(1974) 08 CAL CK 0005

Calcutta High Court

Case No: L.P.A. No. 79 of 1973 in F.A. No. 676 of 1971

Debranjan Chatterjee		APPELLANT
	Vs	
Swarnarani Biswas		RESPONDENT

Date of Decision: Aug. 4, 1974

Acts Referred:

- Bengal General Clauses Act, 1899 - Section 13, 14
- West Bengal Premises Rent Control (Temporary Provisions) Act, 1950 - Section 12, 12(1)
- West Bengal Premises Tenancy Act, 1956 - Section 13, 13(1), 13(2)

Citation: (1975) 2 ILR (Cal) 211

Hon'ble Judges: S.K. Mukherjea, J; M.N. Roy, J

Bench: Division Bench

Advocate: P.N. Mitter, Monmohan Mukherjee and Gouri Prasad Mukherjee, for the Appellant; H.K. Mitra, Bratendra Narayan Banerjee and N.K. Mitra, for the Respondent

Final Decision: Dismissed

Judgement

S.K. Mukherjea, J.

This appeal is directed against a judgment and decree of M.M. Dutt J. By his judgment, the learned Judge reversed a decree passed by the City Civil Court dismissing a suit brought by certain landlords against their tenant for possession on the ground that the premises is reasonably required for their own occupation. By a registered deed of partition, the premises in suit was allotted to the Plaintiff No. 1 and her daughter the Plaintiff No. 2. The Plaintiff No. 1, considerably advanced in years, has lost her husband and the Plaintiff No. 2, a married woman, is her only child. The daughter deposed before the trial Court that except for her, her mother has no one to look after her in her old age and that she requires the premises so that she can move in and be near her. There is evidence that at the time when the suit was heard the Plaintiff No. 1 was living in her father''s house at Pingla, a village

in the district of Midnapore. In cross-examination it was suggested that the house belonged to the Plaintiff No. 1 and she was residing there without any inconvenience to herself.

2. The learned trial Judge dismissed the suit on the ground that the Plaintiff No. 1 had not proved by evidence that she was not in possession of reasonably suitable accommodation. He held that she had failed to establish that the house belonged to her father and not to her. In that view of the matter, he came to the conclusion that it had not been proved that the accommodation at Pingla, of which the Plaintiff No. 1 was in possession, was not reasonably suitable for her and that in those circumstances it could not be said that she reasonably required the premises for her own occupation. At the hearing of the appeal, it was stated by the learned Advocate appearing on behalf of the Plaintiff No. 2 that she did not require the premises in suit for her own occupation. The learned appellate Judge found that the Plaintiff No. 1, an old lady, had no one to look after her except her daughter. He also found that, when residing in Calcutta, she used to put up in the premises which were allotted to a co-sharer of her husband on partition and she neither intended to live there any more nor was it desirable for her to do so. He also held that it was inconvenient for the Plaintiff No. 1 to live at Pingla as there was no one to see to her needs. In those circumstances, the learned Judge held that it was reasonable for her to require the premises in suit for her own occupation. In that view of the matter, the learned Judge disagreed with the trial Judge and held that the Plaintiff No. 1 had established the case of reasonable requirement. In our opinion, ''requirement'' spoken of in Section 13(1)(ff) should not be understood as requirement of accommodation anywhere. A place in a wilderness may provide plenty of accommodation, but such accommodation may not be reasonably suitable. ''Requirement'' includes requirement of accommodation in a particular place or in a specific neighbourhood. The reasonableness of the requirement has to be judged in the facts and circumstances of each case on its merits.

