

The learned Judge had also taken a different view from the one adopted by Gujarat High Court in *State of Gujarat v. Shantaban* (5).

(15) We will, therefore, allow this appeal and set aside the order of acquittal. As the learned Magistrate has acquitted the accused only on the ground that no formalin had been mixed with the sample taken, we would remand this case to him for a fresh decision on merits. The counsel have been directed to cause the parties to appear before the trial Judge on 29th of July, 1968.

K.S.K.

REVISIONAL CIVIL

Before Mehar Singh, C.J., and Bal Raj Tuli, J.

THE AMBALA BUS SYNDICATE (P) LTD.,—*Petitioner*

versus

M/S INDRA MOTORS,—*Respondents*

Civil Revision No. 335 of 1966.

July 10, 1968

East Punjab Urban Rent Restriction Act (III of 1949)—S. 13—Jurisdiction of the Rent Controller under—Denial of relationship of landlord and tenant—Such denial—Whether ousts the jurisdiction of the Rent Controller to decide an eviction application—Finality attaching to the order of the Rent Controller—When can be questioned in a civil Court.

Held, that although, the East Punjab Urban Rent Restriction Act does not say anywhere that when the tenant denies the relationship of landlord and tenant, this matter is to be decided by the Rent Controller, yet it would be reading much too much in the statute to say that on the mere raising of such a plea in defence by the tenant the jurisdiction of the Rent Controller in an eviction application is ousted and such application must be thrown out and dismissed off hand. In such a case dispute arises as to the relationship between the parties *qua* the demised premises, the landlord definitely alleging that the opposite side whose eviction he seeks is his tenant and the latter denying any such relationship. Mere such denial cannot oust the jurisdiction unless it is specifically

The Ambala Bus Syndicate (P) Ltd. v. M/s Indra Motors (Mehtar Singh, C.J.)

provided in the statute, and there is no such provision in the Act. In such a contingency the Rent Controller has no option but to try in the terms of the statute the eviction application of the landlord on merits. If he finds that the opposite party is not a tenant of the landlord, obviously he must dismiss the landlord's application, but if, on the other hand, he finds that such a plea by the opposite party is not true and that the opposite party is a tenant of the landlord, in that event, if the ground of eviction as in section 13 of the Act is proved, he must proceed to order eviction of the tenant. So that for the matter of disposal on merits of the eviction application by the landlord, where the existence of the tenancy is denied by the opposite party, the Rent Controller has jurisdiction under the provisions of the statute to decide this matter, for if he did not do so, he would be failing to exercise jurisdiction under the statute.

Held, that in section 13 of the Act, there is clear implication of the ouster of the jurisdiction of an ordinary civil Court on all matters and questions which the Rent Controller has to decide by his order, which is final subject only to the decision of the Appellate Authority, and the latter's decision is final subject to what the High Court may do under sub-section (5) of section 15. It follows from this that what is a matter properly and pertinently within the jurisdiction of the Rent Controller and has been disposed of in the terms of this particular Act, it is outside the jurisdiction of an ordinary civil Court. So long as the authorities under the Act, act within jurisdiction and within the four corners of this statute, no civil Court can interfere with their orders or decisions. The finality which thus attaches to the order of the Rent Controller, subject to the decision of the Appellate Authority and possible interference by the High Court under section 15(5) of the Act, cannot be questioned in a separate suit in a civil Court. Any such suit can only question an order of the Rent Controller if it is without jurisdiction or outside the four corners of the statute, otherwise not. (Para 3)

Case referred by the Hon'ble Mr. Justice A. N. Grover, on 17th March, 1967, to a Division Bench for decision of an important question of law involved in the case. The case was finally decided by a Division Bench consisting of Hon'ble the Chief Justice Mr. Mehtar Singh and the Hon'ble Mr. Justice B. R. Tuli, on 10th July, 1968.

Petition under section 44 of Act IX of 1919 for revision of the order of Shri Radha Krishan Bhatta, Sub-Judge, 1st Class, Ropar, dated the 1st April, 1966 holding that the decision of the Rent Controller regarding the question of relationship of landlord and tenant between the parties is not res judicata.

N. K. SODHI, ADVOCATE, for the Petitioner.

D. S. KEER, ADVOCATE, for the Respondents.

JUDGMENT

MEHAR SINGH, C.J.—The petitioner having given on rent the building in question to the respondent at a monthly rental and the

respondent having failed to pay the arrears of rent, the petitioner sought his eviction under section 13 of the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act 3 of 1949). The plea in defence by the respondent was that there was no relationship of landlord and tenant between the parties. The Rent Controller found against the respondent, a finding confirmed on appeal by the Appellate Authority, and ordered his eviction.

(2) Subsequently the petitioner sued the respondent to recover the amount of arrears of rent and in that suit the respondent raised the plea in defence that there was no relationship of landlord and tenant between the parties. This was again controverted by the petitioner. The matter having been put in issue, the learned trial Judge decided the same, by his order of April 1, 1966, against the petitioner, who filed a revision application against that order, which on coming for hearing before Grover J., on March 17, 1967, the learned Judge though being of the view that the conclusion reached by the learned trial Judge was not correct, referred the matter to a Division Bench. This is how this case comes before us.

