# THE
# INDIAN LAW REPORTS

## PUNJAB SERIES


REVISIONAL CIVIL

*Before Harnam Singh and Dulat, JJ.*

THE CUSTODIAN OF EVACUEE PROPERTY,—*Petitioner*

*versus*

PT. JAI NARAIN AND UNION OF INDIA,—*Respondents*

**Civil Revision 189 of 1952.**

1954

July, 21st

*Delhi and Ajmer-Merwara Rent Control Act (XIX of 1947)—Section 7—Application for fixation of Standard Rent—Relationship of landlord and tenant denied—Jurisdiction of Court to determine the respective status—Property being evacuee property vesting in the Custodian—Whether the Rent Controller had the jurisdiction to fix the Standard Rent—Administration of Evacuee Property Act (XXXI of 1950)—Section 12—Interpretation of Statutes—Apparent conflict—Rule of interpretation.*

*Held,* that the jurisdiction of a Court to deal with a particular matter is determined in the first instance by the averments in the petition or plaint and since the persons who made these applications claimed to be tenants, the trial Court had jurisdiction to entertain the petition. When, however, the question became disputed the Court was bound to go into the question and determine it.

*Held further,* that the agreed rent in respect of a lease may be varied by the Custodian on his own but if any dispute arises as to standard rent for the property the same would be determined by the Court under section 7 of the Rent Control Act. If the two provisions of law are read in this manner there is no conflict between them. Therefore section 12 of the Administration of Evacuee

Property Act is no bar to the fixation of the standard rent for even evacuee property by the Court under section 7 of the Delhi and Ajmer-Merwara Rent Control Act.

*Held also*, that the rule of construction is that every effort should be made to reconcile a statute with every other statute in force for the presumption is that the legislature does not mean to contradict itself, and it is in the light of this rule that the two apparently contradictory statutes should be construed.

(The above noted case was referred to the above Division Bench,—*vide* order of Hon'ble Mr. Justice Soni, dated the 20th April, 1953).

*Petition under Rule 6 framed under Delhi and Ajmer-Merwara Rent Control Act for revision of the order of Shri Rameshwar Dayal, Additional Judge, Small Cause Court, Delhi, dated the 3rd March, 1952, fixing the standard rent at Rs. 25 and ordering the Respondent to pay the costs of the Applicant.*

I. D. DUA, for Appellant.

IQBAL KRISHAN, for Respondent.

ORDER

**Soni, J.**

SONI, J. In these two revisions (No. 189 and 190) a common point of law arises. It arises in this way. An application is made by a person alleging himself to be a tenant for fixation of standard rent. The defence is that the person is not the tenant at all and the relationship of landlord and tenant does not exist. The application was made under section 7 of the Delhi and Ajmer-Merwara Rent Control Act, 1947. The question that arises is that if in such a case the relationship of landlord and tenant itself is denied whether the Court appointed under the Rent Control Act can decide this point. In my opinion on reading section 7 as well as section 9 it appears to me that the Legislature contemplated that in cases for which they were creating special courts under the Rent Control Act they

were thinking of those cases only in which the relationship of landlord and tenant undoubtedly exists and the question does not arise for judicial decision. Under section 7 the question is whether the rent should be at a certain figure or whether it should be at another figure. Under section 9 the question is whether the tenant has misused the property in a particular manner and therefore is liable to eviction. In either case the question that the relationship does not exist is not to be judicially determined. In cases where the relationship is denied and has to be judicially determined the case must be decided by the ordinary Courts of general jurisdiction and not by the Courts of special jurisdiction created under the Rent Control Act. Under section 14(1) Courts of general jurisdiction have been given power to decide questions which arise under the Rent Control Act, but not *vice versa*. Though this appears to me to be the view I consider that something can be said for the other point of view. As the question is of general importance I would refer these cases to a Division Bench.

Soni, J.

These two cases will be heard in the next Circuit.

JUDGMENT OF THE DIVISION BENCH

DULAT, J. Civil Revisions Nos. 189 of 1952, 190 of 1952 and 371-D of 1953 are connected and their decision turns on common questions of law.

Dulat, J.

