

Bir Singh  
and others  
v.  
The State of  
Punjab and  
others  
—  
Falshaw, C.J.

1956, it hit certain transactions which took place after the 21st of August, 1956. The obvious reason for choosing the 30th of October, 1956, as the date from which section 32-KK was to have effect was to bring it into line with section 32-FF, which was also operative from the same date. Thus as the law now stands section 32-FF and section 32-KK have to be read together, and certain transactions which were not thought to be covered by section 32-FF, though the Legislature probably intended them to be, are now to be deemed to be covered by it. It is inconceivable to me that by fixing the date from which section 32-KK was to be operative as the 30th of October, 1956, the Legislature intended to exempt partitions of Joint Hindu family property which took place between the 21st of August, and the 30th of October, from its scope. I am, therefore, of the opinion that the writ petition fails and must be dismissed, but the parties may be left to bear their own costs.

Jindra Lal, J.

JINDRA LAL, J.—I agree entirely.

R.S.

#### REVISIONAL CIVIL

*Before D. Falshaw, C.J. and Jindra Lal, J.*

SWAMI TRIGUNA NAND,—*Petitioner.*

*versus*

MAHABIR DAL,—*Respondent.*

Civil Revision No. 807 of 1961.

1963  
May, 31st

*East Punjab Urban Rent Restriction Act (III of 1949)—S. 13(3) (a) (i)—Juristic person—Whether can obtain ejectment of a tenant from a residential building on the ground of personal occupation—S. 11—Conversion of 'residential building' to 'non-residential building'—When takes place.*

*Held* that in section 13(3)(a)(i) of the East Punjab Urban Rent Restriction Act, 1949, the words are 'requires for his own occupation' and not 'for his own residence'. A juristic person is capable of occupying a building and can require a building for its own occupation.

*Held* that a reference to the definition of the words 'non-residential building' and 'residential building' in the Act would show that it is only where a residential building is going to be used for any 'business or trade' that the conversion as contemplated in section 11 would take place. A public body like the Mahabir Dal, by using the residential premises for the storage of sticks and durries, can not be said to be converting a residential building into a non-residential building.

*Case referred by the Hon'ble the Chief Justice Mr. D. Falshaw, on 12th October, 1962 for decision of an important question of law involved in this case. The case was finally decided by a Division Bench consisting of the Hon'ble the Chief Justice Mr. D. Falshaw and the Hon'ble Mr. Justice Jindra Lal on 21st May, 1963.*

*Petition under section 15(5) of the East Punjab Urban Rent Restriction Act, III of 1949 for revision of the order of Shri Sant Ram Garg. Appellate Authority, under East Punjab Urban Rent Restriction Act, Ambala, dated 1st December, 1961 affirming that of Shri H. S. Ahluwalia, Rent Controller, Ambala at Kharar, dated 22nd June, 1961, passing an order directing the respondent to put the applicant in possession of the house in dispute within two months from 22nd June, 1961.*

S. K. JAIN, ADVOCATE, for the Petitioner.

B. R. AGGARWAL AND SANTOSH KUMAR, ADVOCATES, for the Respondents.

#### JUDGMENT

JINDRA LAL, J.—This civil revision came up for Jindra Lal, J. hearing before my Lord the Chief Justice, By his order dated the 12th of October, 1962, he has referred

Swami Triguna Nand v. Mahabir Dal Jindra Lal, J. it to a Division Bench. The same point being involved in civil revisions Nos. 154, 155, and 204 to 207 of 1962, they were also to be heard with it. This judgment will dispose of all of them.

The only point which requires determination is whether an order of ejectment of a tenant can be validly passed, with regard to residential premises when the landlord, who is not an individual but a juristic person, requires the same for its own occupation.

The landlord in the present case, i.e., civil revision No. 807 of 1961, is Mahabir Dal, Kalka, admittedly a juristic person. It filed an application for the ejectment of Swami Triguna Nand under section 13 (2) and (3) of the East Punjab Urban Rent Restriction Act, 1949, hereinafter referred to as the Act. Swami Triguna Nand was a tenant of house No. 133, J. L., Ward No. 4 in the town of Kalka. The application for ejectment was made on two grounds: (1) non-payment of rent and (2) that the landlord required the premises for its own occupation. Various pleas were raised by the tenant. We are not concerned with the first ground, the tenant having deposited the requisite amount on the 1st day of hearing.

