

(1997) 01 SC CK 0153

In the Supreme Court Of India

Case No : Civil Appeals No. 347 Of 1997 With No. 348 Of 1997

Kashmir Singh Bhullar

APPELLANT

Vs

Punjab and Sind Bank and Others

RESPONDENT

Date of Decision : 24-01-1997

Acts Referred:

Citation : (1997) 10 SCC 407

Hon'ble Judges : S. Saghir Ahmad, J; S. C. Agrawal, J

Bench : Division Bench

Final Decision : Allowed

Judgement

S.C. Agrawal and; S. Saghir Ahmad, JJ.-Special leave granted.

2. We have heard learned counsel for the parties.

3. These appeals arise out of eviction proceedings initiated by the appellant against the respondent Bank under Section 13(A) of the East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as "the Act"). The appellant has sought eviction of the respondent Bank on the ground that the premises are required by him for personal residence since he has now retired from service. The respondent filed an application seeking leave to contest/defend the said proceedings. The Rent Controller, by order dated 17-4-1996, dismissed the said application on the ground that no triable issues had been raised by the respondent in the application. Thereafter, the Rent Controller passed the order dated 17-4-1996 and allowed the appellant's application for eviction. The respondent, feeling aggrieved by the said order passed by the Rent Controller, filed revision petitions in the High Court. Civil Revision No. 1905 of 1996 was filed against the order rejecting the application to leave to contest/defend the proceedings and Civil Revision No. 1906 of 1996 was filed against the order of eviction. Both these revision petitions have been allowed by the High Court by the impugned judgment dated 20-5-1996. The High Court has held that leave to defend should have been granted in the matter because the tenants were

disputing the alleged requirement of the landlord and that the application for leave to contest/defend was wrongly rejected by the Rent Controller. The High Court, therefore, granted leave to defend and consequently the order of eviction passed by the Rent Controller was set aside and the matter has been remitted to the Rent Controller.

4. We have perused the impugned judgment of the High Court regarding grant of leave to defend as well as the order passed by the Rent Controller rejecting the application of the respondent. In our opinion, the High Court was in error in interfering with the order passed by the Rent Controller. There was no dispute on facts and the only question was whether the accommodation with the appellant was sufficient for the needs of his family. The Rent Controller has taken into consideration the accommodation that was available with the respondent in the premises as well as the accommodation available in the portion of the premises in occupation of the son of the appellant and the need of the appellant and his family and has found that the accommodation in possession of the appellant was not sufficient for his use. The High Court, in exercise of its revisional jurisdiction, was in error in interfering with the said view of the Rent Controller.

5. The High Court has referred to the fact that the appellant was a member of the Punjab Superior Judicial Services having been appointed by the State Government and has retired from the service and that the certificate issued by the Registrar of the High Court was not relevant to prove the fact that he is a specified landlord. We find that no such plea was raised by the respondent in the application for leave to contest/defend. We are unable to appreciate how this matter was taken into account by the High Court while granting leave to defend.

6. For the reasons aforementioned, we are unable to uphold the impugned judgment of the High Court setting aside the order dated 17-4-1996 passed by the Rent Controller rejecting the application submitted by the respondent for leave to contest/defend the proceedings. The judgment of the High Court in Civil Revision No. 1905 of 1996 is, therefore, set aside and the order dated 17-4-1996 passed by the Rent Controller refusing leave to contest/defend is restored.

7. The High Court has allowed the revision application against the order dated 17-4-1996 regarding eviction of the respondent on the view that in view of grant of leave to defend the proceedings the said order of eviction could not stand. Since the said order of the High Court granting leave to defend the proceedings has been set aside, there is no infirmity in the order of eviction passed by the Rent Controller. The judgment of the High Court allowing Civil Revision No. 1906 of 1996 is, therefore, set aside and the order of eviction passed by the Rent Controller is restored.

8. The appeals are allowed accordingly. The respondent Bank is granted three months' time to hand over vacant possession of the premises to the appellant. No order as to costs.