

Relying on the above noted authorities, I hold that the factum of partition and the nature of possession of the defendants of the properties in their possession could be proved by the oral and other documentary evidence relied upon by the trial Court.

(11) The finding on merits that the partition had taken place in the year 1992 Bk., and the parties had been in separate possession of their respective shares since then has not been challenged by the learned counsel for the appellant.

(12) Consequently, this appeal fails and the same is hereby dismissed, but without any order as to costs. The cross objections filed by the respondents have not been pressed and are accordingly dismissed.

N. K. S.

REVISIONAL CIVIL

*Before S. S. Sandhawalia and Rajendra Nath Mittal, JJ.*

JAG DUTTA,—*Petitioner.*

*versus*

SHRIMATI SAVITRI DEVI,—*Respondent.*

Civil Revision No. 728 of 1974.

September 21, 1976.

*Cantonments (Extension of Rent Control Laws) Act (46 of 1957) —Section 3—East Punjab Urban Rent Restriction Act (III of 1949) —Sections 2(b) and 15(1) (a)—General Clauses Act (X of 1897)—Section 24—1949 Act extended to Cantonments in the States of Punjab and Haryana—Notifications issued thereunder—Whether deemed to be adopted—Appointment of Rent Controllers and Appellate Authorities—Powers of the Central Government—Whether can be delegated to a State Government—Fresh appointments after extension—Whether necessary.*

*Held*, that when the Central Government extended the East Punjab Urban Rent Restriction Act, 1949 to the Cantonments in the States of Punjab and Haryana, the intention of the Central Government was clear that it wanted to apply the 1949 Act alongwith the

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notifications issued thereunder. Whatever modifications the Central Government wanted to incorporate in the 1949 Act, these have been specifically mentioned in the notifications extending the said Act to the Cantonments in the States of Punjab and Haryana. Wherever the Central Government considered it necessary that the words 'Central Government' should be substituted for the words 'State Government' in the 1949 Act, it expressly stated so. The words 'State Government' have been used in various sections in the 1949 Act but the Central Government, however, substituted the words 'Central Government' for the words 'State Government' only in section 3 and not in other sections. The Central Government did not make any modification either in section 2(b) or section 15(1)(a) of the 1949 Act which relate to appointment of Rent Controllers and Appellate Authorities. These circumstances establish that the Central Government adopted the notifications under sections 2(b) and 15(1)(a) for enforcing the provisions of 1949 Act within the area of the Cantonments situated in the States of Punjab and Haryana.

(Paras 9, 10 and 11)

*Held*, that the Central Legislature by the Cantonments (Extension of Rent Control Laws) Act, 1957, has authorised the Central Government to extend the 1949 Act to the Cantonments situated in Haryana and Punjab. The Central Government in pursuance of the aforesaid powers extended the applicability of the 1949 Act to the Cantonments in the aforesaid States. No embargo was put by the 1957 Act on the powers of the Central Government to authorise the State Government to appoint Rent Controllers and Appellate Authorities. There is no prohibition on the part of the Central Legislature to delegate its powers on the State Governments. The 1957 Act gave full powers to the Central Government to extend the 1949 Act to the Cantonments. This power would include the power of the Central Government to authorise the State Governments to appoint Rent Controllers and Appellate Authorities.

(Para 13)

*Held*, that the fresh appointments of Rent Controllers and Appellate Authorities after the extension of the 1949 Act to the Cantonments in the States of Punjab and Haryana was not necessary and that the Controllers and Appellate Authorities already appointed for the States of Punjab and Haryana under the said Act could exercise these powers.

(Para 16)

*Case referred by Hon'ble Mr. Justice Rajendra Nath Mittal to a Larger Bench on 17th November, 1975, for decision of the following important question of law involved in the case. The Division Bench consisting of Hon'ble Mr. Justice S. S. Sandhawalia and Hon'ble*

Mr. Justice Rajendra Nath Mittal finally decided the case on 21st September, 1976.

