
(1963) 11 P&H CK 0039

In the Punjab And Haryana At Chandigarh

Case No : First Appeal from Order No. 39 of 1962

Lajwanti

APPELLANT

Vs

The Punjab State

RESPONDENT

Date of Decision : 07-11-1963

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 — Section 4

Citation : (1963) 11 P&H CK 0039

Hon'ble Judges : Shamsheer Bahadur, J

Bench : Single Bench

Advocate : Roop Chand, for the Appellant; Tejinder Singh Doabia, for the Respondent

Final Decision : Allowed

Judgement

Shamsheer Bahadur, J.—The appellant Smt. Lajwanti owns bungalow No. 32, Daya Nand Nagar, Lawrence Road, Amritsar, a portion of which consisting of 4 rooms, a bath room, latrine with verandahs and kitchen was requisitioned by the respondent State for Mr. Kohli, Traffic Manager. As the rent could not be fixed by agreement, a reference was made to have the matter of payment of compensation settled through the arbitration of Shri Kartar Singh, Senior Subordinate Judge, Amritsar. The Arbitrator acting under the provisions of Punjab Requisitioning and Acquisition of Immovable Property Act, 1953, has found that Smt. Lajwanti is entitled to a compensation at the rate of Rs. 32/- per month, while she had claimed Rs. 60/- per month, the rent which she had been receiving from the previous tenants. Smt. Lajwanti feeling aggrieved from the order of the Arbitrator has come in appeal to this court.

2. Mr. Rup Chand, the learned counsel for the appellant, contends that the Arbitrator has wrongly determined the compensation in accordance with the provisions of the East Punjab Urban Rent Restriction Act. The Arbitrator has relied on a Division Bench authority of this Court of Harnam Singh and Kapur JJ. in Raghbir Saran v. The Punjab State (1954) 56 P.L.R. 530, for the proposition

that the control of rents which the law in existence imposes has to be taken into account and recognised in determining as to what compensation the landlord would be entitled to. In Raghbir Saran's case 1, it was held that:

It was the possessory interest of the owner which was requisitioned and in assessing the market value of that possessory interest the fair rent fixed by the Rent Controller has to be borne in mind. The owner could not have realised in the open market more than the rent fixed by the Rent Controller u/s 4 of the East Punjab Urban Rent Restriction Act, 1949.

In the words of Kapur J., "the provisions of the Requisitioning Act are not to be divorced from reality", and the fair rent which is to be fixed by the authorities under the Rent Restriction Act cannot be ignored. In an earlier Bench decision of this Court given by Chief Justice Das and Harnam Singh J. in *Governor General in Council, New Delhi v. Inder Mani Jatia* AIR 1956 E.P. 296, it was held that the requisitioning authority does not come within the meaning of the word "tenant" and consequently the provisions of the Rent Control Laws are not applicable to it. There being an apparent conflict of opinion in these Division Benches, the matter was referred to a Full Bench and it is this decision which is now the accepted view of this Court. In this Full Bench consisting of Chief Justice Khosla, Fazlul Haque J. (as the Chief Justice then was) and Chopra J. in *Union of India v. Roshan Lal Gupta* (1960) 62 P.L.R. 812 (F.B), it was held that:

Where property is compulsory requisitioned, the amount of compensation should not be determined solely on the basis of fair rent as fixed under the Rent Control Laws. The figure so fixed is merely a piece of evidence which may be taken into consideration as giving an indication of the market rents, other circumstances must be taken into consideration also.

The basis of this conclusion is derived from the meaning which was given to the word "tenant" in the earlier Division Bench authority, to which reference has been made, and it was held by the Full Bench that "the requisitioning authority cannot be deemed to be a tenant of the landlord and is, therefore, not governed by rent laws". The fair rent accordingly fixed by the Rent Controller is no more than a piece of relevant evidence to be considered along with other material in reaching a decision on the question of compensation to which a claimant whose property is requisitioned, is entitled. The decision of the later Bench in Raghbir Saran's case 1 was specifically overruled by the Full Bench.

3. I may also refer to an unreported decision given by me in *Smt. Vidya Wanti v. The State* F.A.O. 82 of 1960, F.A.O. No. 82 of 1960, decided on 15th December, 1960. I said in that case that the rent which is determinable under the Punjab Urban Rent Restriction Act is only a piece of evidence to be examined with other material in determining the amount of compensation.

4. It would thus be manifest that the authority on which the Arbitrator has based his decision being overruled by a later decision of the Full Bench, the compensation has to be determined on a consideration of the evidence of what

the requisitioned property had been fetching by way of rent prior to its requisition. This is of course a relevant piece of evidence and has to be considered alongwith any other material which is brought before the Arbitrator.

5. This appeal, therefore, must be allowed and the award of the Arbitrator set aside. The Arbitrator would re-determine the amount of compensation after considering all the relevant evidence which has been adduced or may in future be brought on the record in accordance with the law as it now stands. The parties have been directed to appear before the Arbitrator on 25th of November, 1963. The costs would abide the event.