord, was entitled to the amount. He consequently, prayed that the vouchers of the amount may be given to him. This application was contested by Suraj Parkash, tenant who (sic) that he was entitled to the amount. The Subordinate Judge after hearing the parties, rejected the application of the landlord and ordered refined of the amount to Suraj Parkash, tenant. Jai Bhagvawh (sic) in revision against the said order of the Subordinate Judge of this Court.

2. It is contended by Mr. H. S. Mittal, learned counsel for the landlord that the amount had been deposited to the tenant for payment to him (landlord). He further urges that in the circumstances, it is the landlord who is entitled to withdraw it had not the tenant. According to the learned counsel, if the amount

(sic) deposited u/s 31 of the Punjab Relief of indebtedness Act, in the debtor for payment to the creditor, it can be paid by the Court only to the creditor.

3. I have heard the learned counsel for the parties at a considerable length but express my inability to accept the contention of the learned counsel for the petitioner. In order to determine the question, it will be proper to refer to Section 31 of the Punjab Relief of Indebtedness Act, which reads as follow; :

31 (i) Any person who owes money may at any time deposit in court a sum of money in full or part payment to his creditor.

(2) the court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum, so deposited.

From a perusal of sub section (2) it is evident that after the amount is deposited in the Court, the Court is required to give a notice to the creditor. In the present case it is not disputed that no such notice was given by the Court to the landlord and the latter also did not take any measure to recover the arrears of rent from the tenant for a long time. If he wanted to recover the rent, he could move an application for ejectment u/s 13 of the East Punjab Urban Rent Restriction Act (hereinafter referred to as the Rent Act) which was in force prior to April 1973 and the tenant could not remain in the property unless he tendered the rent alongwith interest at the rate of six per cent per annum on the first date of hearing. It appears, the landlord was interested in vacation of the building and that is why he was not taking measures to recover the rent.

4. On the other hand, the tenant went on depositing the rent under the impression that the deposit of rent u/s 31 of the Punjab Relief of Indebtedness Act was a proper tender. Supreme Court in *Shri Vidya Prachar Trust v. Basant Ram* (1969) 71 P.L.R. 526, held that the deposit of arrears of the rent u/s 31 of the Punjab Relief of Indebtedness Act was not a valid tender of the rent within the scope of East Punjab Urban Rent Restriction Act and did not save the tenant from the consequences of the default as contemplated by section 12 of the East Punjab Urban Rent Restriction Act.

5. In view of the decision of the Supreme Court, it is clear that deposit of rent u/s 31 of the Punjab Relief of Indebtedness Act is not a proper tender of the rent to the landlord. Thus the landlord in spite of withdrawal of the amount, deposited u/s 31 of the Punjab Relief of Indebtedness Act, can recover it again from his tenant under threat of ejectment u/s 13 of the Rent Act. The very purpose for which the rent is deposited by the tenant is thus frustrated. Sub-section (3) of section 31 of the Punjab Relief of Indebtedness Act provides that after the amount is deposited by the debtor for payment to the creditor, the interest shall cease to run on the amount from the date of such deposit. Thus a benefit was provided to the debtor that he ceases to be liable to pay interest from the date of

depositing the amount. In view of the judgment in Shri Vidya Prachar Trust's case (supra) that benefit is also not available to the tenant. In the aforesaid circumstances, it became meaningless for the tenant to deposit the amount of rent for payment to his landlord. If it is so, in case of a dispute between the landlord and the tenant regarding withdrawal of the amount deposited u/s 31 of the Punjab Relief of Indebtedness Act, by the tenant, it cannot be held that the landlord was entitled to the same in preference to the tenant.

6. Faced with the aforesaid difficulty, the learned counsel for the petitioner sought to urge that a right had been given to the creditor alone u/s 31 of the Punjab Relief of Indebtedness Act for withdrawal of the amount. He further submits that there is no provision in the Punjab Relief of Indebtedness Act under which the debtor can withdraw the amount from the Court. It is also urged by him that if there is some lacuna in the legislation, it is for the legislature to rectify it and not for the Courts to give a strained meaning to the words used by the legislature which they did not bear. In support of his contention, he places reliance on Vidya Vati v. State of Punjab. I have also examined this contention but do not find any substance in it. It is no doubt true that the Courts cannot give strained meaning to the words used by the legislature. In the present case, the ratio in Smt. Vidya Vati's case (supra) does not apply. The amount has been deposited u/s 31 of the Punjab Relief of Indebtedness Act by the tenant as there was no provision in the Rent Act. This was done by him in order to save himself from ejection from the tenanted premises but that purpose of the tenant was not fulfilled. Even his liability to pay interest did not cease. In the circumstances it will be a great injustice if in spite of protest by tenant the amount deposited by him is ordered to be paid to the landlord. The Courts are constituted to do the right and undo the wrong, while administering justice. In order to promote justice and prevent abuse of their powers, they can exercise inherent powers. It is not possible for the Legislature to make express provisions for all the eventualities.

7. For the above reasons it cannot be held that the Court cannot order refund of the rent deposited by the tenant u/s 31, to him. In the present case, it may also be highlighted at the cost of repetition that no notice of deposit was given to the landlord. Consequently, he has not been prejudiced in any way. I therefore, reject this contention of the learned counsel.

8. For the reasons recorded above, the petition fails and the same is dismissed with no order as to costs.