- (1) Whether the Central Government could delegate the powers to appoint Controllers under section 2(b) and Appellate Authorities under section 15(1)(a) of the East Punjab Urban Rent Restriction Act, 1949, for Cantonments situated within the State of Punjab/Haryana to its Government ?
- (2) If the answer to the first question is in the affirmative, whether it was incumbent on the Punjab/Haryana Government to appoint Controllers and Appellate Authorities for Cantonments after the enforcement of the East Punjab Urban Rent Restriction Act, 1949,—vide SRO No. 7 of 1967 to the cantonments situated within the State of Punjab/Haryana or the Controllers and Appellate Authorities already appointed for the State of Punjab/Haryana under the said Act could exercise those powers ?

Petition under section 15(5) of the East Punjab Rent Restriction Act for revision of the order of the Appellate Authority (District Judge), Ambala, dated the 25th April, 1974, affirming that of Shri C. R. Goel, Rent Controller, Ambala Cantt., dated the 31st May, 1972, passing an order of ejection in favour of the petitioner (Savitri Devi) and against the respondent (Jag Dutta) and directing the respondent to hand over the vacant possession of the house in question to the respondent within a period of three months taken from today and leaving the parties to bear their own costs.

J. K. Sharma, Advocate, with Y. K. Sharma, Advocate, for the petitioner.

Munishwar Puri, Advocate, for the respondent.

#### JUDGMENT

**R. N. Mittal, J.**—(1) Briefly the case of Smt. Savitri Devi, respondent, is that the property in dispute was owned by Dr. C. M. Paul, who had given it on lease to Jag Dutta, petitioner. She purchased the property from Dr. Paul,—vide sale deed dated April 18, 1968. Consequently Jag Dutta became a tenant under her. She filed an application for ejection of Jag Dutta, tenant, on the ground that he had not paid arrears of rent and that she required the premises in dispute for her own use and occupation. The application was contested by Jag Dutta. He tendered the rent on the first date of

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hearing which was duly accepted by the land-lady. The tenant, however, controverted the allegation regarding her personal necessity. He further pleaded that the premises were non-residential and as such the ground of personal necessity was not available to her. He also challenged the validity of the notice by which his tenancy had been terminated. The Rent Controller held that the property in dispute was a residential building and the land-lady required the same for her personal use and occupation. He further held that the tenancy had been validly terminated by the authorities. Consequently he allowed the application and ordered ejection of the tenant. Jag Dutta went up in appeal to the District Judge, Ambala, who affirmed the judgment of the Rent Controller and dismissed the appeal. He came up in revision against the judgment of the District Judge, to this Court.

(2) The revision petition was listed before me in Single Bench. Some questions of law were raised by the learned counsel for the petitioner and considering that the questions were of considerable importance and were likely to effect a large number of cases, I referred the following two questions to a Division Bench:—

- (1) Whether the Central Government could delegate the powers to appoint Controllers under section 2(b) and Appellate Authorities under section 15(1) (a) of the East Punjab Urban Rent Restriction Act, 1949, for Cantonments situated within the State of Punjab/Haryana to its Government ?
- (2) If the answer to the first question is in the affirmative, whether it was incumbent on the Punjab/Haryana Government to appoint Controllers and Appellate Authorities for Cantonments after the enforcement of the East Punjab Urban Rent Restriction Act, 1949,—*vide* SRO No. 7 of 1967 to the Cantonments situated within the State of Punjab/Haryana or the Controllers and Appellate Authorities already appointed for the State of Punjab/Haryana under the said Act could exercise those powers ?

This is how the matter has been listed before us.