3. Mr. P.N. Mitter, appearing on behalf of the Appellant, contended before us that as the requirement is of the Plaintiff No. 1 alone and not of both the Plaintiffs, no decree could be passed having regard to the provisions of Clause (ff) of Sub-section (1) of Section 13 of the West Bengal Premises Tenancy Act, 1956. In other words, the argument is that in the contemplation of the statute, the requirement must be of all the owners of the premises. On that basis, Mr. Mitter submitted that the daughter, that is to say, ''the Plaintiff No. 2, having conceded that she does not require the premises for her own occupation, the requirement of her mother, the Plaintiff No. 1, is not by itself sufficient to lift the bar imposed by Section 13. Mr. Mitter relied on a recent judgment of S.K. Datta J. in Sriram Pasrisha v. Jagannath Sen and Ors. (1973) 77 C.W.N. 613 (616). There it was held by the learned Judge that in order to entitle a landlord to a decree for eviction u/s 13(1)(ff) of the Act, he must be the sole owner of the demised premises. A part-owner is not entitled to a decree for eviction on the ground stated in the said clause. His Lordship observed:

It will not be sufficient if the reasonable requirement is of all members of the family of the co-owners, but such co-owners must again be the landlords who only are made entitled to a decree for recovery of possession u/s 13(1).

In the appeal with which we are concerned, all the owners have joined as Plaintiffs. Their ownership of the premises is not in dispute. Therefore, it is not necessary for us to go into the question whether only one of the owners can successfully institute a suit against a tenant for eviction. The question with which we are concerned is whether in order to pass a decree u/s 13(1)(ff) of the Act, the Court has to be satisfied that the requirement is of all the co-owners. That was not the question with which the learned Judge was concerned in the case in Sriram Pasrisha (1). Mr. Mitter sought to draw sustenance from the observation of the learned Judge to which reference has been made. In our opinion, it will be reading too much in that observation to assume that the learned Judge held as a matter of law that unless the reasonable requirement is of all the landlords, Section 13(1)(ff) is of no avail. The learned Judge merely decided that all the owners must join, not that the requirement must be of all the owners.

4. It was then submitted by Mr. Mitter that on a proper construction of Section 13(1)(ff) it must be held that, in order to succeed the landlord or landlords must establish that the premises are reasonably required for his or their own occupation. Mr. Mitter relied on Section 14 of the Bengal General Clauses Act which corresponds to Section 13 of the General Clauses Act which provides by Sub-section (2) that words in the singular shall include the plural and vice versa. It was argued that, as in the present case, the landlords are more than one, the word ''landlord'' in the clause should be read as ''landlords'' and ''his'' should, therefore, be logically read as ''their'' or, in other words, the operative portion should be read as "the premises are reasonably required by the landlords for their own occupation". Attractive as the argument seems at first sight, on closer examination, it does not appear to be tenable. As was pointed out by a Division Bench of the Madras High Court in Chullikana Shambatta and Others Vs. Cherakoodlu Narayana Bhatta and Others, the section is an inclusive and not an exclusive provision which says that unless there is anything repugnant in the subject or in the context of a Central Act or Regulation, words in the singular shall include the plural, not that words in the singular shall exclude the singular In his judgment, Satyanarayana Rao J., speaking for the Court, pointed out at para. 6 of the report:

Section 13, General Clauses Act, is an inclusive definition and therefore extends the meaning of the singular word so as to include the plural and is not a restrictive definition. The definition applies only if there is nothing repugnant in the subject or context. The function of an interpretation clause is not, as is very often supposed, to substitute one set of words for another or to apply the meaning of the term under all circumstances, but merely to declare what may be included in the term when the circumstances required that it should be so interpreted.

The learned Judge relied on a passage from Craies on Statute Law where it is said:

If, therefore, an interpretation clause gives an extended meaning to a word, it does not follow as a matter of course that, if that word is used more than once in the Act, it is on each occasion used in the extended meaning and it may be always a matter for argument whether or not the interpretation clause is to apply to the word as used in the particular clause of the Act which is under consideration.

5. In the light of these principles of interpretation we are unable to hold that, if the word ''landlords'' is substituted for the word ''landlord'', the requirement has to be of all the landlords and not merely of one of them. It is not necessary, in our opinion, to import the plural in each and every part of Section 13(1)(ff) merely because the con text requires the plural for the singular in the word landlord''.