As regards the second ground, that is on the ground that the premises were required for the personal occupation of the landlord, it is conceded that the premises are required by the landlord for the storage of sticks, durries, etc., which are used by the landlord, which is a public body, for the training of the youth. It was argued by the tenant that as the premises were rented for residential purposes, the landlord by storing sticks and durries was changing the nature of the property and also being a juristic person, it could not require the premises for its own occupation. The Rent Controller held that the use of the premises for storing of sticks and durries belonging to the landlord

could not amount to changing or converting residential premises into non-residential. He referred to the definitions of "non-residential" and "residential" premises in the Act and came to the conclusion that since non-residential buildings are those which are used solely for carrying on any trade or business, and, as the storing of sticks and durries by Mahabir Dal could by no stretch of imagination be considered to be trade or business, the nature of the property was not being changed. He further remarked that it was not urged before him, although it might be urged, that the house is not required for any residence and that there may be some force in this contention if properly raised, but as it had not been raised he was not dealing with it. Consequently the learned Rent Controller passed an order directing the tenant to put the applicant in possession of the house in dispute within two months.

Swami Triguna  
Nand  
v.  
Mahabir Dal  

---

Jindra Lal, J.

Being dissatisfied with that order, the tenant appealed and by its order, dated the 1st of December, 1961, the Appellate Authority dismissed the appeal. It came to the conclusion that as a residential building is one which is not a "non-residential building" and as non-residential building is defined as a building used solely for business or trade, the landlord intending to use the house as office-cum-store cannot be said to be using the premises for any trade or business. Consequently he agreed with the Rent Controller and dismissed the appeal.

The tenant has come up in revision, as stated above, and the matter has been referred to a Division Bench.

Counsel for the petitioner made three submissions. He contended that a juristic person cannot be said to reside in a building and because the word "residential" occurs in section 13(3) (a) (1), it obviously follows according to him that a person must require the building for his personal residence before he can get possession under section 13 (3) (a) (1) (a).

Swami Triguna  
Nand  
v.  
Mahabir Dal  
Jindra Lal, J.

Secondly he contended that since a juristic person could not personally reside in a building, a juristic person cannot ask for eviction of a tenant for this purpose. His third contention was that, since the premises were residential, the landlord would be changing the nature of the building to non-residential by storing goods there.

Now it appears to me that there is a fallacy in this argument. It has already been noticed that for the purposes of the Act 'non-residential building' means "a building being used solely for the purpose of business or trade: provided that residence in a building only for the purpose of guarding it shall not be deemed to convert a 'non-residential building' to a 'residential building'". 'Residential building' means "any building which is not a non-residential building".

Now, a Division Bench of this Court in *Siri Kishan and others v. Ghanesham Dass* (1), has held that a juristic person (like a trust) is entitled to take advantage of section 13 sub-section (3) clause (a) sub-clause (i) of the East Punjab Urban Rent Restriction Act and that, therefore, the trustees can ask for the ejection of a tenant from a residential building in order to start a school in the said building. That case first came up on the revisional side before Mr. Justice Dua, but as the question was of considerable importance it was referred to a Division Bench and the matter ultimately came before Mr. Justice Mehar Singh and Mr. Justice Shamsher Bahadur. After considering the arguments and the authorities cited at the bar, the Division Bench came to the conclusion as stated by me above.

The argument advanced by learned counsel before us was that by using the premises for the storage of sticks and durries, the landlord in this case was converting the nature of the building, that is to say, converting a residential building into a non-residential

(1) I.L.R. 1963 (1) Punj. 115: 1962 P.L.R. 1141.

building without the permission in writing of the Controller in violation of section 11 of the Act. A reference to the definition of the words 'non-residential building' and 'residential building,' however, would show that it is only where a residential building is going to be used for any 'business or trade' that the conversion as contemplated in section 11 would take place. In the present case I am of the view that by no stretch of imagination can it be held that a body like the Mahabir Dal, Kalka, by using the premises, which are residential premises, for the storage of sticks and durries is converting a residential building into a non-residential building.

Swami Triguna  
Nand  
v.  
Mahabir Dal  
Jindra Lal, J.

Learned counsel then urged that although in *Municipal Committee, Abohar v. Daulat Ram* (2), a Division Bench of this Court has held that a juristic person can get possession of rented land if he requires it for his own use, it cannot be argued that a juristic person can also get possession of a building for its own occupation, because he argues that the word 'use' is of a much wider significance than the word 'occupation'. Now, it may be noted that in section 13(3)(a)(i) the words are 'requires for his own occupation'. The words are not 'for his own residence' and it appears to me that a juristic person is capable of occupying a building or can require a building for its own occupation as a natural person, otherwise it will be holding that a municipal corporation or a bank or a joint stock company cannot occupy premises for its own use.

Consequently this revision is dismissed, but in view of the circumstances of the case I would make no order as to costs.

D. FALSHAW, C.J.—I agree.

Falshaw, C.J.

B.R.T.