(3) The learned counsel for the petitioner, while arguing on the first question contends that by virtue of provisions of section 3 of

the Cantonments (Extension of Rent Control Laws) Act, 1957 (hereinafter referred to as the 1957 Act), the Central Government could extend to any Cantonment enactment relating to the control of rent and regulation of house accommodation which is in force in the State in which the Cantonment is situated. He argues that the Central Government has no power under section 3 to extend the notifications by which the Rent Controllers and Appellate Authorities are appointed by the State Governments under such enactments. According to the learned counsel, it was only the Central Legislature which could constitute the Courts in the Cantonment areas for enforcement of any enactment relating to the control of rents and regulation of house accommodation. He submits that under the East Punjab Urban Rent Restriction Act (hereinafter referred to as the 1949 Act), the State Government had appointed Rent Controllers and Appellate Authorities for the erstwhile State of Punjab. After extending the provisions of the 1949 Act in the Cantonments in the States of Punjab and Haryana, the Rent Controllers and Appellate Authorities appointed by the State Government started acting as such within the Cantonments, which they could not do. He urges that if the aforesaid act amounts to delegation by the Central Government of its functions to the State Government, then the act of delegation is bad as the Central Government had no right to do so.

(4) In order to examine this argument, it will be advantageous to refer to the provisions of the 1957 Act, the 1949 Act and notifications issued thereunder. The Central Government was authorised by 1957 Act to extend any law relating to the control of rents and regulation of house accommodation to the Cantonments. In 1972, the aforesaid Act was amended by Cantonments (Extension of Rent Control Laws) Amendment Act, 1972 (hereinafter referred to as the Amendment Act, 1972). Section 3 of the 1957 Act as amended by the Amendment Act, 1972, is as follows :—

“3.(1) The Central Government may, by notification in the Official Gazette, extend to any cantonment with such restrictions and modifications as it thinks fit, any enactment relating to the control of rent and regulation of house accommodation which is in force in the State in which the cantonment is situated.

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- (2) The extension of any enactment under sub-section (1) may be made from such earlier or future date as the Central Government may think fit :
- (3) \* \* \* \* \*
- (4) Where, before the extension to a cantonment of any enactment relating to the control of rent and regulation of house accommodation therein (hereinafter referred to as the "Rent Control Act"),—
- (i) any decree or order for the regulation of, or for eviction from, any house accommodation in that cantonment, or
- (ii) any order in the proceedings for the execution of such decree or order, or
- (iii) any order relating to the control of rent or other incident of such house accommodation,

was made by any court, tribunal or other authority in accordance with any law for the control of rent and regulation of house accommodation for the time being in force in the State in which such cantonment is situated, such decree or order shall, on and from the date on which the Rent Control Act is extended to that Cantonment, be deemed to have been made under the corresponding provisions of the Rent Control Act, as extended to that Cantonment, as if the said Rent Control Act, as so extended, were in force in that Cantonment, on the date on which such decree or order was made."

(5) From a perusal of the aforesaid section, it is clear that the Central Government was authorised to extend any enactment relating to the control of rents and regulation of house accommodation in force in a State in which the Cantonment was situated, with any restriction or modification. Even the Central Legislature deemed it proper to provide that in case of extension of any such enactment

to Cantonment areas, the decrees or orders passed under the earlier enactments, or orders in the proceedings for execution of such decrees or orders made by any Court, or any other authority under any Rent Control Act for the time being in force in the State wherein the Cantonment was situated, would be deemed to have been made under the corresponding provisions of the Rent Control Act as extended to such Cantonments. The intention of the Legislature is very clear that it wanted to give effect to the orders and decrees passed by the Authorities under the Rent Control Acts of the States, which were being applied to the Cantonment areas, in spite of the fact that the State Legislature had no jurisdiction to enact such Acts for Cantonments. In pursuance of section 3, the Central Government, for the first time enforced the 1949 Act in the cantonments situated within the States of Punjab and Haryana,—vide SRO 7 dated November 2, 1969. Relevant portions of which are set down below for reference :—

“In exercise of the powers conferred by section 3 of the Cantonments (Extension of Rent Control Laws) Act 1957 (46 of 1957), the Central Government hereby extends to the Cantonments in the States of Haryana and Punjab, the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act No. III of 1949), as in force, on the date of this notification, in the States of Haryana and Punjab with the following modifications, namely :—