6. The point raised by Mr. Mitter appears to be concluded by a couple of reported Bench decisions of this Court. In Tarak Chandra Mukherjee v. Ratanlal Ghosal and Ors. (1959) C.L.J. 136 it was held by a Bench presided over by K.C. Das Gupta J. that on a construction of Section 12(1)(h) of the West Bengal Rent Control (Temporary Provisions) Act, 1950, a section in pari materia with Section 13(1)(ff) of the Act of 1956 that in this country the system of a number of persons having joint property is so very prevalent that it would amount almost to a denial of legal rights to owners of houses if in interpreting the language of Section 12, as regards requirement of the landlord, the Court holds that each member of a group of landlords must have separate requirements. The proposition was re-affirmed by a Division Bench consisting of Bachawat and Chatterjee JJ. in Kanika Devi and Ors. v. Amarendra Nath Roy Choudhury and Ors. (1961) 65 C.W.N. 1078. Bachawat J, speaking for the Court observed:

It is true that where there are more than one landlord, the word ''landlord'' in Clause (h) of the proviso to Section 12(1) must be read as ''landlords'' and the expression ''for his own occupation'' therein must be read as ''for their own occupation''; nevertheless, in the light of the decisions of this Court, the word ''their'' in the last expression must be read as meaning ''of them or of any one or more of them'' so that the requirement of the premises by the landlords for the occupation of one or more of them is sufficient to bring the case within the clause.

7. The learned Judge, in holding so, relied on precedents, but he could have equally relied on general principles of construction of statutes in support of his conclusion.

8. Having regard to the principles of interpretation to which we have alluded, the expression ''for his own occupation'' need not be read as ''for their own occupation'' merely because the term ''landlord'' has to be read as landlords''. In the context of the object of the Statute, it should be read as "for their own occupation or for the occupation of one or more of them".

9. Lastly, it was submitted by Mr. Mitter that the Plaintiff No. 2, who alone gave evidence, did not depose that her mother, the Plaintiff No. 1, is not in possession of reasonably suitable accommodation in Calcutta. Mr. Mitter contended that although in her evidence she stated that she had got no other house of her own in Calcutta besides the premises in suit, she did not say the same of her mother. This, Mr. Mitter submitted, is a lacuna in the evidence. After all, the onus is on the Plaintiff and it is for the Plaintiff to satisfy the Court that she had no access to any reasonably suitable accommodation in Calcutta. Taken in isolation, the point made by Mr. Mitter is no doubt sound. Be that as it may, when the entire evidence, is before the Court and on the evidence a reasonable inference arises that she has no other accommodation in the city, we do not feel that her claim should be dismissed on the ground of the lacuna, if a lacuna it is. There is evidence that when in Calcutta she was living in the premises in Sitaram Ghose Street with a relation of her husband with his leave and licence. There is also evidence that when she is not is Calcutta she lives in her father''s house at Pingla. It is true that the onus to prove reasonable requirement is on the Plaintiffs, but that does not detract from the fact that no question was put to the Plaintiff No. 2 in cross-examination on the point whether the Plaintiff No. 1 is in possession of any reasonably suitable accommodation in Calcutta. On a total view of the evidence we are unable to hold that mere absence of evidence on the question of possession of the Plaintiff No. 1 of any other house in Calcutta is sufficient by itself to destroy the force of the entire evidence.

10. The learned Advocate appearing on behalf of the Appellant has made it clear that the Appellant does not desire accommodation in a portion of the premises in suit. No question of partial eviction, therefore, arises in this case.

11. In the view we have taken, the decree of the learned appellate Judge is affirmed and the appeal is dismissed. There will be no order for costs.

12. Let the undertaking be filed and accepted.

13. The Appellant is granted time till January 31, 1975, to quit, vacate and deliver up peaceful possession of the premises in suit to either of the Plaintiffs by January 31, 1975.

M.N. Roy, J.

14. I agree.