Parmeshwari Dass and others *v.* Soman Devi and another

I think rightly. Defendant Sohan Lal, D.W. 8. has admitted that the vehicle could not be steered at the place of the accident where there was a bend in the road.

Tek Chand, J.

After giving careful thought to the arguments of the learned counsel, I am satisfied that the lower appellate Court came to a correct conclusion. In the result, the appeal fails and is dismissed. There will be no order as to costs. The court-fee paid in excess may be refunded.

*B.R.T.*

REVISIONAL CIVIL

*Before K. L. Gosain, J.*

MURARI LAL,—*Appellant*

*versus*

PIARA SINGH,—*Respondent*

**Civil Revision No. 38 of 1957:**

1960

Jan., 12

*East Punjab Urban Rent Restriction Act (III of 1949)—Section 15(5)—Revision under—Whether maintainable in a case pending in Bhatinda under section 13 of the Pepsu Urban Rent Restriction Ordinance, 2006 Bk., on May, 9, 1958, when East Punjab Act applied to erstwhile Pepsu territory—Pepsu Urban Rent Restriction Ordinance (VIII of 2006 Bk.)—Section 13(3)(a)(i)(b)—Interpretation of—Landlord occupying one room and a verandah in another building which is found to be insufficient for his needs—Whether can evict tenant from his own building.*

In the Pepsu Urban Rent Restriction Ordinance, 2006 Bk., under which the petition for eviction of the tenant was made, no provision existed for revising the orders of the Appellate Authority. The Punjab Urban Rent Restriction Act, 1949, was enforced in the territory of the erstwhile Pepsu State on the 9th May, 1958, by means of

the Punjab Act. No. XVIII of 1958. On that date the petition of the landlord-petitioner for eviction of his tenant was peding before the Rent Controller, Bhatinda, and no final orders had yet been passed on the same. The question that falls for decision in the circumstances is whether the remedy of revision as given in the Punjab Act can be availed of by the landlord.

*Held*, that the remedy by way of revision under the Punjab Urban Rent Restriction Act, 1949, is available to the landlord in the present case. While a right of appeal or revision in respect of a pending action may conceivably be treated as a substantive right vesting in the litigant on the commencement of the action, no such vested right to obtain a determination which may have the attribute of finality can be predicated in favour of a litigant on the date of institution of an action. Under section 16(4) of the Pepsu Ordinance nothing can in any case be deemed to have become final till the order is actually made. The order of the Appellate Authority in this case, which would have got the attribute of finality, was made after the date of the enforcement of the Punjab Urban Rent Restriction Act in the erstwhile Pepsu State territory and the finality, therefore, did not attach to the order.

*Held*, that by enacting clause (b) of section 13(3)(a)(i) of the Pepsu Urban Rent Restriction Ordinance, 2006 Bk., the Legislature did not intend that if the landlord was occupying even one room anywhere in the urban area, he must be forced to live in that one room and should not be allowed to evict a tenant from his own house which alone can fulfil his need for a reasonable accommodation for his family. The other building contemplated by the law must be one which provides reasonable accommodation to the landlord and must not be one which is a building only in name. There is no doubt that a statute has to be interpreted only on the basis of language which it actually uses. If, however, the language of the statute is not clear enough, an interpretation has to be placed upon it which would avoid the hardship and absurd results.

*Petition under section 15 of Urban Rent Restriction Act for revision of the order of Shri Jagjit Singh, Appellate*

for revision of the order of Shri Jagjit Singh, Appellate *Authority, Bhatinda, dated the 28th November, 1958, reversing that of Shri Jagwant Singh, Controller, Bhatinda, dated the 16th September, 1958, and rejecting the application of the petitioner for ejectment of the tenant Piara Singh.*

D. C. GUPTA, for Appellant.

M. R. SHARMA, for Respondent.

JUDGMENT

Gosain, J.

GOSAIN, J.—The dispute in this case relates to a house which belongs to Murari Lal, petitioner, and is occupied by Piara Singh, respondent, as a tenant. The petitioner moved an application under section 13 of the Pepsu Urban Rent Restriction Ordinance, 2006 Bk., praying for eviction of the respondent from the house in dispute. It was alleged by the petitioner that he required the same for his own occupation, and this was the main ground on which eviction of the tenant was sought. The petition was contested by the respondent who urged that the landlord was occupying another residential house in the urban area concerned and had, therefore, no right to evict him. The Rent Controller accepted the petition of the landlord and ordered eviction of the tenant. In appeal the Appellate Authority, Bhatinda, found that the landlord had a large family consisting of his wife, four children, his mother, his brother and the brother's wife. He also found that the house now occupied by him consisted of one room and a verandah and that it was evidently insufficient for his purposes. He further found that the house in dispute was much more commodious and had two rooms, a verandah and a compound. In paragraph 5 of his order the Appellate Authority observed as under:—

> "There cannot be any doubt that with such a large family the house at present occupied by the respondent must be insufficient for his requirements. There

is no reason to disbelieve the statement of the respondent that he had purchased the house so that he may be able to live in his own house instead of a rented one."

In spite of the aforesaid finding the Appellate Authority rejected the landlord's application because of the provisions of clause (b) of subsection 3(a) (i) of section 13 of the Pepsu Urban Rent Restriction Ordinance. The landlord feeling aggrieved against that order has come up to this Court in revision.