In the said Act—

- (1) In section 1, for sub-section (2), the following sub-section shall be substituted, namely :—
  - (2) It extends to the Cantonments in the States of Haryana and Punjab,
- (2) In section 2, for clause (j) the following clause shall be substituted namely :—
  - (j) ‘Urban area’ includes any area administered by a Cantonment Board in the State of Haryana and Punjab,”
- (3) (a) Section 3 shall be numbered as sub-section (1) thereof and in sub-section (1) as so renumbered

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for the words 'State Government' the words 'Central Government' shall be substituted ;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

(2) The provisions of this Act shall not apply to—

(a) any premises within the cantonment belonging to the Government;

(b) any tenancy or other like relationship created by a grant from the Government in respect of premises within the Cantonment taken on lease or requisitioned by the Government; or

(c) any house within the Cantonment, which is, or may be, appropriated by the Central Government on lease under the Cantonments (House Accommodation) Act, 1923 (6 of 1923)".

No specific date was mentioned in the notification from which the 1949 Act was enforced in the Cantonments situate in the States of Haryana and Punjab. Consequently, the date of notification, i.e., November 21, 1969, would be deemed to be date from which the 1949 Act was enforced in the cantonments.

(6) Subsequently, SRO 7 was superseded by Notification SRO 55 of January 24, 1974. Certain modifications were made in the enforcement of the 1949 Act by virtue of the new notification. The new notification is in the following terms:—

"In exercise of powers conferred by section 3 of the Cantonments (Extension of Rent Control Laws) Act, 1957 (46 of 1957) and in supersession of the notification of the Government of India in the Ministry of Defence No. SRO 7, dated the 21st November, 1969 and No. SRO 109, dated 18th February, 1971, the Central Government hereby extends to the Cantonments in the States of Haryana and Punjab; the East Punjab Urban Rent Restriction Act, 1949 (East



Punjab Act No. III of 1948), with the following modifications, namely:—

In the said Act—

- (1) in section 1,
  - (a) for sub-section (2), the following sub-section shall be substituted namely:—
  - (2) It extends to the Cantonments in the States of Haryana and Punjab.
  - (b) For sub-section (3), the following sub-section shall be substituted, namely:—
  - (3) It shall be deemed to have come into force on the 26th day of January, 1950 :

Provided that the provisions of section 19 of the East Punjab Urban Rent Restriction Act, 1949 (East Punjab No. III of 1949), shall be operative only from the 21st November, 1969.

- (2) in section 2, for clause (j), the following clause shall be substituted, namely:—
  - (j) 'Urban Area' includes any area administered by a Cantonment Board in the States of Haryana and Punjab.
- (3) (a) Section 3 shall be numbered as sub-section (1) thereof and in sub-section (1) as so renumbered, for the words, 'State Government' the words 'Central Government' shall be substituted ;
  - (b) after sub-section (1), the following sub-section shall be inserted, namely;—
    - (2) The provisions of this Act shall not apply to—
      - (a) any premises within the Cantonment belonging to the Government;

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(b) any tenancy or other like relationship created by a grant from the Government in respect of premises within the Cantonment taken on lease or requisitioned by the Government; or

(c) any house within the Cantonment which is, or may be, appropriated by the Central Government on lease under the Cantonments (House Accommodation Act, 1923 (6 of 1923));

(4) After section 20, the following section shall be added, namely:—

Exemption of Buildings constructed in 1966 and 1967 from the provisions of the Act.

(21) Every building in a Cantonment area constructed during the years 1966 and 1967 shall be exempt from the provisions of the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act No. III of 1949), for a period of five years from the date of completion of the building.

*Explanation—*

For the purpose of exemption, the date of completion of a building shall be the date of the certificate of completion granted by a Cantonment Board."

Two matters are worth mentioning in the notification. Firstly, the Central Government made applicable to Cantonments all the sections except section 19 of the 1949 Act from January 26, 1950 and section 10, from November 21, 1969. Secondly, the Central Government substituted the words 'State Government' by the words 'Central Government' in section 3 of the 1949 Act, while retained the words 'State Government' in other sections. It is also worth mentioning that by SRO No. 7 also, the words 'Central Government' were substituted for the words 'State Government' in section 3, while in other sections wherever the words 'State Government' appeared, these were retained.