(3) The provision of East Punjab Act 3 of 1949 are exhaustive on all the aspects which the Act covers. It is an Act to restrict the increase of rent of certain premises and the eviction of tenants therefrom. The definitions of the terms 'landlord' and 'tenant' as given in section 2(c) and (i) are in scope and meaning much wider than the meaning and scope of those terms in the ordinary law, for the term 'landlord' has within its meaning and scope even a person who is entitled to receive rent on behalf of another person and the term 'tenant' includes within its meaning and scope even a person whose tenancy has terminated but who continues to be in possession. Even certain classes of persons, some of whom might come within the meaning and scope of the word 'tenant', are particularly excluded. The jurisdiction of the Rent Controller includes the power to order eviction but only subject to the conditions and restrictions as in section 13, sub-section (1) of which says that a tenant in possession of demised premises shall not be evicted except in accordance with the provisions of this particular section, and then in sub-section (2) the grounds of eviction are given on the basis of which a landlord can seek tenant's eviction. Sub-section (4) of section 15 makes the order of the Rent Controller final subject to the decision of the Appellate Authority, and the decision of the latter final subject to what the High Court may order in exercise of its powers of revision under sub-section (5) of this very section. In this there is clear implication of the ouster of the jurisdiction of an ordinary civil Court on all matters and questions which the

The Ambala Bus Syndicate (P) Ltd. v. M/s Indra Motors (Mehtar Singh, C.J.)

Rent Controller has to decide by his order, which is final subject only to the decision of the Appellate Authority, and the latter's decision is final subject to what the High Court may do under sub-section (5) of section 15. It follows from this that what is a matter properly and pertinently within the jurisdiction of the Rent Controller and has been disposed of in the terms of this particular Act, it is outside the jurisdiction of an ordinary civil Court. So long as the authorities under East Punjab Act 3 of 1949 act within jurisdiction and within the four corners of this Statute, no Civil Court can interfere with their orders or decisions. No doubt, the Act does not say anywhere that when the tenant denies the relationship of landlord and tenant, this matter is to be decided by the Rent Controller, but it would be reading much too much in the statute to say that on the mere raising of such a plea in defence by the tenant the jurisdiction of the Rent Controller in an eviction application is ousted and such application must be thrown out and dismissed off hand. In such a case dispute arises as to the relationship between the parties *qua* the demised premises, the landlord definitely alleging that the opposite side whose eviction he seeks is his tenant and the latter denying any such relationship. Mere such denial cannot oust the jurisdiction unless it is specifically provided in the statute, and there is not such provision in East Punjab Act 3 of 1949. In such a contingency the Rent Controller has no option but to try in the terms of the statute the eviction application of the landlord on merits. If he finds that the opposite party is not a tenant of the landlord, obviously he must dismiss the landlord's application, but if, on the other hand, he finds that such a plea by the opposite party is not true and that the opposite party is a tenant of the landlord, in that event, if the ground of eviction as in section 13 is proved, he must proceed to order eviction of the tenant. So that for the matter of disposal on merit of the eviction application by the landlord, where the existence of the tenancy is denied by the opposite party, the Rent Controller has jurisdiction under the provisions of the statute to decide this matter, for if he did not do so, he would be failing to exercise jurisdiction under the statute. This is, therefore, a matter within his jurisdiction and his order on this subject to the decision of the Appellate Authority, is made final by the statute, except that there might be interference by the High Court under sub-section (5) of section 15. The finality which thus attaches to the order of the Rent Controller cannot be questioned in a separate suit in a Civil Court. Any such suit can only question an order of the Rent Controller if it is without jurisdiction or outside the four corners of the statute, otherwise not.

This is a matter which, as has been explained, is within the jurisdiction of the Rent Controller and his order in this case between the parties that there existed the relationship of landlord and tenant between them is final and not open to agitation by the respondent in his defence to the suit of the petitioner to recover arrears of rent from him. The very same question arose before Narula, J., and myself in *Muni Lal v. Chandu Lal* (1), and we answered the question in the same manner. The decision in that case is binding on us. It proceeds on the basis of the decision of their Lordships of the Supreme Court reported as *Om Parkash Gupta v. Dr. Rattan Singh* (2), which, though a case under the Delhi Rent Control Act of 1958, is, on facts, pertinent to the facts of the present case. There it has been held by their Lordships that the Delhi Rent Control Act does not, in terms, authorise the authorities under it to determine finally the question of relationship of landlord and tenant, as the Act itself proceeds on the assumption of such relationship. If the relationship is denied, the authorities under the Act have to determine the question also, because a simple denial of the relationship cannot oust the jurisdiction of the Tribunals under the Act. If a person moves a Rent Controller for eviction of another person on the ground that he is his tenant who had, by his acts or omissions, made himself liable to be evicted on any one of the grounds for eviction, and if the tenant denies that the plaintiff is his landlord, the Controller has to decide the question whether there was a relationship of landlord and tenant between the parties. So that it is the jurisdiction of the Rent Controller to decide such a question and where he makes an order on such a question, that order is made final by the statute, of which the obvious consequence is that such a final order is not open to question in any proceedings in any other forum outside the statute including an ordinary Civil Court.

(4) In this approach, the revision application of the petitioner is accepted and the order of the trial Court is reversed, with a direction that it will now proceed to dispose of the suit of the petitioner on merits and with expedition. There is no order in regard to costs.

BAL RAJ TULI, J.—I agree.

K.S.K.

(1) I.L.R. (1968) 2 Pb. and Hry. 218—1968 Cur. Law Jour. (Pb. and Hryna.) 302.

(2) 1963 P.L.R. 543.