A preliminary objection has been raised by Mr. Mela Ram Sharma, who appears for the respondent, that a petition for revision is not competent in as much as the remedy by way of revision was not available to the landlord at the time of institution of the original petition for eviction. It is true that in the Pepsu Urban Rent Restriction Ordinance, 2006 Bk., under which the petition was made, no provision existed for revising the orders of the Appellate Authority. The Punjab Urban Rent Restriction Act, 1949, was enforced in the territory of the erstwhile Pepsu State on the 9th May, 1958, by means of the Punjab Act No. 18 of 1958. On the date of enforcement of the said Act in the erstwhile Pepsu territory, the petition of the landlord-petitioner for eviction was pending before the Rent Controller and no final orders had yet been passed on the same. The question that falls for decision in the circumstances is whether the remedy of revision as given in the Punjab Urban Rent Restriction Act can be availed of by the present landlord. After giving my careful thought to the matter, I am of the opinion that while a right of apeal or revision in respect of a pending action may conceivably be treated as a substantive right vesting in the litigant on the commencement of the action, no such vested

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right to obtain a determination which may have the attribute of finality can be predicated in favour of a litigant on the date of institution of an action. By the very terms of sub-section (4) of section 16 on which Mr. Mela Ram Sharma places his reliance the finality attaches to the order and it is, therefore, evident that till the order is actually made, nothing can in any case be deemed to have become final. The order of the Appellate Authority in this case which would have got the attribute of finality was made after the date of enforcement of the Punjab Urban Rent Restriction Act in the erstwhile Pepsu State territory and the finality, therefore, did not attach to the order.

In *Indira Sohanlal* v. *Custodian of Evacuee Property, Delhi, and others* (1), application had been made for confirmation of certain transfers relating to an evacuee property at a time when the order of the Custodian regarding the confirmation or non-confirmation of the same would have been final. While the said application was still pending the Central Act of 1950 came into force, and the said Act provided for an appeal against the order of the Custodian confirming the transfer or refusing to confirm the same. A question arose whether the right of appeal could be availed of by the party against whom the Custodian passed the order. Their Lordships of the Supreme Court found that an appeal could be preferred against the order inasmuch as no final order had come into existence before the date when the right of appeal was conferred. The said ruling applies to the present case on all fours. In my judgment, there is no force in the preliminary objection which I overrule.

On merits the petition must succeed. The learned District Judge has dismissed the petition

(1) A.I.R. 1956 S.C. 77

only on the basis that the landlord was occupying another residential building in the urban area concerned and that his case, therefore, fell within clause (b) of section 13(3) (a) (i). The learned District Judge himself has found that the so called other building which the landlord is now occupying consists of one room and a verandah and that the said premises is entirely insufficient for his accommodation. Evidently, the Legislature did not intend that if the landlord was occupying even one room anywhere in the urban area, he must be forced to live in that one room and should not be allowed to evict a tenant from his own house which alone can fulfil his need for a reasonable accommodation for his family. The other building contemplated by the law must be one which provides reasonable accommodation to the landlord and must not be one which is a building only in name. If the interpretation adopted by the learned District Judge is accepted, it would certainly lead to absurd results and great hardship. There is no doubt that a statute has to be interpreted only on the basis of language which it actually uses. If, however, the language of the statute is not clear enough, an interpretation has to be placed upon it which would avoid the hardship and absurd results. At page 229 of the book "Maxwell on Interpretation of Statutes" it is stated as under:—

> "Where the language of a statute, in its ordinary meaning and grammatical construction leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, presumably not intended, a construction may be put upon it which modifies the meaning of the words and even the

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structure of the sentence. This may be done by departing from the rules of grammar, by giving an unusual meaning to particular words, by altering their collocation, or by rejecting them altogether under the influence, no doubt, of an irresistible conviction that the legislature could not possibly have intended what its words signify, and that the modifications thus made are mere corrections of careless language and really give the true meaning".

In *Hardawari Lal* v. *Moti Ram* (1), a Division Bench of this Court held that "in the absence of clarity, when a defect apears, a Judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from a consideration of the social conditions which gave rise to it and of the mischief which it was passed to remedy, and he must supplement the written word so as to give force and life to the intention of the legislature." The facts of the aforesaid Division Bench case were almost similar to the one now in hand. The landlord who made an application for eviction of his tenant was in possession of one room which he had tenanted from some one else and he wanted his own house to be vacated for his personal occupation. The tenant pleaded that the landlord was in possession of a building in the same urban area and was not, therefore, entitled to evict the tenant from the house purchased by him for his own occupation. The plea of the tenant was rejected and the order of eviction passed by the Courts below was upheld by the Division

(1) A.I.R. 1952 Punj. 416

Bench. Almost similar view was taken by Harnam Singh J., in *Baij Nath* v. *Badhawa Singh* (1). I followed the aforesaid two rulings of this Court in Civil Revision No. 648 of 1957 decided by me on the 3rd of April, 1958, and ordered eviction of a tenant on the ground that the landlord needed the premises for his own occupation although he had already got a small building in his possession in the same urban area.

In the result, I accept the petition for revision and setting aside the order of the Appellate Authority restore that of the Rent Controller evicting the tenant from the premises in dispute. In the peculiar circumstances of the case, I leave the parties to bear their own costs in this Court.

At the request of the learned counsel for the respondent, I allow the tenant time to vacate the building till the 15th April, 1960.

*B. R. T.*

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(1) 1956 P.L.R. 236

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