

subsequent year, i.e., 1974-75. Different phraseologies are employed while making amendments but whenever amendments are made with effect from the first day of April of any financial year, according to the dictum of the Supreme Court in the aforesaid case the amendment would apply to the assessments to be made for that year and that is what the Tribunal has held and we are in agreement with that.

(10) For the reasons recorded above, we answer the proposed question in the affirmative, i.e., in favour of the Revenue and against the assessee. The parties are left to bear their own costs.

N.K.S.

Before M. M. Punchhi, J.

PARO DEVI AND OTHERS,—Petitioners.

versus

SUKH DEVI,—Respondents.

Civil Revision No. 1747 of 1985.

August 7, 1985.

Code of Civil Procedure (V of 1908)—Order 39—Rules 1 and 2—East Punjab Urban Rent Restriction Act (III of 1949)—Section 2(i)—Ejectment order passed against one heir of the deceased tenant—Other heirs of the deceased not impleaded as parties—Such order sought to be executed by the landlord—Suit by other heirs seeking to restrain the landlord from taking possession of the premises in execution of the ejectment order—Temporary injunction in such a suit—Whether should be granted—Prima facie case and balance of convenience—Whether in favour of the plaintiffs.

Held, that a statutory tenant also has an estate or interest in the premises which can be inherited and such a tenant has been placed on the same footing as a contractual tenant. In this view of the law and the widened definition of the word 'tenant' used in the East Punjab Urban Rent Restriction Act, 1949, it is not necessary that one of the statutory tenants who has inherited the estate be in actual possession of the premises in dispute. This by no means is a final statement of law, but is enough to create *prima facie* case in favour of the plaintiff. Indisputably, the plaintiff succeeded to the

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estate of the deceased tenant and was not a party to the earlier proceedings in which eviction order was successfully sought by the landlord. In execution of that order, they cannot be permitted to say that he can evict the plaintiff as one of the statutory tenants has been ordered to be evicted. Every heir succeeding to the estate has his or her own right to protect. Thus, there was balance of convenience in favour of the plaintiff as also *prima facie* case and if the injunction was not granted they would suffer irreparable loss by being dispossessed from the property in dispute in execution of the eviction order. It was, therefore, a fit case in which temporary injunction ought to be granted. (Para 3),

Petition under section 115 C.P.C. for revision of the order of the Court of Smt. Harmohinder Kaur Sandhu, District Judge, Faridkot dated 25th April 1985 reversing that of Shri . G. S. Bhatti, PCS Addl. Senior Sub Judge, Faridkot dated 25th February, 1985 accepting this appeal and setting aside the impugned order and restrain the defendants from dispossessing the appellant from the premises in dispute in execution of ejection order dated 6th February 1981 passed against Hari Ram during the pendency of the suit and leaving the parties to bear their own costs.

Ashwani Chopra, Advocate, for the Petitioner.

Chandra Singh, Advocate, for the Respondent.

JUDGMENT

M. M. Punchhi, J.— (Oral)

(1) The skeletal facts which have given rise to this controversy are these. One Muna Lal was a tenant in the premises in dispute, which is a house within the municipal limits of Kot Kapura. He died in the year 1960, leaving behind his widow Sukh Devi respondent, three sons and a daughter. The landlord successfully sought an eviction order against one son of Muna Lal without impleading the other heirs of Munna Lal. In the meantime, the landlord also died and he was succeeded by his legal representatives. They wanted to execute the ejection order. In this situation, the widow of Munna Lal, the respondent herein, filed a suit for permanent injunction restraining the successor-landlords from ejecting her forcibly and without due course of law, or in execution of the ejection order passed by the Rent Controller, afore-referred to, against one of the sons of Munna Lal. She based her claim on the assertion that she had inherited tenancy rights and had been residing in the premises as a tenant. She also filed an application for

the grant of a temporary injunction restraining the successor-landlords from dispossessing her in the manner afore-stated. The suit is being contested by the defendant-petitioners herein. They contested the application for temporary injunction as well. The trial Court denied the respondent the injunction, but the appellate Court finding a *prima facie* case in her favour as also the balance of convenience, thereby granted her the injunction asked for. The defendant-petitioners have approached this Court in revision.

(2) Mr. Chopra, learned counsel for the petitioners, has vehemently contended that the respondent was in the know of the earlier proceedings for ejection which were hotly contested and went on for a number of years. From the fact that the respondent remained silent all this while, it is commented that the suit is *mala fide* and the respondent had been set up by the judgment-debtor of the eviction case in order to prolong possession. Further, it is contended that it has yet to be established if she was in possession of the property in dispute for the case of the petitioners is that she was a priest in some temple and not residing in the premises.

(3) Neither ground urged by the petitioners' counsel prevails. As held by the Supreme Court in *Smt. Gian Devi Anand v. Jeevan Kumar and others* (1) a decision by five Hon'ble Judges, a statutory tenant also has an estate or interest in the premises which can be inherited. It is also observed that the law is moving forward from the idea of contract to status, when a statutory tenant has been placed on the same footing as contractual tenant. In this view of the law and the widened definition of the word 'tenant' used in the East Punjab Urban Rent Restriction Act, which says that 'tenant' means "any person by whom or on whose account rent is payable.....". It is not necessary that one of the statutory tenants who has inherited the estate be in actual possession of the premises in dispute. This by no means is a final statement of law, but is enough to create *prima facie* case in favour of the respondent. Undisputably, she succeeded to the estate of Munna Lal as one of the co-heirs. Undisputably, she was not a party to the earlier proceedings in which eviction order was successfully sought by the petitioners. In execution of that order, they cannot be permitted to say that they can evict her as one of the statutory tenants has been ordered to be evicted. Every heir succeeding to the estate has his or her own right to protect. Thus, the view of the

(1) CW 3441 of 1972 decided on 1st May, 1985.

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learned District Judge that there was balance of convenience in favour of the respondent, as also *prima facie* case and that if the injunction was not granted she will suffer irreparable loss by being dispossessed from the property in dispute in execution of the eviction order, is perfectly sound and not to be altered in this petition. Accordingly the order is left uninterfered with. The petition is thus dismissed. It is made clear that nothing said herein would affect the merits of the case. The respondent shall have his costs.

(4) Let the suit be expedited.

N.K.S.

Before S. P. Goyal and G. C. Mital, JJ.

RAM KISHAN AND OTHERS,—Petitioners.

versus

MAST RAM AND ANOTHER,—Respondents.

Civil Writ Petition No. 842 of 1985.

August 26, 1985.

Punjab Security of Land Tenures Act (X of 1953)—Sections 9(1) (ii) and 14-A(i)—Landowners seeking ejection of their tenants on the ground that the latter failed to pay rent regularly without sufficient cause—Application filed in Form 'L' containing no details of the defaults committed by the tenants—Such an Application—Whether could be rejected outright—Mentioning of detailed particulars of the defaults—Whether necessary.

Held, that mere recital of the words contained in form 'L' could not be enough to claim ejection of the tenant or to furnish data for the Assistant Collector even to initiate proceedings. Even in the absence of any note authorising giving of particulars, it would be required from the landowner to state as to which crop or crops the tenant had failed to cultivate without sufficient cause and the custom prevailing in the locality about the manner and extent of cultivation and the failure in this behalf. All these provisions specifying different forms are enabling and they merely give a guide on the