(1964) 03 P&H CK 0043

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 654 of 1963

Hari Chand		APPELLANT
	Vs	
Niranjan Singh		RESPONDENT

Date of Decision: March 5, 1964

Acts Referred:

- East Punjab Urban Rent Restriction Act, 1949 - Section 4

Citation: (1964) 2 ILR (P&H) 344 : (1964) 66 PLR 640

Hon'ble Judges: Capoor, J

Bench: Single Bench

Advocate: J.L. Gupta, for the Appellant; K.S. Thapar, for the Respondent

Final Decision: Allowed

Judgement

Capoor, J.

Hari Chand, who was the tenant of a certain shop in Mandi Bahadurgarh at a rent of Rs. 525/- per annum, applied to the Rent Controller, Malerkotla, u/s 4 of the East Punjab Urban Rent Restriction Act 1949, (Act No. 3 of 1949), for fixation of fair rent of the shop at Rs. 10/- per mensem. Mandi Bahadurgarh was originally a part of a village in Ludhiana district but by a notification dated the 26th March, 1959, issued under sub-section (a) of section 5 of the Punjab Municipal Act, 1911, the area in dispute was included within the municipal limits of Ahmadgarh. The landlord resisted the application for fixation of fair rent on the ground that the Act was not applicable. The Rent Controller framed the following preliminary issues:

(1) Whether this Court has no jurisdiction to entertain the application as the Punjab Rent Restriction Act has not been extended to this area ?

(2) Whether the question is barred on principles of res judicata and the respondent is now estopped from taking this plea as he had already in an earlier proceedings applied under this very Act?

The first issue was found by the learned Kent Controller against the tenant and the second in his favour with the result that the application was dismissed. The tenant went up in appeal to the appellate authority under the Act (District Judge, Barnala), who upholding the finding of the trial Court on the point of jurisdiction, dismissed the appeal. Hence this revision petition.

2. On the question of jurisdiction, the relevant provisions are sub-section (2) of section 1 and clause (j) of section 2 of the Act; by the former the Act is extended to all urban areas in Punjab but nothing contained in the Act shall be deemed to affect the regulation of house accommodation in any cantonment area. The definition of "urban area" in clause (j) in section 2 is as follows:

"urban area" means any area administered by a municipal committee, a cantonment board, a town committee or a notified area committee or any area declared by the State Government by notification to be urban for the purpose of this Act.

3. The Courts below were of the view that the extension of the municipal limits of Ahmadgarh to the area in which the shop in dispute is situated, would not bring that area within the definition of "urban area" inasmuch as that extension was made long after the Act had been brought into force. The Act, of course, came into force on the 25th March, 1949, but I do not see why its operation should be restricted only to those areas which were included within the limits of a municipal committee, the cantonment board, a town committee or a notified area committee as they existed at the time of the enforcement of the Act. The definition of "urban area" makes it clear that any area falling within the limits of municipal committee or other local bodies as mentioned in that clause are to be deemed urban areas for the purpose of the Act and are to be synonymous with urban areas. It is significant that out of the very numerous municipal committees and other local bodies as mentioned in clause (i) none was excluded from the operation of the Act.

4. The matter may be looked at from another angle. Suppose that after the enforcement of the Act some area is excluded from the limits of a municipal committee under the provisions of sections 6 and 7 of the Punjab Municipal Act, 1911, and if after such an exclusion and application is made under the provisions of the Urban Rent Restriction Act, 1949, it will be met by the objection that as the area in question is no longer administered by a municipal committee, it is not urban area within the meaning of clause (j) of section 2 of the Act and hence no application under the Act would be maintainable. I cannot conceive that in such a case the applicant would be heard to say that inasmuch as the Act applied to that particular area when it was enforced, it would continue to apply even though subsequently the area was excluded from the limits of the Municipal Committee. I am, therefore, of the view that the term "any area administered by a municipal committee" occurring in clause (j) of section 2, is to be interpreted in the sense of any area being administered by the municipal committee for the time being, that is, when the matter comes up for adjudication before the Court and not with reference to the position at the time of the coming into force of the Act.

5. The Courts below in support of the contrary view placed their reliance on the case reported as Abhey Kumar v. Faquir Chand Law1. This was a case not under the Punjab Act but under the Delhi and Ajmer Rent Control Act, 1952 (Act Mo. 38 of 1952). Sub-section (2) of S. 1 of the last mentioned Act provided that the Act extended to the areas specified in the First Schedule and may be extended by the Central Government, by notification in the Official Gazette, to such other areas in the State of Delhi or Ajmer as may, from to time, be specified in the notification. Among the areas in the First Schedule was the Municipality of Shahdara. Subsequently, the Chief Commissioner of Delhi issued a notification under sub-section (3) of section 5 of the Punjab Municipal Act (as extended to Delhi) extending the area of the Municipality of Shahdara so as to include the area comprised within the new township of Gandhi Nagar. The question arising in Abhey Kumar v. Faquir Chand Law (1964)56 P.L.R. 437 was whether by virtue of the Chief Commissioner''s notification the provisions of Delhi and Ajmer Rent Control Act, 1952, extended to the new township of Gandhi Nagar also. This question was decided in the negative and for two reasons (1) that the expression "the Municipality of Shahdara" appearing in the Schedule should be construed to refer to the area which was within the limits of this Municipal Committee on the 16th April, 1952, and (2) that this Act can be extended to a particular area only by the Central Government and by no other, authority.

6. The second ground is not available in the present case because here the same authority viz. the State Government, is the appropriate authority for the purpose of clause (j) of section 2 of the Act as well as section 5 of the Punjab Municipal Act. As regards the first ground, there is a difference in the wording of the two statutes. Sub section (2) of section 1 of the Delhi and Ajmer Rent Control Act, 1952, speaks of that Act extending to the areas specified in the First Schedule, that is, to certain specified areas, while in clause (j) of section 2 of the Punjab Act, that words used are general, that is, any area administered by municipal committee etc. 1 am, therefore, of the view that the case relied upon by the Courts below can be distinguished, and accordingly I accept the revision petition and holding that the Act is applicable to the property in dispute, I set aside the order of the Courts below though in the peculiar circumstances of the case the parties are left to bear their own costs in this Court. They are directed to appear before the trial Court on the 6th April 1964, for decision on merits.