

Before : G. R. Majithia, J.

ZENOBIA BHANOT (SMT.),—Petitioner.

versus

SURINDER SHARMA,—Respondent.

Civil Revision No. 3025 of 1990.

20th July, 1992.

*East Punjab Urban Rent Restriction (Amendment) Act, 1985—S. 13-A—Scope of—Building whether residential or scheduled let out in parts—Right to recover immediate possession—Restricted only to one part—Remedy for ejection from other parts available under section 13.*

*Held*, that if a residential or a scheduled building is let out in parts, each part will become a scheduled building or a residential building enabling the specified landlord to avail the concession only from a part. The purpose of introducing Section 13-A of the Act is to enable a specified landlord to get their own building vacated speedily so as to provide them with a shelter. If the building owned by him has more than one part and is let out to different tenants, he can avail the concession granted under the amended Act with regard to a part. Second proviso amplifies that the specified landlord can recover immediate possession of one residential or scheduled building inclusive of any part or parts thereof. A part of the residential or scheduled building let out will fall within the proviso. If the specified landlord shows that a part of the scheduled or residential building of which he has recovered possession by invoking the summary provisions is not sufficient, he has to take resort to the provisions of Section 13 of the Act like an ordinary landlord. Special remedy is available to the specified landlord only on fulfilment of certain conditions and limitations enumerated in Section 13-A of the Act.

(Para 5)

*Petition under Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949, for revision of the order of the Court of Rent Controller, Chandigarh, dated the 20th December, 1989, dismissing the petition and leaving the parties to bear their own costs.*

*Claim : Petition under Section 13-A of the East Punjab Urban Rent Restriction Act, 1949, inserted,—vide East Punjab Urban Rent Restriction (Amendment) Act, 1985, extended*

to the Union Territory of Chandigarh,—vide notification No. G.S.R. 1287(E), dated 15th December, 1986, for ejection of the respondent from two room, kitchen, toilet and verandah on the Ground Floor of House No. 2, Sector 18-A, Chandigarh.

*Claim in Revision* : For reversal of the order of the Lower Court.

(Case referred by the Hon'ble Mr. Justice S. S. Sodhi, on November 26, 1990 to a Division Bench for deciding an important question of law involved in the case. The Divisional Bench consisting of Hon'ble Mr. Justice G. R. Majithia, Hon'ble Justice A. S. Nehra, after answering the question of law on 20th July, 1992 their Lordships directing that the revision petitions be placed before a learned Single Judge for disposal.

Nemo, for the Petitioner.

Y. K. Sharma, Advocate, for the Respondent.

#### JUDGMENT

G. R. Majithia, J.

This judgment disposes of Civil Revisions No. 3025 and 3040 of 1990 and 3268 of 1989.

(2) The precise question of law arising for determination is what is the scope and effect of Section 13-A of the East Punjab Urban Rent Restriction Act, 1949 (for short, the Act) as inserted by Act No. 2 of 1985 with effect from November 16, 1985. This question has been answered by this Court in *Sohan Lal of Patiala v. Col. Prem Singh Grewal and another* (1), and *Bhupinder Singh v. Smt. Zenobia Bhanot* (2).

(3) Reference to relevant facts has been made from Civil Revision No. 3025 of 1990 for deciding the question of law raised. Shri S. N. Bhanot, I.A.S., died after his retirement from Government service. His widow Smt. Zenobia Bhanot filed four separate ejection applications under Section 13-A of the Act, as amended and applicable to the Union Territory of Chandigarh, for ejection of her four tenants, namely, Bhupinder Singh, Dr. (Mrs.) S. K.

(1) 1989 (2) P.L.R. 139.

(2) 1990 (2) P.L.R. 325.

