
(1979) 07 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1219 of 1979

Smt. Bal Kaur and others

APPELLANT

Vs

Shri Chander Parkash

RESPONDENT

Date of Decision : 26-07-1979

Acts Referred:

Transfer of Property Act, 1882 — Section 108(f)

Citation : (1979) 07 P&H CK 0014

Hon'ble Judges : S.P. Goyal, J

Bench : Single Bench

Advocate : G.R. Majithia, for the Appellant; H.L. Sarin with Mr. M.L. Sarin and Mr. R.L. Sarin, for the Respondent

Final Decision : Allowed

Judgement

S.P. Goyal, J.—This revision petition is directed against the order of learned Sub Judge 3rd Class, Jullundur, dated May 17, 1979 whereby on application by the plaintiff, he was permitted to carry out the necessary repairs of the shop, in dispute, alleged to be on rent with him

2. The learned Sub Judge, for passing the order, relied on Section 108 (f) of the Transfer of Property Act (hereinafter referred to as "the T.P. Act") which provides that if the lessor neglects to make within a reasonable time after notice any repairs which he is bound to make to the property, the lessee may make the same himself, and deduct the expense of such repairs with interest from the rent, or otherwise recover it from the lessor. The learned counsel for the petitioner has challenged the correctness of this plea on the ground that the question of repairs has to be settled in accordance with the provisions of Section 12 of the East Punjab Urban Rent Restriction Act 1949 (hereinafter referred to as the Rent Act) and the Civil Court has no jurisdiction to invoke the provisions of the T.P. Act which is not applicable in Punjab to pass orders allowing the tenant to carry out the repairs

3. Mr. H.L. Sarin, the learned counsel for the respondent, on the other hand, contended that the provisions of Section 12 of the Kent Act are enabling one and the jurisdiction of the Civil Court is not excluded either expressly or by implication. I am, however, unable to accept this contention. When a special statute has been enacted which provides for making of repairs by the tenant the Civil Court cannot fall back upon the provisions of the T.P. Act for that purpose. May be, if the T.P. Act was applicable it could be said that there would be concurrent jurisdiction with the Rent Controller and the Civil Court to pass orders in this respect but as the Act is not applicable, its provisions cannot be invoked on matters for which a provision has been made in the Rent Act.

4. A similar view was taken by R.N. Mittal, J. in *Ram Dass v. Smt. Kailash Wan* etc. 1978 Cri. L.J. 350 wherein it was held that the provisions of Sections 51 and 108 of the T.P. Act have no applicability in view of the specific provisions contained in the Rent Act.

5. Consequently this petition is allowed and the impugned order set aside. No costs.