

(1968) 11 P&H CK 0008
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 605 of 1968

Shrimati Raj Kumari

APPELLANT

Vs

Shri Shadi Lal

RESPONDENT

Date of Decision : 19-11-1968

Acts Referred:

East Punjab Urban Rent Restriction Act, 1949 — Section 13

Citation : (1969) RCR(Rent) 52

Hon'ble Judges : Prem Chand Pandit, J

Bench : Single Bench

Advocate : M.R. Agnihotri, for the Appellant; A.L. Bahri, for the Respondent

Final Decision : Dismissed

Judgement

P.C. Pandit, J.—This is a landlord's revision petition against the decision of the appellate authority confirming on appeal the order of the Rent Controller dismissing her application for the eviction of the tenant.

2. Shrimati Raj Kumari owns the house in dispute which is situate in Ludhina City. She had given its ground floor on a monthly rent of Rs. 60/- to Shadi Lal, the first floor being occupied by herself. The landlord filed an application for the ejectment of the tenant u/s 13 of the East Punjab Urban Rent Restriction Act (hereinafter called the Act) on a number of grounds but we are, in the present revision petition, concerned with only one of them, namely, that the entire building was in a dangerous condition and unfit for human habitation. The Rent Controller, after discussing the evidence produced in the case came to the conclusion that the landlord had failed to establish that ground. He was of the view that the building was repairable and could be set right. The ejectment application was. consequently, dismissed.

3. Aggrieved by that order, the landlord went in appeal before the appellate authority. He was of the opinion that although the landlord had pleaded that the building had become unfit and unsafe for human habitation, but she had not

alleged anywhere in her application for ejectment that she required the same for rebuilding it. Her case was, therefore, not covered by section 13(3)(a)(iii) of the Act and the tenant was not liable to be evicted. As a result of this finding, her appeal was dismissed. It might be mentioned that the appellate authority did not give a finding as to whether or not the premises in dispute, as a matter of fact, had become unfit or unsafe for human habitation. Against this decision, the landlord has come here in revision.

4. The first point urged by the learned counsel for the petitioner was that under the provisions of section 13(3)(a)(iii) of the Act, all that was necessary for the landlord to prove was that the tenanted premises had become unsafe or unfit for human habitation and if that was done, the tenant was liable to eviction on that ground. It was not further obligatory for the landlord to allege and establish that he required the same for rebuilding it. In that connection, he referred to a Full Bench decision of the Delhi High Court in *Sant Ram v. Mekhu Lal* (1968)70 P.L.R. 195 where it was held that it was not necessary for a landlord, when applying or being put in possession of his building or rented land u/s 13(3)(a)(iii) of the Act, to plead and establish that he required the same in order to carry out any building work.

5. This authority undoubtedly supports the petitioner but so far as this Court is concerned, it has taken a contrary view, first in a Single Bench decision by *Falshaw C. J.* in *Panna Lal v. Jagan Nath* (1963)65 P.L.R 528 and then, subsequently, by a Division Bench in *Chuhar Mal v. Balak Ram* (2964) 66 P.L.R 503. In *Parma Lal's* case, it was observed that u/s 13(3)(a)(iii) of the Act, the landlord must plead and prove that he required the premises for carrying out building work and that was either because of some order from the Government, local authority or improvement trust or else that the building had become unsafe or unfit for human habitation. Similarly, in *Chuhar Mal's* case, it was held that a landlord should be entitled require the premises to be vacated, if in fact he wanted to re-erect them either because he was so required to do by a competent authority or because the premises were no longer safe or fit for human habitation. Sitting singly, I am bound by the Bench decision in *Chuhar Mal's* case. Following the same, I would re-pell the first contention of the learned counsel for the petitioner.

6. It was then contended that even if it be held that the landlord had to allege and prove that he required the premises for rebuilding it, in addition to the fact that the premises were unsafe or unfit for human habitation, in the instant case, the landlord had made such an allegation in the eviction application and the appellate authority was wrong in assuming that the landlord had not done so. In that connection, he referred to para 3 (b) of the application, where it was stated thus:

That the entire building is in a bad condition. The roofs are rotten, they are in dangerous condition. The building is in a dangerous condition and unfit for human habitation. The stairs are in a dilapidated condition. It is falling. The walls

are Kacha. In order to set right the upper storey, the possession of lower storey is necessary. The lower storey is also in dangerous condition and untenable.

It was submitted by him that when the landlord had said that in order to set right the upper storey, the possession of the lower storey was necessary, that meant, that she wanted to re-erect the premises or carry out any building work.

7. This contention also is without any substance. In the first place, it was not raised before the appellate authority. Secondly, the contents of paragraph 3(b) of the application, quoted above, cannot be interpreted to mean that the landlord wanted to re-erect or rebuild the premises from which eviction was sought. As I have already said, the landlord had given the ground floor of the house to the tenant on rent and it was from this portion that eviction was sought by her. It was not mentioned in paragraph 3 (b) that the landlord wanted either to carry out any building work or re-erect or rebuild the ground floor. Thirdly, the words "set right" used in the context showed that the landlord wanted to do the necessary repairs required in the upper storey. It could not be said that this expression used here meant that she wished to reconstruct or rebuild the premises in dispute. Moreover, it is pertinent to mention that the landlord in her evidence also had not mentioned that she required the premises to be vacated, because she wanted to re-erect them or rebuild them.

8. No other contention was raised by the learned counsel for the petitioner. The result is that this petition fails and is dismissed, but with no order as to costs.