

Mr. Khosla, contends that the petitioner on his conviction was liable to forfeiture of one month's pay and this penalty having been specifically prescribed no question of his dismissal arose and the penalty of dismissal could not have been imposed upon him. The argument that has been raised is wholly baseless and without any force. Rule 21 refers specifically to "breach of any of the rules in this part". This has reference to Part II of the rules which begin with the Chapter entitled 'Carriage of Passengers' and end with rule 20 in Chapter II. Rule 21 appearing in Chapter III which appears in Part II governs the breach of only those rules which appear in Chapters I and II of Part II of the rules. Moreover, rule 21 only refers to a breach of the rules and can have nothing to do with any conviction under the substantive provisions of the statute, namely, sections 120 and 121 of the Act.

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Grover, J.

For the reasons given above this petition fails and is dismissed. I, however, leave the parties to bear their own costs in this Court.

R.S.

CIVIL REVISION

Before R. P. Khosla, J.

BUA DASS,—*Petitioner*

versus

PIARE LAL,—*Respondent*

Civil Revision No. 107 of 1957.

East Punjab Urban Rent Restriction Act (III of 1949)
—*Section 13—Bona fide requirement for rebuilding—Meaning and test of .*

1958

Sept. 17th

Held, that while determining whether the landlord *bona fide* requires the permises for rebuilding, it is not the desire of the landlord to rebuild which is the determining

factor but his *bona fide* need for reconstruction, the judge of which has to be the court.

Petition under section 25 of the Punjab Rent Restriction Act as amended Act 29 of 1956 for revision of the order of Shri Tirath Das, District Judge, Gurdaspur, dated 3rd December, 1956, affirming that of Shri Vishnu Dutta Aggarwal, Rent Controller, Batala, dated 16th April, 1956, dismissing the application and leaving the parties to bear their own costs.

S. D. BAHRI, for Petitioner.

H. L. SARIN, for Respondent.

JUDGMENT

R. P. Khosla, J. R. P. KHOSLA, J.—This petition is by landlord who had remained unsuccessful in evicting his tenant.

Piare Lal tenanted the premises, a shop situated in Batala City belonging to the present petitioner Bua Dass, the landlord, on 19th July, 1949. On 1st October, 1953, Bua Dass brought a petition for ejectment of Piare Lal on the basis of non-payment of rent. The same, however, did not proceed on the tenant's paying in the amount of rent due. On 3rd April, 1954, Bua Dass again maintained a petition for eviction of the respondent, this time on the ground of his requiring the premises for reconstruction. This petition however, was not pressed. The present petition, the third of the variety, was filed on 6th August, 1955. Among others one of the grounds raised was that the premises were *bona fide* required by the landlord for rebuilding and reconstructing the second storey. Rent Controller, by his order dated the 16th April, 1956, finding that the premises were not *bona fide* required for reconstruction, nonsuited the landlord. The Appellate Authority affirmed the findings of the Rent Controller on this aspect by order dated the 3rd December, 1956.

The only point that requires determination and had been argued before me by the learned counsel for the parties was whether the premises were bona fide required by the landlord for rebuilding. Mr. Bahri pressing the point on behalf of the petitioner brought to my notice the observations of Kapur, J., in *Ram Chander v. Kidar Nath and others* (1), to the effect that it is not the state of the building which is the test of re-erection, but it is the desire of the landlord to rebuild that is to be considered when giving relief to the landlord in this respect. This view, however, did not find favour with Bhandari, C. J. (*Mangtoo Ram v. Girdhari Lal*) (2). The learned Chief Justice while considering this aspect and the relevant provisions observed—

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“The language of clause (b) reproduced above makes it quite clear that a landlord can ask for the ejection of a tenant if he satisfies the Court that he bona fide requires the premises for purposes of re-erection of the building or for its replacement by another building or for the erection of other buildings. In A.I.R. 1954 Punjab, 135, it was held that it is not the state of the building which is the test of re-erection, but it is the desire of the landlord to rebuild. I must confess with all respect that I am unable to concur in this view. When the statute states in unambiguous language that the Controller is to be satisfied that the claim of the landlord is bona fide, it is obviously the duty of the Courts to

(1) 1954 P.L.R. 18: A.I.R. 1954 Punjab 135

(2) C.R. 346 of 1954

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see whether the claim put forward by the landlord is or is not bona fide."

R. P. Khosla, J. With all respects I would prefer to follow the dictum in *Mangtoo Ram v. Girdhari Lal* (1) principally because it construes and follows the letter and spirit of the relevant provisions of the statute. It is thus obvious that it is not the desire of the landlord to rebuild but his *bona fide* need for reconstruction that is the determining factor, the Judge of which has to be the Court. The tribunals below have concurrently found that there was no proof in the instant case of any *bona fide* need of the landlord for reconstruction or rebuilding the premises. The tribunals below have particularly been impressed by the fact that in the second application for eviction maintained by the landlord on 3rd of April, 1954, rebuilding had been made a ground but not pressed, for, as already stated, the said petition was got dismissed for non-prosecution. If there was a genuine and *bona fide* need for rebuilding of the premises, the landlord undoubtedly not only would have pressed the petition dated the 3rd April, 1954, but taken such other steps that would have clearly indicated his intention to rebuild.

For all these considerations, I am of the view that the tribunals below were right in their conclusions in this respect and the order must be upheld.

In the result this petition must fail and is dismissed. In view of the circumstances of this case, there will be no order as to costs.

R.S.