Gill, P. K. Vasudeva and Surinder Sharma, from different portions of House No. 2, Sector 18-A, Chandigarh. These applications were filed on December 15, 1987, but were tried by different Rent Controllers. Shri Birender Singh, Rent Controller, Chandigarh, decided the application filed against Dr. (Mrs.) S. K. Gill directing her ejection from two rooms of the house in dispute. Shri Gur Sewak Singh, Rent Controller, Chandigarh on March 15, 1989, directed ejection of Bhupinder Singh from one of the rooms of the disputed house. The ejection orders were challenged by the tenants in Civil Revisions No. 1386 of 1989 and 1260 of 1989. The learned Single Judge upheld the order of eviction of Dr. (Mrs.) S. K. Gill and dismissed Civil Revision No. 1386 of 1989, but allowed Civil Revision No. 1260 of 1989 filed by the other tenant—Bhupinder Singh. The third ejection application filed by Smt. Zenobia Bhanot against her tenant, Surinder Sharma, was dismissed by Shri B. M. Bajaj, the then Rent Controller, Chandigarh by order dated December 20, 1989, with the following observations :—

“Heard. Ld. counsel for the respondent has argued that in view of the judgment of the Hon’ble High Court dated 6th November, 1989, this petition cannot proceed further being not maintainable and as such, it be dismissed. It has been opposed by the ld. counsel for the petition. But in view of the judgment of the Hon’ble High Court dated 6th November, 1989 to the effect that specified landlord can seek ejection only of one part of the tenanted premises in the event of the same being let out to more than one tenants in parts and when the specified landlord has exercised her option as mentioned in the order of the Hon’ble High Court dated 6th November, 1989, in Civil Revision No. 1260 of 1989, this petition has become infructuous. Thus the same is hereby dismissed. Keeping in view the peculiar circumstances of the case the parties are left to bear their own costs.”

(4) Smt. Zenobia aggrieved against the decision of the Rent Controller, moved this Court through Civil Revision No. 3025 of 1990 and a learned Single Judge of this Court in his order dated November 26, 1990, observed thus :—

“The underlying purpose in enacting the East Punjab Urban Rent Restriction (Amendment) Act, 1985, as revealed by the statement of its objects and Reasons, is to provide a summary procedure for eviction of tenants of Defence personnel and other Central and State Government

employees, from residential premises which, on retirement, they may require for their personal occupation. It needs to be appreciated, in this context, that when any residential premises are let out and are taken on rent, what prevails are the needs and requirements of the tenant and these may not necessarily be in accord with those of the landlord when he seeks back possession thereof for his personal occupation. To illustrate a specified landlord, in terms of Section 13-A of the East Punjab Urban Rent Restriction Act (hereinafter referred to as 'the Act') owning a single residential unit consisting of three bed-rooms, lets out each bed room separately to different tenants, while he and his family comprising his wife and three grown-up children reside in government residential accommodation, provided to him, while in service. Would the purpose as envisaged by the Legislature be fulfilled, if on retirement, one bed-room is all the accommodation that he can obtain by this summary procedure ?

To take another example, while in service, a specified landlord buys a plot of land and builds two huts thereon leaving the other construction to be done after retirement from service. In the meanwhile, he lets out these two huts to two different tenants. On retirement, is he to be granted the facility of summary eviction from only one such hut ? Many other instances of similar anomalous situations can be visualised and would indeed arise. Absurdity cannot, however, be imputed to the Legislature.

As is apparent, the Amending Act of 1985 was enacted to fulfil a specific need and to serve a definite purpose. It is imperative, therefore, that its provisions are so construed as to be in accord with the clear legislative intent. The relevant provisions must thus be read to imply that a specified landlord would be entitled to recover, by the summary procedure, such accommodation, not exceeding one residential house, as could meet his requirements for personal accommodation. Seen in this light, the judgment of this Court in *Sohan Lal of Patiala v. Col. Prem Singh Grewal and another*, 1989 (2) P.L.R. 139 and Civil Revision No. 1260 of 1989 (*Bhupinder Singh v. Smt. Zenobia Bhanot*), decided on November 6, 1989, deserve reconsideration.

This petition is accordingly hereby admitted to be heard by a Division Bench."

It is how this matter has been placed before us.

