

the divergence, the parties must in these circumstances bear their own costs of these proceedings. I, therefore, agree with the order proposed by the Hon'ble the Chief Justice.

Union of India
v.
Kanhaya Lal-
Sham Lal
Kapoor, J.

REVISIONAL CIVIL

Before Bhandari, C.J.

MANOHAR LAL,—*Petitioner*

versus

MOHAN LAL,—*Respondent*

Civil Revision No. 31 of 1956.

*East Punjab Urban Rent Restriction Act (III of 1949)—
Court—Inherent powers of—Rent Controller—Position and
Powers of—Whether can set aside exparte order passed by
himself.*

1956
Sept., 7th

Held, that every Court has inherent powers to do all things that are reasonably necessary for the administration of justice including the power to prevent abuses, oppression and injustice and the power to relieve a party in default independently of Statute.

Held, that a Rent Controller cannot be regarded as a Civil Court although he has been entrusted with a number of functions which are analogous to those performed by judicial officers. He is only a *persona designata* who has been brought into existence for the specific purpose of performing certain functions savouring of a judicial character but which are in reality only quasi-judicial.

A proceeding taken by a Rent Controller under the statute partakes of the nature of a judicial proceeding. He is under a statutory obligation to follow the procedure prescribed by law but he is not bound to follow the technical rules of procedure which apply to trials in a Court of law.

He is expected, however, to observe the elementary and fundamental principles of a judicial enquiry, to comply with the rudimentary requirements of fair play, and to safeguard the fundamental constitutional rights of the citizen. In the absence of an express provision in the statute or in a statutory rule, he is at liberty to devise his own procedure in ascertaining the facts on which he is to act or decide.

Petition under Article 227 of the Constitution of India, for revision of the order of Shri Ram Gopal Kohli, Rent Controller, Fazilka, dated the 14th December, 1955.

RAJINDER NATH, for Petitioner.

C. L. AGGARWAL, for Respondent.

JUDGMENT

Bhandari, C. J. BHANDARI, C. J. This petition raises the question whether a Rent Controller appointed under the provisions of the Punjab Urban Rent Restriction Act, 1949, is at liberty to set aside an *ex parte* order passed by himself.

A tenant applied to a Rent Controller for the setting aside of an *ex parte* decree passed against him, but the latter was unable to accede to this request as he was of the opinion that although the tenant was prevented by sufficient cause from appearing in the Court, there was no provision in the Punjab Urban Rent Restriction Act which empowered him to do so. The order of the Rent Controller was upheld by the District Judge in appeal and the tenant has accordingly come to this Court under Article 227 of the Constitution.

There are at least three decisions of the Madras High Court which appear to propound the proposition that as the provisions of the Code of Civil Procedure do not apply to proceedings under the Rent Control Act, it would be a mistake to apply

the principles of those provisions to the said proceedings, *Sha Devichand-Mool Chand v. Sha Dhanraj Kantial* (1), *Miss Revathi v. M. Venkataramanan and another* (2), *N. K. Segu-Abdul Khadir Hadjar v. A. K. Murthy* (3). The Nagpur High Court has gone a step further by holding that a Rent Controller has no inherent power to set aside an *ex parte* order, as this power has been excluded by clause 21(3) of Rent Control Order, 1949, which provides that an order of the Rent Controller shall be final subject only to the decision of the Deputy Commissioner in appeal and that it will not be open to review, *Ruplal Sitaram Bhagat v. Sheo Shankar Awasilal and others* (4),

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I must confess with great regret that I am unable to endorse the view taken by these two Courts. A Rent Controller appointed under the Act of 1949 is either a Court or an administrative tribunal. If he is to be regarded as a Court, there can be no manner of doubt that he has full power to set aside an *ex parte* order passed by himself, for every Court has inherent powers to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction including the power to prevent abuses, oppression and injustice and the power to relieve a party in default, independently of statute. A Commissioner of a Division possesses an inherent power to restore to his file an appeal which he has decided *ex parte*, if he considers this to be necessary for the ends of justice, *D. N. Ray and others v. Nalin Behari Bose* (5), a Special Judge under the

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- (1) A.I.R. 1949 Mad. 53
 - (2) A.I.R. 1951 Mad. 745
 - (3) A.I.R. 1948 Mad. 235
 - (4) A.I.R. 1953 Nag. 191
 - (5) 46 I.C. 621

Manohar Lal Dakhan Agriculturists' Relief Act has inherent
 v. power to review an *ex parte* order made by him,
 Mohan Lal *Ram Chandra Narayan Kulkarni v. Draupadi*
 Dhandari, C. J. *Komnarayan* (1), and a Court has inherent power
 to restore an application in execution proceedings
 which has been dismissed in default notwith-
 standing the fact that the applicant had an alter-
 native remedy open to him, *Mt. Acharji Bibi v.*
Swami Shesh Sahai (2). Their Lordships of the
 Privy Council have expressed the view that quite
 apart from section 151 any Court might rightfully
 consider itself to possess an inherent power to rectify
 a mistake which has been inadvertently made, *Raju*
Debi-Bakhsh Singh v. Habsh Shah (3). Our own
 Court appears to have taken the view that although
 the provisions of Order 41, Rule 21, of the Code of Civil
 Procedure have not been made applicable to proceed-
 ings under the East Punjab Urban Rent Restriction
 Act, any tribunal or appellate authority has inherent
 power to set aside and review an order obtained by
 fraud and one which the tribunal passing it could not
 possibly have passed if the true facts had been
 brought to his notice (Civil Revision No. 442 of 1951).

But a Rent Controller cannot, in my opinion, be regarded as a civil Court although he has been entrusted with a number of functions which are analogous to those performed by Judicial officers. He is only a *persona designata* who has been brought into existence for the specific purpose of performing certain functions savouring of a judicial character but which are in reality only quasi-judicial, *Messrs Pitman's Shorthand Academy v. Messrs B. Lila Ram and Sons and others* (4). The fact that he exercises a discretion or judgment quasi-judicial in its nature in the per-

(1) I.L.R. 20 Bom. 281
 (2) A.I.R. 1939 Lah. 223
 (3) 19 I.C. 526
 (4) (1950) 52 P.L.R. 1

formance of his duties cannot bring him into the category of judicial officers. He can at best be regarded as a quasi-judicial officer and the proceedings taken by him partake of the nature of a judicial proceeding. He has the same powers of summoning and enforcing the attendance of witnesses and compelling the production of evidence as are vested in a Court under the Code of Civil Procedure, and every order made by him under certain sections of the statute is required to be executed by a civil Court as if it were a decree of that Court. He is under a statutory obligation to follow the procedure prescribed by law, but he is not bound to follow the technical rules of procedure which apply to trials in a Court of Law. He is expected to observe the elementary and fundamental principles of a judicial enquiry to comply with the rudimentary requirements of fair play, and to safeguard the fundamental constitutional rights of the citizen. In the absence of an express provision in the statute or in a statutory rule, he is at liberty to devise his own procedure in ascertaining the facts on which he is to act or decide.

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For these reasons I entertain no doubt in my mind that the Rent Controller has inherent power to set aside an *ex parte* order passed by himself. I would accordingly accept the petition, set aside the order of the Rent Controller and direct him to proceed with the case in accordance with law.

It may be that the District Judge has in the meantime passed an order in favour of the landlord, but that fact alone would not, in my opinion, justify denial of justice to the tenant who has not been afforded a reasonable opportunity of being heard. The order of the learned District Judge must, in my opinion, be quashed. I would order accordingly.

The parties have been directed to appear before the Rent Controller on the 3rd October, 1956.