

Nirmal Singh Gill Vs United Church of Northern India Trust Association Moga and another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Nov. 7, 1988

Acts Referred: East Punjab Urban Rent Restriction Act, 1949 "Section 13(3)(a)(i)(d)"

Hon'ble Judges: Naresh Chander Jain, J

Bench: Single Bench

Advocate: Vijay Jhanji and Mr. O.P. Sharma, for the Appellant; Sanjay Majithia for Respondent No. 1 and Mr. Sanjiv Pabbi, for the Respondent

Final Decision: Dismissed

Judgement

Naresh Chander Jain, J.

The Petitioner-tenant has filed this Revision Petition against the orders of the authorities below by which he has

been ordered to be evicted from the demised premises u/s 13 (3) (a) (i) (d) of the East Punjab Urban Rent Restriction Act 1949 (hereinafter called

"the Act") The facts of the instant case may briefly be stated in order to appreciate the question of law which arises for determination in this

revision petition.

2. The landlord filed an ejectment application on the ground that the Petitioner was employed as a teacher and that since he has ceased to be in the

employment of the landlord he is liable to be evicted u/s 13 (3) (a) (i) (d) of the Act. It is the case of the landlord that the premises in question were

let out to the tenant for use as a residence for the reason of his being in service and employment of the landlord for the period for which he was to

remain in service. This averment in the application was not denied. The relevant averment made in paragraph 5 of the application is reproduced

below:

That the premises in question were let out to the Respondent for use as a residence for reason of his being in service and employment of the

applicant for the period for which he will remain in service.

The relevant reply to the above mentioned paragraph 5 is reproduced below:

Paragraph 5 is correct.

3. This being the factual position, the precise question of law which arises in this case is whether an employee who has been let in residential

accommodation because of his being in service, can be ordered to be evicted therefrom u/s 13 (3) (a) (i) (d) of the Act when he ceases to be an

employee or that the landlord has to have recourse under the general law by filing a suit for possession treating such a tenant either as a trespasser

or a licensee ?

4. Mr. V. K. Jhanji, learned Counsel for the Petitioner-tenant has vehemently argued that since the Petitioner was a licensee and not a tenant of the

landlord, he could not be evicted under the provisions of the Rent Act and that he could be evicted only through the Civil Court. In support of his

argument he has relied upon two judicial pronouncements, namely, B.M. Lall (Dead) by Lrs. Vs. Dunlop Rubber and Co. Ltd. and Others, and S.

S. Bedi v. Punjab Public School and Anr. 1981 (2) R. L. R. 571.

5. On the other hand, Mr. Sanjay Majithia, learned Counsel for the Respondent-landlord has argued that the present case is covered by S 13 (3)

(a) (i) (d) of the Act He has further brought to my notice letter Exhibit A. 3 in which permission to enclose the back verandha was sought and it

was specifically written that he will leave the enclosure without claiming any compensation at the time of the vacation of the house on his retirement.

The precise argument of the learned Counsel is that both the parties took it for granted that the residential house was given to the tenant by reason

of his being in service and this was the precise wording of the letter Exhibit A. 2 in which it was written that the Petitioner was entitled to a rent free

accommodation on the premises of the school from the date of his joining. The learned Counsel has placed firm reliance on two judicial

pronouncements viz: S.S. Jain Sabha, Hansi v. Smt. Krishna Devi Sharma (1987) 92 P. L. R. 160. and Karam Chand Thapar and Bros. v. A. B.

Gujral Private Limited 1986(2) C L J, 345.

6. After hearing the learned Counsel for the parties and going through the record of the case with their help, I am of the view that there is do force

in the present revision petition and the same deserves to be dismissed.

7. Before discussing the case law cited at the Bar, let the bare provisions of Section 13 (3) (a) (i) (d) of the Act be interpreted in the first instance

which is reproduced below:

Section 13 (3) (a):A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession: (i) in the case of a

residential building, if- (a) to (c)

X X X X

(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 such service or employment.

8. In my view the only interpretation which can be put upon the above mentioned wording of the statute is that a landlord is entitled to evict his

tenant (employee) if such a tenant has been let in the possession of residential accommodation by reason of his being in the service or employment

of the landlord and such tenant has ceased to be in the service or employment of the landlord. Even the payment or nonpayment of rent would not

make any difference whatsoever. The sole determining factor for attracting the applicability of Section 13 (3) (a) (i)(d) of the Act is that if a

particular residence has been given to an employee by his employer on account of his being in the service of the employer the former will have to

vacate the residential accommodation on his ceasing to be in the service of the latter and if he does not do so, the landlord would be well within his

right to prefer an application u/s 13 (3) (a) (i) (d) of the Act and seek his eviction. In such a situation the tenant cannot successfully urge that the

employer | should file a civil suit for possession treating him to be a trespasser. Similarly, he cannot be heard to say by the Court that he was a

licensee and that it is only a suit for mandatory injunction or possession which is maintainable. This is the only pure and simple interpretation of the

Section and no other interpretation is possible. To put any other interpretation to the wording of the statute would amount to reading something

more which is not there in the section and rather it would make the very provisions of the statute redundant and would defeat the very object for

which Section 13 (3) (a) (i) (d) of the Act has been enacted by the Legislature.

9. The Hon^{ble} Supreme Court in Karam Chand Thapar's case (supra) while dealing with similar provisions of the West Bengal Premises Rent

Control (Temporary Provisions) Act, 1950 repealed by West Bengal Premises Tenancy Act, 1956 allowed the landlord's petition for eviction.

The wording of Section 13(1) (g) of the Act which is reproduced below is similar to the wording of Section 13 (3) (a) (i) (d) of the East Punjab

Urban Rent Restriction Act, 1949.

Section 13 (1) (g) of the West Bengal Premises Tenancy Act:

Notwithstanding anything to the contrary in any other law no order or decree for the recovery or possession of any premises shall be made by any

court in favour of the landlord against a tenant except on one or more of the following grounds, namely:

(a)

(b)

(c)

(d)

(e)

(f)

(ff)

(g) Where the premises were let to the tenant for use as residence by reason of his being in the service or employment of landlord and he ceased

before or after coming into operation of this Act to be in such service or employment.

Similarly, in S. S. Jain Sabha's case (supra) while dealing with the provisions of the Haryana Urban (Control of Rent and Eviction) Act, 1973 this

Court also ordered the eviction of the employee who was in occupation of the residential accommodation by virtue of his being in the employment

of the landlord.

10. The ratio of law laid down in I. B. M. Lall's case (supra) and 5. S. Bedi's case (supra) is not applicable to this case. The Apex Court in T B.

M. Lall's case (supra) was dealing with the general principles of law on the point of distinction between the "lessee" and the "licensee" In S. S.

Bedi's case (supra) this Court did not precisely deal with the relevant clause of Section 13(3) (a) (i) (d) of the Act which is the subject matter of

interpretation in this case. In fact, both the cases were decided on the basis of their own facts by applying the general principles of law. It may be

noted here that in the present case there is no plea taken by the tenant that he was a licensee. On the other hand, the ratio laid down in the other

two judgments i. e. one by the apex court in Karam Chand's case (supra) and by this Court in S. S. Jain Sabha's case (supra) is fully applicable

the facts of the instant case.

11. For the reasons recorded above, this revision petition fails and is dismissed with no order as to costs. The Petitioner-tenant is, however,

allowed three months" time to vacate the demised premises.