(5) The Act is a social legislation and a step in that direction. It has been enacted with a view to control rent of buildings and to prevent unreasonable eviction of tenants by the landlords therefrom. The provisions of the Act have been so enacted as to include within its scope all kinds of buildings whether used for residential, non residential or any other purpose. The Act imposes limitation on the rights of a landlord which he possesses under the ordinary law. It confers new rights on the tenants which they did not have under the ordinary law. It is intended to define the new liabilities enforced on the landlord and the new rights conferred upon the tenant. It disturbs the contractual rights of parties and, therefore, has to be strictly construed. Where there is a conflict between the term of tenancy and the provision of the Rent Act, the express provisions of the Act must override the former.

(6) The Act, which was initially applicable to the premises within the limits of urban areas in the State of Punjab, was extended to the Union Territory of Chandigarh by East Punjab Urban Rent Restriction (Extension to Chandigarh) Act, 1974. Section 13 of the Act which contains the grounds of eviction was amended by Act No. 2 of 1985 and Section 13-A was inserted, which reads thus:--

"13-A. *Right to recover immediate possession of residential or scheduled building to accrue to certain persons.*—Where a specified landlord at any time, within one year prior to or within one year after the date of commencement of the East Punjab Rent Restriction (Amendment) Act, 1985, whichever is later, applies to the Controller along with a certificate from the authority competent to remove him from service indicating the date of his retirement and his affidavit to the effect that he does not own and possess any other suitable accommodation in the local area in which he intends to reside to recover possession of his residential building, or scheduled building, as the case may be, for his own occupation, there shall accrue, on and from the date of such application to such specified landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether expressed or

implied), custom or usage to the contrary, a right to recover immediately the possession of such residential building or scheduled building or any part or parts of such building if it is let out in part or parts :

Provided that in case of death of the specified landlord, the widow or widower of such specified landlord and in the case of death of such widow or widower, a child or grandchild or a widowed daughter-in-law who was dependent upon such specified landlord at the time of his death shall be entitled to make an application under this section to the Controller,—

- (a) in the case of death of such specified landlord, before the commencement of the East Punjab Urban Rent Restriction (Amendment) Act, 1985, within one year of such commencement;
- (b) in the case of death of such specified landlord, after such commencement, but before the date of his retirement, within one year of the date of his death;
- (c) in the case of death of such specified landlord, after such commencement and the date of his retirement, within one year of the date of such retirement;

and on the date of such application the right to recover the possession of the residential building or scheduled building, as the case may be, which belonged to such specified landlord at the time of his death shall accrue to the applicant :

Provided further that nothing in this section shall be so construed as conferring a right, on any person to recover possession of more than one residential or scheduled building inclusive of any part or parts thereof if it is let out in part or parts :

Provided further that the Controller may give the tenant a reasonable period for putting the specified landlord or, as the case may be, the widow, widower, child, grandchild or widowed daughter-in-law in possession of the residential building or scheduled building, as the case may be, and may extend such time so as not to exceed three months in the aggregate.

*Explanation.*—For the purposes of this section, the expression 'retirement' means termination of service of a specified landlord otherwise than by resignation."

This section makes a concession in favour of a public servant, in service or retired, or as the case may be, his widow, child, grand-child or widowed daughter-in-law, dependent on him, in so far as he or she becomes entitled to recover immediately possession of a residential building, including a scheduled building, if he or she applies within one year prior to, or after the date of retirement, or within one year from the commencement of the East Punjab Urban Rent Restriction (Amendment) Act, 1985 (viz. from November 16, 1985), if he/she needs such building for his/her own use and has no other suitable accommodation in the local area. Through the amending Act, amendments were also made to Section 2 (dealing with definitions), Section 13 (grounds of eviction of tenants) and Section 19 (dealing with penalties to be imposed for contravening certain provisions of the Act. By virtue of the amendments, the specified landlord could seek eviction of his tenant not only of his residential building but also of a scheduled building if he requires it for his own occupation. The concession granted under Section 13-A of the Act was subject to certain rigours. Second proviso to this Section envisages that a specified landlord can recover immediate possession of one residential or scheduled building and if the building has been let out in parts to different tenants, the specified landlord can evict the tenants under this provision only from the portion in possession of that tenant. The language used in the section that the specified landlord could recover possession of one residential or scheduled building inclusive of any part or parts thereof if it is let out in part or parts suggests that if a residential or a scheduled building is let out in parts, each part will become a scheduled building or a residential building enabling the specified landlord to avail the concession only from a part. The purpose of introducing Section 13-A of the Act is to enable a specified landlord to get their own building vacated speedily so as to provide them with a shelter. If the building owned by him has more than one part and is let out to different tenants, he can avail the concession granted under the amended Act with regard to a part. Second proviso amplifies that the specified landlord can recover immediate possession of one residential or scheduled building inclusive of any part or parts thereof. A part of the residential or scheduled building let out will fall within the proviso. If the specified landlord shows that a part of the scheduled or residential building of which he has recovered possession by invoking the summary provisions is not sufficient, he has to take resort to the provisions of Section 13 of