(7) It will now be useful to refer to some of the sections of the 1949 Act, where the words 'State Government' have been used. In

section 2(b) of the 1949 Act, the 'Controller' has been defined as any person, who is appointed by the State Government to perform the functions of a Controller under the Act. Section 15(1)(a), authorises the State Government to appoint Appellate Authorities. It says that State Government may by a general or special order, by notification confer on such officers and authorities as they think fit, the powers of Appellate Authorities in such area or in such classes of cases as may be specified in the order. It is also worth mentioning that prior to the 1949 Act, the Punjab Urban Rent Restriction Act, 1947 was in force in the State of Punjab and in that Act, the State Government had been authorised to appoint Controllers and Appellate Authorities under sections 2(b) and 15(1)(a) respectively. Under the provisions of the 1947 Act, the State Government had appointed the Subordinate Judges 1st Class and the District Judges in the Punjab to perform the functions of the Controller and Appellate Authorities respectively. It is not disputed that no such notification was made under the 1949 Act. After the enforcement of SRO No. 7, no notification was made by the Haryana Government till January 23, 1974 appointing Rent Controllers and Appellate Authorities for the Cantonments situated in the State of Haryana. On January 23, 1974, a notification was made by the Government of Haryana appointing all Sub-Judges to perform the functions of Controllers under the 1949 Act for the Cantonment areas falling within the limits of Haryana. Similarly, on the same date, a notification was made conferring appellate powers on the District Judges for Cantonments. After SRO No. 55 of January 24, 1974, no such notification was published.

(8) A reference at this stage may also be made to items No. 95 of List I, No. 3 of List II and No. 46 of List III of the Constitution of India which relate to the jurisdiction and powers of the Legislatures of the Centre and States to enact laws regarding the constitution, jurisdiction and powers of Courts. The aforesaid items are reproduced below:—

*"List-I—Union List*

95. Jurisdiction and powers of all Courts, except the Supreme Court, with respect to any of the matters in this List; admiralty jurisdiction.

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*List II—State List*

3. Administration of justice; constitution and organisation of all Courts, except the Supreme Court and the High Courts; officers and servants of the High Court; procedure in rent and revenue Courts; fees taken in all Courts except the Supreme Court.

*List III—Concurrent List.*

46. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this List."

(9) Now, it will be appropriate to notice the arguments of the learned counsel for the petitioner. By SRO 7, the Central Government extended the 1949 Act as in force on the date of the notification, in the States of Punjab and Haryana to the Cantonments in the aforesaid States. The words 'as in force' on the date of the notification are significant. The intention of the Central Government becomes clear from the aforesaid words, that it wanted to apply the 1949 Act along with notifications issued under it as extension of the provisions of the said Act without notifications under sections 2(b) and 15(1)(a) would be meaningless. Whatever modifications the Central Government wanted to incorporate in the 1949 Act, these have been specifically mentioned in the said SRO. The Central Government, vide SRO 55, gave the 1949 Act retrospective effect in the Cantonments situated in the States of Punjab and Haryana. The Central Legislature in the year 1972 amended section 3 of the 1957 Act and added sub-sections (2), (3) and (4) to it. By virtue of sub-section (4), all decrees and orders passed by the Rent Controllers and the Appellate Authorities prior to the date of the said SRO were made valid. The aforesaid circumstances are a pointer to the fact that the 1949 Act was extended by the Central Government as a whole, i.e., along with notifications issued under it, to the Cantonments situated in Haryana and Punjab.

