

Chaman Lal deceased *v.* Smt. Amrit Kaur (Koshal, J.)

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(21) Consequently, I dismiss this writ petition as well as Civil Writ Petitions No. 1296, 1297, 1298, 1299, 1449, 1300, 1715, 1716 and 1717 of 1974. In the peculiar circumstances of the case, I make no order as to costs.

(22) It is, however, added for the sake of clarity that the parties would be at liberty to lead evidence in proof and disproof of the legality and justifiability or otherwise of the strike when the matter in dispute, referred to at No. 2 in the reference, i.e., entitlement of journalists, non-working journalists and other workmen to wages for the strike period, is tried on merits by the Tribunal, and it (the Tribunal) would record independent decision on the basis of evidence if led by the parties on that matter, irrespective of its opinion expressed about it in the impugned order.

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B.S.G.

REVISIONAL CIVIL

Before A. D. Koshal, J.

CHAMAN LAL DECEASED—Petitioner.

*versus*

SMT. AMRIT KAUR—Respondent.

Civil Revision No. 524 of 1974.

May 5, 1975.

*East Punjab Urban Rent Restriction Act (III of 1949)—Section 13—Ejectment of a statutory tenant by the landlord—Death of such tenant—Landlord's right to obtain possession of the demised premises—Whether survives—Legal representatives of the deceased tenant—Whether can resist the ground of bona fide requirement by the landlord.*

Held, that—

- (a) A statutory tenant has only a personal right to continue in possession till evicted in accordance with law.
- (b) When a statutory tenant dies, the landlord's right to obtain possession of the demised premises survives to him.

- (c) The legal representatives of a deceased statutory tenant have the right to urge all contentions which the deceased could have urged except such as were personal to the latter.
- (d) The contention based on the ground of *bona fide* requirement by the landlord is personal to the statutory tenant and is not open to his legal representatives.

(Para No. 2)

*Petition under section 15(5) of Urban Rent Restriction Act 1949 for revision of the order of Shri Charan Singh Tiwana, District Judge, Ludhiana, dated 22nd March, 1974, affirming that of Shri Gurjit Singh Sandhu, Rent Controller, Ludhiana, dated the 2nd November, 1973, directing the applicant to put in possession of the premises in dispute within one month from today. The applicant shall also recover the costs of the application from the respondent.*

H. L. Sarin, Senior Advocate, for the Petitioner.

R. K. Aggarwal, Advocate, for the Respondent.

*Koshal, J.*—(1) This petition for revision of the orders of the Controller and the Appellate Authority directing eviction of the sole tenant Chaman Lal from the residential building in dispute on the ground that the same was *bona fide* required by Amrit Kaur, the landlady, for her own occupation, was originally filed by the tenant himself who, it is admitted on all hands, was what is known as a statutory tenant but who died during the pendency of the petition. He left him surviving 5 sons, 2 daughters and a widow, all of whom were substituted as petitioners as Chaman Lal's legal representatives, in acceptance of an application made by them. Their learned counsel Mr. Sarin, however, now contends that the petition should be dismissed as having abated. In support of his contention reliance is placed by him on *Balkesh and another v. Smt. Shanti Devi* (1) wherein I laid down the following two propositions of law :

- (a) The right to remain in occupation of certain premises as a statutory tenant is personal to that tenant and if his eviction has been ordered by a decree, the decree cannot be regarded as one which could be executed against the legal representatives or which they have a right to challenge.

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(b) The heirs of a statutory tenant have no right to be substituted for him as his legal representatives.

(2) If this decision holds the field, the contention raised by Mr. Sarin is unexceptionable but I am afraid, it is no longer good law (except in so far as it states that the right to remain in occupation of certain premises as a statutory tenant is personal to that tenant) in view of the decision of their Lordships of the Supreme Court in *J. C. Chatterjee and others v. Sri Kishan Tandon and another* (2). In that case also the landlord claimed ejection of a statutory tenant on the ground that the former required the house in dispute *bona fide* for the residence of himself and his family. His claim was decreed by the first Court but negatived in appeal. He filed a second appeal in the Rajasthan High Court, during the pendency of which the tenant died and his widow and children were brought on the record as his heirs and legal representatives. The widow also died before the second appeal was heard, leaving behind her children as her heirs who were already on the record as legal representatives of the tenant. The High Court accepted the appeal. In a third appeal filed by the children of the tenant it was contended that they were entitled in their own right to urge that the landlord did not require the premises reasonably and *bona fide* and that, on the other hand, if they could not be regarded as tenants, no decree of eviction could be passed against them. Repelling both the contentions their Lordships observed :

