
(1998) 05 P&H CK 0115
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 4429 of 1997

The Ropar Central Cooperative Bank Limited	APPELLANT
Vs	
The Punjab Khadi Mandal and Another	RESPONDENT

Date of Decision : 19-05-1998

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 23 Rule 1
East Punjab Urban Rent Restriction Act, 1949 — Section 13(3)

Citation : (1998) 120 PLR 418 : (1998) 2 RCR(Rent) 456

Hon'ble Judges : V.S. Aggarwal, J

Bench : Single Bench

Advocate : D.V. Sharma, for the Appellant; J.M. Sethi, for the Respondent

Final Decision : Dismissed

Judgement

V.S. Aggarwal, J.—By virtue of the present revision petition filed by the Ropar Central Cooperative Bank Limited (hereinafter described as "the petitioner") the order passed by the learned Rent Controller, Chandigarh dated 25th January, 1995 and that of the Appellate Authority, Chandigarh dated 21st August, 1997 are being assailed. The learned Rent Controller had passed an order of eviction which was confirmed by the Appellate Authority.

2. The relevant facts are that respondents (Punjab Khadi Mandal and Kshetariya Punjab Khadi Mandal) had filed a petition for eviction against the petitioner seeking ejectment from shop-cum-Flat No. 9, Sector 22-D, Chandigarh. The first and second floors had been let out. the surviving ground which required adjudication in the present revisions petition is that the property in question is required by the landlord for their own use and occupation. It had been explained that there were 19 employees including the Chairman. In 1983 there were only 14 employees. Free accommodation is provided. The property in question is required for the employees of the respondents. The property in question was stated to be residential.

3. The petitioner contested the petition for ejectment. Preliminary objection was taken that earlier a petition for eviction was filed. The respondent-landlord had withdrawn the same after the learned Rent Controller had dismissed the said petition. It is prayed that the second petition is barred by the principle of res-judicata. It is denied that the respondents-landlord bona fide required the property for their own use and occupation. It was stated to be owning many houses. It was pointed out that the employees of the respondents do not form part of the members of the family. The building was stated to be non residential.

4. The learned Rent Controller framed the issues and with respect to the ground of eviction mentioned above held that the respondent-landlord bona fide require the property for the residence of the employees. The building in question was stated to be residential. Accordingly, the order of eviction was passed. In appeal the Appellate Authority upheld the findings of the learned Rent Controller, Chandigarh. Reliance was placed on the statement of the petitioner's witness who has described the first and second floors to be used as residence and that in fact they were flats. The findings of the learned Rent Controller were approved and the appeal was dismissed.

5. During the course of arguments, learned counsel for the petitioner raised two contentions; firstly that the petition for eviction was barred by the principle of res-judicata and secondly that the property in question could not be vacated on the grounds contemplated u/s 13(3) (a) of the East Punjab Urban Rent Restriction Act because employees of the respondents-landlord were not the members of the family.

6. After hearing the learned counsel, it is patent that the contentions raised are devoid of any merit. It is not in controversy that earlier a petition for eviction has been filed by the respondents-landlord. The said petition for eviction had been dismissed. An appeal was filed by the respondents landlord. In appeal permission was taken to file a subsequent petition for eviction. Once the permission had been granted, indeed the respondents-landlord could file another petition for eviction. The principle of res judicata in these circumstances will have no role to play

7. With respect to the second contention it was urged vehemently that reference can well be made to Section 13(3)(a) of the East Punjab Urban Rent Restriction Act, 1949. It reads:-

"13(3)(a). A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession -

(i) in case of a residential (x x x) building if -

(a) he requires it for his own occupation;

(b) he is not occupying any other residential (x x x) building (x x x) in the urban area concerned; and

(c) he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area;

(d) it was let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and the tenant has ceased whether before or after the commencement of this Act, to be in service or employment.

Provided that where the tenant is a workman who has been discharged or dismissed by the landlord from his service or employment in contravention of the provisions of the Industrial Disputes Act, 1947, he shall not be liable to be evicted until, the competent authority under that Act confirms the order of discharge or dismissal made against him by the landlord."

It is abundantly clear from aforesaid that if the landlord requires the residential building for his own occupation, then in the event of other ingredients being satisfied, he could seek eviction of the tenant. The expression "for his own occupation" necessarily implies that he requires it for himself. The expression "for his own occupation or himself" cannot be confined to a restrictive meaning. The word "himself" would certainly include not only himself but members of his family dependent upon him for purposes of residence. In case of a company since it is a juristic person, the expression "for his own occupation or himself" would include the employees to whom the residence has to be provided. After all the company will not live but only the employees of the company has to reside in the property.

8. In *Richter v. Wilson* 1963 (2) All.E.R. 335 it was observed by Willmer L.J. "Quite plainly the expression "himself, must include all the normal examinations of himself. For instance, if a landlord is a married man, he must be entitled to include with himself, his wife and any children of his who are resident with him in the same household."

9. This question had been considered by the Delhi High Court in the case of *P.D. Sharma v. Ram Lubhaya* 1970 R.C.J. 160. Under the Delhi Rent Control Act, 1958 when the landlord requires the property for himself, then in any question being satisfied, he can claim the eviction of the tenant. The Court while construing the word "himself" held:-

"The word "himself" at first would appear to refer to the landlord alone. Man is a social being and hardly anyone in this world lives alone by himself. The family of the landlord is, therefore, bound to live with him. It would be reasonable to construe the word "himself", therefore, to include the family of the landlord also. In the narrower sense "family" would include only husband, wife and the unmarried children, but not the wives and children of the married children. In each case, it would be a question of fact as to what particular member of the family would be necessarily entitled to live with the landlord, so that it could be said that the premises are needed for himself and the necessary members of his family."

A Division Bench of this Court in the case of Swami Triguna Nand v. Mahabir Dal of Kalka (1963) 65 P.L.R. 1124 while approving the earlier decision of this Court in the case of Siri Kishan v. Ghanesham Das (1992) 64 P.L.R. 1141 held:-

"Now, a Division Bench of this Court in Siri Kishan and Ors. v. Ghanesham Dass has held that a juristic person (like a trust) is entitled to take advantage of Section 13 sub-section (3) of clause (a) sub-clause (i) of the East Punjab Urban Rent Restriction Act and that therefore the trustees can ask for the ejectment of a tenant from a residential building in order to start a school in the said building."

The position herein is identical. There are clear findings of fact that the respondents- landlord require the property for residence of the employees. When the property is available for their residence, it would include the requirement of the landlord. It is a company. Therefore, it would be covered by the expression "himself. In these circumstances, the order of eviction was rightly passed. There is no ground to interfere.

10. For these reasons, the revision petition being without merit must fail and is dismissed. The petitioner is granted two months time to vacate the property.