

(1985) 08 P&H CK 0098
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1968 of 1985

Nazir Khan

APPELLANT

Vs

Shri Chand Proprietor Rozy Stores, Ludhiana

RESPONDENT

Date of Decision : 13-08-1985

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 — Section 10

Citation : (1986) 1 RCR(Rent) 679

Hon'ble Judges : M.M. Punchhi, J

Bench : Single Bench

Advocate : Ujagar Singh and Mr. G.S. Punia, for the Appellant; H.L. Sarin , Mr. D. Khanna and Mr. R.L. Sarin, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Punchhi, J.—The Petitioner herein is a landlord. The Respondent herein, the tenant, filed a civil suit complaining breach of an amenity attached to his tenancy and thereby successfully obtained a mandatory and prohibitory injunction from the civil Court. The injunction remained confirmed in the Court of the District Judge as well as in this Court, in R. S. A. No 2160 of 1984 decided on 26th September, 1984. When the tenant sought to execute the decree, an objection was raised by the landlord in the executing Court that the civil Court had no jurisdiction to pass the decree in face of the provisions of Section 10 of the East Punjab Urban Rent Restriction Act. The objection was over-ruled which has given rise to the present petition for revision at the instance of the landlord.

2. Mr. Ujagar Singh Learned Counsel for the Petitioner, vehemently urges that Section 10 of the Act impliedly bars a civil suit for it is specifically provided therein that a tenant in occupation of a building or rented land may apply to the Controller if the landlord has contravened the provisions of this section by cutting off or withholding any of the amenities enjoyed by the tenant without just or sufficient cause. The Controller on complaint and inquiry can restore such amenities directing the landlord for the purpose. From this it is sought to be

deducted that when a specific remedy has been provided under the Act, a civil suit was impliedly barred.

3. On closer scrutiny, the argument does not hold good. Distinctively in Section 13 of aforesaid Act, eviction of tenants can be sought only under that provision and none other. Specifically therein the jurisdiction of the civil Court has been barred, for eviction by means of a suit, after the operation of Section 13, stands ruled out. The Legislature advisedly has not used any such language in Section 10. Two remedies provided for the same cause of action are not antagonistic to each other. Both exist side by side making it optional for the aggrieved party to avail of I can read no such implied prohibition in Section 10 to oust the jurisdiction of the Civil Court. The objection thus raised by the tenant is utterly devoid of force deserving to be rejected as also, as a result thereof, the revision petition. Accordingly this petition fails and is hereby dismissed. The parties through their counsel are directed to put in appearance before the executing Court on 30.8.1985.