
(1963) 10 P&H CK 0004

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 290-D of 1959

Aziz Ahmed

APPELLANT

Vs

Mst. Zetoo Begum

RESPONDENT

Date of Decision: Oct. 1, 1963

Acts Referred:

- Delhi and Ajmer Rent Control Act, 1952 - Section 13(5)

Hon'ble Judges: D.K. Mahajan, J

Bench: Single Bench

Advocate: B.C. Misra, for the Appellant; Daya Krishan, for the Respondent

Final Decision: Dismissed

Judgement

D.K. Mahajan, J.

This is a petition for revision and is directed against the concurrent decisions of the Courts below decreeing the landlord's suit for eviction of the tenant. The premises were purchased by the landlady on the 24th April, 1957, and the suit for eviction was filed on the 16th May, 1957, on the only ground that the landlady needed the premises for her own use and for the use of her family members. The trial Court decreed the suit holding that the landlady had succeeded in proving her personal necessity. An appeal was taken against this decision to the lower appellate Court and the lower appellate Court affirmed the decision of the trial Court and dismissed the appeal.

It may be mentioned that the tenant's defence was struck off because of his non-compliance with the order of the trial Court u/s 13(5) of the Delhi and Ajmer Rent Control Act, 1952. It is against the decision of the lower appellate Court that the present petition for revision has been filed.

2. The first contention of the learned counsel for the petitioner is that the order striking off the defence of the tenant is not a legal order. For this contention he relies on a Single Bench decision of this Court in Dr. Savitri Gupta v. Uma Kumari

(1959) 61 P.L.R. 248. Prima facie, that decision supports the contention but in my opinion that has no applicability to the facts of the present case. In the present case, when the application u/s 13(5) was made to the trial Court, the period for which the rent was due was claimed to be in arrears and the rate of rent was also specified. No written statement was filed to that application, but a statement was made in Court by the tenant that he did not object to the landlady's application and will comply with order that may be passed. In view of that statement the Court passed the order that the arrears of rent be paid and that the future rent be paid month by month. In Savitri Gupta's case what prevailed with the learned Judge was that it was not clear what the trial Judge intended because according to section 13(5) it is the Judge who is to specify the rate of rent and the period for which rent is due. In that case an application u/s 13(5) of the Act did not either specify the rate of rent or the period for which the rent was due. The allegations in this application were also not admitted by the opposite party. On the other hand the order in the present case was passed on the basis of the application, and the statement of the tenant, admitting the facts set out in the landlord's application. Therefore, the order must be read along with the application and the statement. It would thus be clear that in the absence of similar facts in Savitri Gupta's case, the learned Judge was right in holding that the order was not legal. Therefore Savitri Gupta's case has no applicability to the facts of the present case.

3. The next contention raised is that the time should have been extended. So far as this matter is concerned, in a Bench decision of this Court in Civil Revision No. 583-D of 19582 decided on 23rd October, 1962, by Dulat and Capoor, JJ. it has been held that the Court has no jurisdiction to extend the time. This contention is also without force and is rejected.

4. It was further argued that in view of the provisions of the Delhi Rent Control Act, 1958, the defence should not have been struck off. This contention is also without force because the matter had been concluded before the 1958 Act came into force and in view of the Supreme Court decision in Karm Singh Sobti v. Sri Partap Chand 2 (Civil Appeal No. 392 of 1963) decided on 29th August 1963, this contention must also fail.

5. The last contention of the learned counsel for the tenant is on the merits of the matter and for that reliance is sought to be placed on the cross-examination of the witnesses. I cannot look at the cross-examination for the simple reason that the defence of the petitioner was struck off. Therefore, whatever has been brought in cross-examination must be overlooked and so far as the record minus the cross-examination goes it fully justifies the order of the Courts below.

6. In this view of the matter, this petition fails and is dismissed with costs.