(10) The second circumstance which supports the aforesaid conclusion is that wherever the Central Government considered it necessary that the words 'Central Government' should be substituted for the words 'State Government' in the 1949 Act, it expressly stated so. The words 'State Government' have been used in various

sections in the 1949 Act. A reference may be made in this connection of sections 2(b), 3, 15 and 20. The Central Government, however, substituted the words 'Central Government' for the words 'State Government' only in section 3 and not in other sections. Section 3 of the 1949 Act relates to the powers of the State Government to give exemptions from the operation of the Act to any particular building or any class of buildings or rented lands. The Central Government did not make any modification either in section 2(b) or section 15(1)(a) or section 20 of the 1949 Act. A reference has already been made to sections 2(b) and 15(1)(a) which relate to appointment of Rent Controllers and Appellate Authorities. Section 20 relates to the powers of the State Government to frame Rules'. The aforesaid circumstances further show that the Central Government did not want to take away the powers of the State Governments to appoint Rent Controllers and Appellate Authorities and to frame Rules. These circumstances rather establish that the Central Government adopted the notifications under sections 2(b) and 15(1)(a) for enforcing the provisions of the 1949 Act within the areas of the Cantonments situated in the States of Haryana and Punjab.

(11) In the aforesaid context, it will be useful to refer to section 24 of the General Clauses Act, which says where any Act is repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, form or bye-law made or issued under the repealed Act, shall, so far as it is not inconsistent with the provisions re-enacted, continue to be in force and will be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, form or bye-law made or issued under the provisions so re-enacted. From the reading of the section, it is clear that in case an Act is replaced by another Act, any notification, rule, bye-law or appointment made under the old Act, may be deemed to continue under the re-enacted law. In the aforesaid view I am fortified by the observations of this Court in *Sunder Singh v. Budh Dev*, (1), wherein Sarkaria, J., as his Lordship then was, while interpreting section 22 of the Punjab General Clauses Act, 1898, observed that by virtue of section 15(1)(a) of the Punjab Urban Rent Restriction Act, 1947, the Punjab Government issued notification, dated April 18, 1947, whereby it constituted all District and Sessions Judges in the Punjab in their respective

(1) 1971 R.C.J. short note 12.

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jurisdiction, Appellate Authorities for the purposes of the Rent Act with regard to orders made by the Rent Controllers under sections 4, 10, 12 and 13 of the said Act. The Rent Act of 1947 was repealed by section 21 of the Act of 1949, but the notification continued to be in force by virtue of section 22 of the Punjab General Clauses Act, 1898. Section 22 of the Punjab General Clauses Act is *pari materia* with section 24 of the General Clauses Act. A reference may also be made to *Issa Jacob Bichara and others v. State of Mysore and others* (2). In that case, the Foreign Exchange Regulation Act was amended. A notification before the amendment, empowered certain officers to lodge complaints under that Act. Under the amended section no notification was issued conferring such powers on any officer. It was held that the officer empowered under the old notification could file complaints. In the case of adoption of the 1949 Act by the Central Government, the position of the Government cannot be worse. It consequently cannot be said that the Central Government adopted only the 1949 Act and not the notifications issued under it. It is to the credit of the learned counsel for the petitioner that he has conceded that the Rules framed under section 20 of the 1949 Act become applicable to the Cantonments situated in the States of Haryana and Punjab by virtue of SRO 9 and SRO 55. He however, submits that the other notifications issued under 1949 Act shall not be extended. No reasoning has been advanced by the learned counsel for making the aforesaid submissions. In my view, this contention of the learned counsel has no substance. If the Rules framed by the State Government under section 20 are automatically extended to the Cantonments or extending the provisions of the 1949 Act to these areas, there is no justification to hold that the other notifications issued under that Act will not be extended to those areas.

(12) Another contention was sought to be raised by the learned counsel for the petitioner and it is, that the Haryana Government issued two notifications on January 23, 1974—one under section 2(b) and the other under section 15(1)(a) of the 1949 Act and appointed Sub-Judges as Controllers and District Judges as Appellate Authorities. He submits that the notifications show that the powers of the Rent Controllers and Appellate Authorities had come to an end when the 1949 Act was extended to Cantonments by SRO 9. He argues that if it was not so, there was no justification for the State

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(2) A.I.R. 1961 Mysore 7.

