

of appearance so that the claimants could make an application for restoration of the reference if so advised. There was no occasion for the Additional District Judge to hold that the amount of compensation assessed by the Land Acquisition Collector was fair.

6. Under the circumstances, the revision petition succeeds and is allowed. The impugned order is set aside and the case is sent back to the District Judge, Gurgaon, for proceeding with the reference in accordance with law. The parties have been directed to appear before the District Judge on 20th December, 1984.

N.K.S.

Before J. V. Gupta, J.

PRABHA KHANNA,—*Petitioner.*

versus

DR. SATISH CHANDRA GUPTA,—*Respondent.*

Civil Revision No. 2736 of 1984.

November 28, 1984.

Haryana Urban (Control of Rent and Eviction) Act (XI of 1973)—Section 13(2)(i) first proviso—Tender of rent within fifteen days of the first hearing—Words ‘of the first hearing’ and ‘from the first hearing’—Whether synonymous—First date of hearing—Whether to be excluded in computing the period of fifteen days.

Held, that the use of the words fifteen days ‘of the’ first date of hearing, as occurring in the first proviso to section 13(2) (i) of the Haryana Urban (Control of Rent and Eviction) Act, 1973 or fifteen days ‘from the first date of hearing, are synonymous and the day of the first date of hearing has to be excluded in computing the period of fifteen days as provided under the first proviso to section 13(2) (i) of the Act.

(Para 6).

Petition under section 15(6) Haryana Urban (Control of Rent and Eviction) Act 1973 for revision of the Order of the Court of Shri S. D. Anand, Appellate Authority, Faridabad, date 8th October, 1984 reversing that of the Order of the Court of Shri Raj Kumar, Rent Controller, Faridabad dated 31st March, 1984 setting aside

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the order of the learned Rent Controller and holding that the tender made by the tenant-appellant was valid in law and ordering that the possession of the disputed premises be restored to the tenant-appellant and the respondent-landlady is given one month's time from 8th October, 1984 to comply with this order or to get a suitable order from the Hon'ble High Court. The tenant-appellant also be entitled to the costs of the petition.

M. L. Sarin, Advocate, for the Petitioner.

K. S. Thapar, Advocate, for the Respondent.

JUDGMENT

J. V. Gupta, J.—

(1) This is landlady's petition whose ejection application has been allowed by the Rent Controller, but dismissed in appeal.

(2) The landlady sought the ejection of the tenant from the premises, in dispute, on the ground that he was in arrears of rent for the months of June, July and August, 1983. The application was filed on August 5, 1983. The rent claimed was at the rate of Rs. 770 per month exclusive of electricity and water charges. The tenant contested the said application. It was pleaded that the rent of Rs. 770 per month also included the water charges. However, the arrears of rent, amounting to Rs. 2,310 were tendered in the Court of the Rent Controller on September 22, 1983. The only controversy between the parties is: whether the arrears of rent amounting to Rs. 2,310 paid in the Court on September 22, 1983, was a valid tender or not. The learned Rent Controller found that since the rent was tendered on September 22, 1983, i.e., after the expiry of the statutory period of 15 days, the tenant was not entitled to the protection of the first proviso to section 13(2) (i) of the Haryana Urban (Control of Rent and Eviction) Act, 1973, (hereinafter called the Act). Consequently, the ejection application was allowed and the order of eviction was passed against the tenant. In appeal, the learned Appellate Authority reversed the said finding of the Rent Controller and came to the conclusion that the tender made on September 22, 1983, was within 15 days from the first date of hearing which was September 7, 1983. Consequently, the eviction order passed by the Rent Controller against the tenant was set aside. Dissatisfied with the same, the landlady has come up in revision to this Court.

(3) As already observed, only controversy between the parties in this revision petition is: whether the tender made on

September 22, 1983, when the first date of hearing in this case was September 7, 1983, was made within a period of 15 days or not as provided under first proviso to section 13(2) (i) of the Act.

(4) According to the learned counsel for the landlady, the tenant is entitled to tender the arrears of rent within a period of 15 days "of the first date of hearing" of the ejection application and not within 15 days "from the first date of hearing" thereof. Thus, according to the learned counsel, the day of the first date of hearing, i.e., September 7, 1983, could not be excluded in the present case in computing the period of fifteen days which fell on September 21, 1983, and since the tender made on September 22, 1983, was beyond the period of 15 days, the tenant was rightly held to be liable to be evicted from the demised premises by the Rent Controller, which finding has been erroneously set aside by the Appellate Authority. Besides, the learned counsel relied upon the provisions of section 9 of the General Clauses Act, 1897 and section 12 of the Limitation Act, 1963, to contend that in case the day which is the first date of hearing is to be excluded in computing the period of 15 days under first proviso to section 13(2) (i) of the Act, then the Legislature should have used the expression, "15 days' from the 'first date of hearing'", and not "15 days 'of the' first date of hearing". The learned counsel also stressed that the said proviso should be construed strictly because the same was in the nature of a concession granted to a tenant, and in support thereof the learned counsel relied upon *Dial Chand v. Mahant Kapoor Chand*, (1).

(5) After hearing the learned counsel of the parties, I do not find any merit in this revision petition.

(6) The question involved in the present case is not *res integra*. Similar expression in section 106 of the Factories Act, 1948, came up for consideration by the Division Bench of the Andhra Pradesh High Court in *re V. S. Mehta*, (2). Both section 9 of the General Clauses Act, 1897, and 12 of the Limitation Act, were also considered therein and it was held in paragraphs 7 and 8 of the judgment as follows :—

"7. Section 9(1) of the General Clauses Act provides that if in any General Act or Regulation made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other

(1) 1967 P.L.R. 248.

(2) AIR 1970 A.P. 234.

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period of time, to use the word 'from', and for the purpose of including the last in a series of days or any other period of time, to use the word 'to'. But in section 106 of the Factories Act, the word 'from' has not been used. It is not stated that the complaint thereof is to be made within three months from the date on which the commission of the offence came to the knowledge of the Inspector, "but within three months of the date". In Stroud's Judicial Dictionary at page 1964 it is stated that 'of' is sometimes the equivalent of after, e.g., the word "21 days of the execution" mean '21 days after the execution'.

"8. We, therefore, find that the term 'within three months of the date' in section 106 of the Factories Act means 'within three calendar months after the commission of the offence came to the knowledge of the Inspector'. This interpretation based on common law as well as on the provisions of the Limitation Act and the provisions of the General Clauses Act results in the exclusion of the day of the knowledge, i.e., the date of inspection and the "three months" being calculated as three calendar months. In this view all the prosecutions are within time."

In 67 Corpus Juris Secundum at pages 86 and 87, the word 'of' has been variously defined as meaning "belonging to"; "pertaining to"; "connected with"; or "associated with". Therein, it is also defined as meaning "from". Thus, the use of the words, 15 days "of the" first date of hearing, as occurring in the first proviso to section 13(2) (i) of the Act, or 15 days "from the" first date of hearing, are synonymous and the day of the first date of hearing has to be excluded in computing the period of 15 days, as provided under the first proviso to section 13(2) (i) of the Act. No judgment taking a contrary view has been cited at the bar. It has been rightly held by the Appellate Authority that the tender made on September 22, 1963, was a valid tender and that the eviction order could not be passed against the tenant on the ground of non-payment of the arrears of rent.

(7) No other point has been raised.

(8) Consequently, this revision petition fails and is dismissed with costs. However, the petitioner is allowed three weeks time to restore the possession.

N.K.S.