the Act like an ordinary landlord. Special remedy is available to the specified landlord only on fulfillment of certain conditions and limitations enumerated in Section 13-A of the Act. One of the limitations imposed by the second proviso to this section is that *the building will mean and include any part or parts thereof if it is let out in part or parts*, meaning thereby that even if a part of the residential, or scheduled building is let out to a tenant it will be construed as a residential or scheduled building for the purpose of the amended provision. This was the precise interpretation by J. V. Gupta, J. (as he then was) on the second proviso to Section 13-A of the Act in *Sohan Lal of Patiala v. Col. Prem Singh Grewal and another* (3), and it was held thus :—

“As regards the question as to whether the landlord is entitled to seek ejectment of the tenants or he should only eject one of the tenants he may like to choose, the second proviso to Section 13-A reads as under :—

Provided further that nothing in this section shall be so construed as conferring a right on any person to recover possession of more than one residential or scheduled building inclusive of any part or parts thereof if it is let out in parts.

Even if it be assumed for the sake of argument, that the whole building was let out in different parts to the different tenants, even then according to the said proviso, the landlord could not recover possession of more than one residential building inclusive of any part or parts thereof if it is let out in part or parts. That being so, the landlord could only claim ejectment of one of the tenant from one part of the building and not all the tenants from all parts of the building. For ejecting the other tenants, he will have to seek his remedy under Section 13 of the Act in accordance with law. *Since Section 13-A is a special remedy to recover immediate possession of residential building given to certain persons who are specified landlord, it is to be construed strictly. Even under Section 13-A it has been provided that specified landlord has a right to recover immediate possession of such residential building or scheduled building or any part or parts of such building, if it is*



*let out in part or parts. The second proviso reproduced above makes it further clear that the landlord is not entitled to recover possession of more than one residential building inclusive of any part or parts thereof if it is let out in part or parts."*

(Emphasis supplied).

The interpretation so placed in *Sohan Lal's* case (supra) was followed in *Bhupinder Singh's* case (supra) by A. L. Bahri, J. and it was held thus :—

"Learned counsel for the landlady has argued that the interpretation placed by J. V. Gupta, J. on the proviso added to Section 13-A of the Act (as applicable in Punjab which is also applicable in Chandigarh) is not correct as the main Section 13-A was not taken into consideration. There is no merit in this contention. On going through the proviso and Section 13-A as a whole, I am also of the opinion that a landlord can get possession of the tenanted premises under the aforesaid provision from one of the tenants if there are more. *The intention of the Legislature in enacting the provision is that the specified landlord should be in a position to get possession of tenanted premises from his tenant immediately on his retirement. The question whether accommodation with the landlord after taking possession from one of the tenants is sufficient for his personal requirement or not is not to be gone into in such proceedings. On such grounds, the landlord has to take recourse to the provision of section 13(3) of the main Act.*"

(Emphasis supplied).

(7) The interpretation placed on the second proviso to Section 13-A of the Act in *Sohan Lal's* case (supra) and *Bhupinder Singh's* case (supra) is unexceptional. Any other interpretation will defeat the object of the Act.

(8) The question of law having been answered we direct that the revision petitions be placed before a learned Single Judge for disposal in accordance with the law laid down above.