Government for issuing the above-said notifications. The argument *prima facie* appeared to be plausible, but when examined closely, it was found without merit. By virtue of SRO 9, the 1949 Act was extended whole hog as observed earlier. It was as a course of abundant precaution that the aforesaid notifications under sections 2(b) and 15(1)(a) were issued by the State Government. No such inference as the learned counsel for the petitioner wants me to draw can be drawn in the above situation. I am of the view that the notifications are surplusages. The powers which were conferred on the Subordinate Judges and District Judges, in fact, were already with them. I, therefore, do not find any substance in this contention of the learned counsel.

(13) The question that arises for determination is whether the Central Government could delegate powers to the State Governments to appoint Rent Controllers and Appellate Authorities under the 1949 Act. The Central Legislature by the 1957 Act had authorized the Central Government to extend the 1949 Act to the Cantonments situated in Haryana and Punjab. The Central Government in pursuance of the aforesaid powers extended the applicability of the 1949 Act to the Cantonments in the aforesaid States. No embargo was put by the 1957 Act on the powers of the Central Government to authorize the State Governments to appoint Rent Controllers and Appellate Authorities. As already mentioned above, the 1949 Act authorized the State Governments to appoint Rent Controllers and Appellate Authorities. No doubt, it is true that the Central Legislature has to determine the jurisdiction and powers of all courts with respect to the matters in List I. It cannot be disputed that the Legislature can delegate some of its functions to other Authorities. The State Legislature also exercises similar functions with respect to matter in List II. It can also delegate some of its powers to other Authorities. There is no prohibition on the part of the Central Legislature to delegate its powers on the State Governments. The 1957 Act gave full powers to the Central Government to extend the 1949 Act to the Cantonments. The aforesaid powers would include the powers of the Central Government to authorize the State Governments to appoint Rent Controllers and Appellate Authorities. By no stretch of imagination it can be said that the aforesaid delegation was in excess of the powers of the Central Government. The learned counsel for the petitioner has placed reliance on *B. Shama Rao v. Union Territory of Pondicherry*, (3). In that case, the Pondicherry

(3) A.I.R. 1967 S.C. 1480.

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Legislature had abdicated its legislative functions in the matter of sales-tax legislation and surrendered the same in favour of the Madras Legislature. As the Pondicherry Legislature had completely abdicated its functions regarding that enactment, consequently, it was observed by their Lordships that the Pondicherry General Sales-tax Act was void and still-born. The above observations are not applicable to the facts of the present case. In the aforesaid situation, I am of the view that the Central Government could delegate powers to the State Governments to appoint Rent Controllers and Appellate Authorities under the 1949 Act, for Cantonments, and that the Rent Controllers and the Appellate Authorities appointed by the State Governments under the 1949 Act had jurisdiction to decide cases under that Act in Cantonments situated within the States of Punjab and Haryana. For the aforesaid conclusions, I also get some support from the Division Bench judgment of this Court in *Lalji alias Bhola v. Sat Pal Khanna*, (4). It was observed by Gurdev Singh, J., while speaking for the Court, that the Rent Controller as well as the Appellate Authorities appointed under the 1949 Act acted within their jurisdiction in applying the provisions of the Act to Cantonment areas.

(14) Thus reply to question No. 1 is in the affirmative, that is, the Central Government could delegate the powers to appoint Rent Controllers under section 2(b) and Appellate Authorities under section 15(1)(a) of the East Punjab Urban Rent Restriction Act, 1949, for Cantonments situated within the State of Punjab/Haryana, to State Government.

(15) The learned counsel for the petitioner, while arguing the second question, stated that even if the Central Government could delegate the powers to Punjab/Haryana Government to appoint Rent Controllers and Appellate Authorities, it was incumbent upon the Punjab/Haryana Government to appoint Controllers/Appellate Authorities for the Cantonments situated within its area after the Act was enforced to the Cantonments within the State of Punjab/Haryana. He says that the State of Haryana did not appoint any Controllers/Appellate Authorities after the commencement of the Act in the Cantonments till January 23, 1974. According to him, the Controllers/Appellate Authorities who were acting as such for the Cantonments after November 21, 1969, had no jurisdiction to decide the cases.

