

(1963) 09 P&H CK 0006

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 46 of 1963

Mst. Ranjit Kaur and Others

APPELLANT

Vs

Harbel Singh

RESPONDENT

Date of Decision: Sept. 26, 1963

Acts Referred:

- Displaced Persons (Compensation and Rehabilitation) Act, 1954 - Section 29, 4
- East Punjab Urban Rent Restriction Act, 1949 - Section 13

Citation: AIR 1964 P&H 103 : (1963) 65 PLR 1023

Hon'ble Judges: P.C. Pandi, J; Dulat, J

Bench: Division Bench

Advocate: B.S. Wasu and H.S. Wasu, for the Appellant; H.L. Sarin, V.P. Sud and K.K. Cuccrta, for the Respondent

Final Decision: Dismissed

Judgement

Dulat and P.C. Pandit, JJ.

This is a tenants' petition against the order of the Appellate Authority reversing the decision of the Rent Controller and ordering their eviction from the premises in dispute.

2. The property involved in this case is a part of a house, which was evacuee property. It was in possession of various occupants, including Harbel Singh, Respondent, and the whole of it was later on purchased by him, and the other allottees had been asked to attorn to him. The conveyance deed in his favour was executed on 14th June, 1960 and registered on 26th July, 1960. It was mentioned in this deed that the said property was being transferred to him with effect from 1st October, 1965. On 4th July, 1960 he filed an application u/s 13 of the East Punjab Urban Rent Restriction Act for ejectment of the other occupants, his tenants, on the grounds of (1) the tenants being in arrears regarding payment of rent (2) his personal necessity and (3) the tenants having impaired the value and utility of the

leased premises.

3. The tenants denied all the allegations and contended that there was no relationship of landlord and tenant between the parties and that the landlord was not entitled to apply for their eviction in view of the provisions of Section 29 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (hereinafter referred to as the Act). The arrears of rent, however, were tendered on the first date of hearing.

4. The Rent Controller found that there was relationship of land-lord and tenant between the parties and that the tenants were no longer entitled to the protection afforded by Section 29 of the Act, whereunder the ejectment of the tenants is barred for a period of two years. He, however, found that the landlord was not able to establish the grounds of eviction and, consequently, his petition was dismissed.

5. When the matter was taken in appeal by the landlord before the Appellate Authority, it was held that the landlord had been able to establish the ground of personal necessity. As a result, his appeal was accepted, the order of the Rent Controller was set aside and the tenants were directed to put the landlord in possession of the premises in dispute within three months from the date of the order passed by the Appellate Authority.

6. Against this decision the tenants filed the present revision. It came up for hearing before Harbans Singh J. Before the learned Judge it was stated that the question whether two years' period u/s 29 of the Act should be taken to start from the date of the sale or the date of the execution of the sale deed had been referred to a Division Bench in Jaimal Singh v. Smt. Gini Devi C.R. No. 330 of 1960 and the same question was involved in the present case. On behalf of the landlord, it was argued on the basis of certain authorities of this Court that even if the period of two years was to be counted from the date of the execution of the sale deed, that period, in fact, expired by the time the Appellate Authority had decided the appeal. According to the prima facie view of the learned Judge, this fact should not have made any difference, but as the main point involved in the case had already been referred to a Division Bench, the learned Judge held that it would be proper that this allied question as to whether it made any difference if the period of two years from the date of the execution of the sale-deed expired during the pendency of the ejectment application or the appeal against the order of the Rent Controller, if the original ejectment was filed before the expiry of such period, should also be referred to a larger Bench. He, consequently, referred this case to a Division Bench and that is how the matter has come before us.

7. Admittedly, the property in dispute was transferred to the Respondent and not purchased by him in public auction. Before this transfer, he was an allottee of the same along with the Petitioners. Therefore, the provisions of Rule 34, appearing in Chapter V, of the Displaced Persons (Compensation and Rehabilitation) Rules, 1955,

would be applicable in this case. This rule prescribes as to when such a property would be deemed to have been transferred to a particular person. The relevant portion of this Rule runs thus -

R. 34. Where any property is transferred to any person under this Chapter, the property shall be deemed to have been transferred to him:-

(a) Where such person had made an application for the payment of compensation before 31st October, 1953, from the first day of November, 1956;

(b)

(c) Where compensation applications are invited before a specified date, from the first day of the month following such date:-

(d) In any other case, from such date as the General Government may, by general or special order specify.

In the present case, it is common ground that the conveyance deed, which was executed on 14th June, 1960 and registered on 26th July, 1960, clearly specified that the property was being transferred to the Respondent with effect from 1st October, 1955. Under these circumstances, by virtue of Clause (d) of Rule 34, the property would be deemed to have been transferred to him with effect from 1st October, 1955 because this date was, by a special order, specified in the deed of conveyance itself. That being the case, the Petitioners cannot claim the benefit of the provisions of Section 29 of the Act, which prohibited the ejectment of the tenants of the premises for a period of two years from the date of its transfer, because this period had already expired when the ejectment application was made on 4th July, 1960. A similar point arose for decision in (Mulkh Raj v. Labhu Ram C.R. No. 213 of 1960) decided on 29th March, 1961, wherein the same view was taken by G.D. Khosla, C.J.

8. Moreover, according to the provisions of Clause (a) of Rule 34, in the case of all those persons who had made applications for payment of compensation before 31st October, 1953, the property would be deemed to have been transferred to them with effect from the first day of November, 1953. With regard to the persons covered by Clause (c), the Notification was issued by the Ministry of Rehabilitation on 27th June, 1955 and it runs as under-

S.R.O. 1364.-In exercise of the powers conferred by sub-sections (1) and (2) of Section 4 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby requires all displaced persons having a verified claim, other than those who have already applied for compensation, to make applications, in duplicate, for the payment of compensation, within three months of the date of this Notification, in accordance with the provisions of the said Act and the Rules made thereunder." From this Notification, it would be clear that the last date for making these applications was 26th September, 1955 and, therefore, according to Clause (c) the property would be deemed to have been

transferred to them with effect from 1st October, 1955. This shows that in the present case, the property was rightly transferred to the Respondent with effect from 1st October, 1955.

9. Learned Counsel for the Petitioners could not seriously urge anything against the view expressed above and also conceded that no other point arose for decision in this case.

10. The result is that this petition fails and is dismissed. In the circumstances of this case, however, the parties are left to bear their own costs in this Court as well.