“It is now settled that after the termination of the contractual tenancy the statutory tenant has only a personal right to continue in possession till evicted in accordance with the provisions of the Act. — — — — —

“It is obvious that the appellant landlord’s right to proceed with the appeal with a view to obtain possession of his premises did survive under order 22, rule 4 read with rule 11, Civil Procedure Code. Where the right to sue and prosecute the appeal survives, the appellant is bound to cause the legal representatives of the deceased respondent to be made a party and proceed with the appeal. Therefore, the heirs and legal representatives of the aforesaid B. N. Chatterji were rightly brought on record and the appeal had to proceed.

“Under sub-clause (ii) of rule 4 of order 22, Civil Procedure Code, any person so made a party as a legal representative of the deceased respondent was entitled to make any defence appropriate to his character as legal representative of the deceased respondent. In other words, the heirs and the legal representatives could urge all contentions which the deceased could have urged except only those which were personal to the deceased, — — — — — Therefore, the only contentions that they could put forward in the appeal were the contentions appropriate to their representative character and not one which was personal to the deceased. The contention based on the ground of *bona fide* requirement by the landlord was personal to the statutory tenant and on his death the same is not open to his legal representatives unless there is anything in the provision of the Act which makes the legal representatives statutory tenants to the same extent as the deceased.”

From these observations emerge the following four propositions :

- (a) A statutory tenant has only a personal right to continue in possession till evicted in accordance with law.
- (b) When a statutory tenant dies, the landlord's right to obtain possession of the demised premises survives to him.
- (c) The legal representatives of a deceased statutory tenant have the right to urge all contentions which the deceased could have urged except such as were personal to the latter.
- (d) The contention based on the ground of *bona fide* requirement by the landlord is personal to the statutory tenant and is not open to his legal representatives.

(3) In so far as the view taken by me in *Balkesh and another v. Smt. Shanti Devi* (supra) runs counter to propositions (b) and (c) enunciated above, it must be deemed to have been overruled by the verdict of their Lordships of the Supreme Court.

(4) All the four propositions are fully applicable to the present case also. Chaman Lal being a statutory tenant had only a personal right to continue in possession till evicted therefrom in accordance with law. However, when he died the right of the landlady to obtain possession of the building in dispute survived to her. Similarly,

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the right to continue the petition and to urge all contentions which the deceased could have urged except such as were personal to him survived to his legal representatives who were, therefore, rightly substituted for him. All the same they could not be allowed to raise the contention which was personal to Chaman Lal and which on his death was not open to them that the landlady did not *bona fide* require the building in dispute for her own occupation.

(5) As the petitioners cannot be allowed to resist the claim of the landlady in so far as the ground of the building in dispute being required by her *bona fide* for her own occupation is concerned, the orders of the two Courts below must be and are upheld, the petition being dismissed but with no order as to costs.

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N.K.S.

CIVIL MISCELLANEOUS

Before A. S. Bains, J.

RAN SINGH—*Petitioner.*

*versus*

THE STATE OF PUNJAB ETC.,—*Respondents.*

Civil Writ No. 1005 of 1967.

May 13, 1975.

*Pepsu Tenancy and Agricultural Lands Act (XIII of 1955)—Sections 3(1), 32-A, 32-BB and 32-E—Constitution of India 1950—Articles 14 and 31 (2-B)—Section 32-BB—Whether ultra vires Article 14 and whether runs counter to sections 3, 32-A and 32-E—Article 31 (2-B)—Whether protects such provision.*

*Held* that from a reading of section 32-BB of the Pepsu Tenancy and Agricultural Lands Act 1955, it is clear that the Collector Agrarian Reforms has been given arbitrary and unbridled powers in the matter. No guideline is provided. It is left to the arbitrary will of the Collector that if a landowner or tenant fails to furnish the declaration supported by an affidavit as required by sub-section (1) of section 32-BB, the prescribed authority can direct that the whole or part of that land of such owner or tenant in excess of 10