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(4) 1973 P.L.R. 156.



(16) It is not necessary to go into the matter in great details as I have already dealt with it above. I have held that the Central Government extended the 1949 Act to the Cantonments as a whole along with the notifications under sections 2(b) and 15(1)(a). I have also held that the Central Government could do so and the notifications issued on January 23, 1974 by which the State of Haryana had appointed Rent Controllers and Appellate Authorities for the Cantonments situated in Haryana, were surplusages. I have also given detailed reasons for the aforesaid conclusions. After taking into consideration the reasons given above, I answer question No. 2 in the negative, that is, it was not incumbent upon the Punjab/Haryana Government to appoint Controllers and Appellate Authorities for Cantonments after the enforcement of the East Punjab Urban Rent Restriction Act, 1949,—vide SRO No. 7 of 1967, to the Cantonments situated within the State of Punjab/Haryana and that the Controllers and Appellate Authorities already appointed for the State of Punjab/Haryana under the said Act could exercise these powers.

(17) After we heard the arguments on the questions referred to us, the counsel for the respondent submitted that other points involved in the revision petition are very short. He further stated that if the revision petition was sent back to the Single Judge, its decision, which had already been delayed very much, would further be delayed. In the circumstances, he prayed that the revision petition may also be heard and decided on merits. We considered the request of the learned counsel for the respondent reasonable. The learned counsel for the petitioner also did not raise any objection to this course being adopted. We consequently heard the arguments of the learned counsel for the parties on merits.

(18) The learned counsel for the petitioner raised two arguments; firstly, that the landlady did not specifically incorporate two of the ingredients mentioned in section 13(3)(a)(1) of the 1949 Act, namely, that she was not occupying another residential building in the area of Ambala Cantonment and that she had not vacated such a building without sufficient cause after the commencement of the Act in Ambala Cantonment and, secondly, that she did not require the house *bona fide* for her residence. I have heard the learned counsel for the parties and do not find merit in any of the contentions. I shall first advert to the first contention. It is not disputed that the

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aforesaid two ingredients were taken by the landlady in her replication filed in reply to the written statement. It is an established proposition of law that replication is a part of pleadings. In the circumstances, it cannot be said that the two ingredients of section 13(3)(a)(i) have not been pleaded by the landlady.

(19) Regarding the second argument, it has been held by the Rent Controller as well as by the Appellate Authority that the landlady required the premises for her own use and occupation. That finding has been given after taking into consideration the evidence on the record. I have also examined her statements and evidence. The landlady has a large family consisting of herself, her husband, 8 daughters and a son. Out of the aforesaid children, 4 or 5 were school-going. One of her daughters became a widow and she was permanently residing with her parents. It is not disputed that the landlady along with her husband and children was residing in a rented house which consists of only one living room. After taking into consideration all the aforesaid circumstances, I am of the view that the conclusions arrived at by the Courts below that she required the house in dispute for her own use and occupation, are correct, and I do not find sufficient reasons to interfere with the said conclusions. I, therefore, reject this contention of the learned counsel for the petitioner also.

(20) For the reasons recorded above, the revision petition fails and the same is dismissed with no order as to costs. The tenant, however, shall not be dispossessed for one month.

S. S. Sandhawalia, J.—I agree.

K. T. S.

MISCELLANEOUS CIVIL

Before Prem Chand Jain and Ajit Singh Bains, JJ.

K. N. S. SIDHU (LT. COL.),—Petitioner.

versus

THE UNION OF INDIA and another,—Respondents.

Civil Writ No. 1090 of 1973

October 1, 1976.

Army Act (46 of 1950)—Section 162(2)—Order under—Rules of natural justice—Whether applicable—Appropriate authority—Whether bound to afford a personal hearing to the representationist.