The three respondents in these cases are in occupation of premises which have been declared evacuee property. Each of the respondents claiming to be a tenant under the Custodian, Evacuee

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Property, made an application under the Delhi and Ajmer-Merwara Rent Control Act, 1947, for fixation of standard rent under section 7 of that Act. All the petitions were resisted on two grounds, (1) that the petitioners were not in fact tenants in the premises but merely allottees or licensees, and (2) that the Court had no jurisdiction to determine the standard rent as the Custodian of Evacuee Property was in law the only person competent to fix the rent. Both these objections were overruled by the trial Court and the standard rent in each of these cases was fixed. The present revision petitions were filed in this Court by the Custodian, Evacuee Property. They were heard in the first instance by Soni, J. who formed the opinion that another important question arose in these cases and that question was whether the Court under the Delhi and Ajmer-Merwara Rent Control Act, 1947, was at all competent to decide the question whether the persons who had made the applications for standard rent were tenants or not and for this reason referred these cases to a Division Bench.

As far as the question raised by Soni, J., in the referring order is concerned, there does not appear to be any difficulty and Mr. Dua appearing for the Custodian did not at all press us to hold that the trial Court was not competent to decide the matter. The position in my opinion is perfectly clear. The jurisdiction of a Court to deal with a particular matter is determined in the first instance by the averments in the petition or plaint and since in the present cases the persons who made these applications claimed to be tenants, the trial Court had jurisdiction to entertain the petitions. When, however, the question became disputed the Court was bound to go into the question and determine it, and it is not contended that the Court was not

competent to do so. In these circumstances the answer to the question raised by Soni, J., must clearly be that the Court was competent to decide whether the applicants before it were or were not tenants.

Mr. Dua's main contention in support of the present petitions is that the Court had no jurisdiction to determine the standard rent of the disputed premises because the premises were evacuee property and in respect of such property the Custodian has been given absolute powers to fix the rent under the Administration of Evacuee Property Act. Mr. Dua agrees that evacuee property as such has not been excluded from the operation of the Delhi and Ajmer-Merwara Rent Control Act but contends that if the two Acts are read together there would appear to be a conflict between the two and in view of the language used in sections 4 and 12 of the Administration of Evacuee Property Act the provisions of that Act must prevail. The whole of this argument proceeds on the ground that there is a conflict between the provisions of these two Acts and we must give effect to the provisions of the Administration of Evacuee Property Act. This conflict is said to arise in this way. The Delhi and Ajmer-Merwara Rent Control Act provides for the fixation of what is called standard rent by the Court in respect of certain premises when there is a dispute about it and according to the definition of 'premises' contained in that Act evacuee property would be included and in the absence of any other law the Court would be competent to fix the standard rent for evacuee property also. Section 12 of the Administration of Evacuee Property Act says—

> "Notwithstanding anything contained in any other law for the time being in

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force, the custodian may cancel any allotment or terminate any lease or amend the terms of any lease or agreement under which any evacuee property is held or occupied by a person, whether such allotment, lease or agreement was granted or entered into before or after commencement of this Act".

This according to Mr. Dua means that the Custodian is authorised to vary the terms of any lease or the conditions of any allotment in any manner he chooses and since the amount of rent to be paid is a term and condition of lease, the power of the Custodian to vary the rent and fix it at any figure is unlimited and this is in conflict with the power of the Court under section 7 of the Rent Control Act which says—

> "If any dispute arises regarding the standard rent payable in respect of any premises, it shall be determined by the Court".

The question for our consideration, therefore, is whether there is in these two provisions of law, namely section 7 of the Delhi and Ajmer-Merwara Rent Control Act and section 12 of the Administration of Evacuee Property Act, such conflict that the two cannot stand together, for in that case alone would any question of one yielding to the other arise. The rule of construction admittedly is that every effort should be made to reconcile a statute with every other statute in force, for the presumption is that the legislature does not mean to contradict itself, and it is in the light of this rule that we must try to understand the meaning of these two provisions of law.

The first thing to be noticed in connection with section 7 of the Rent Control Act is that it speaks of the standard rent which is entirely different from the rent that may have been agreed upon between the parties and the Court is given the power to fix the standard rent. Section 12 of the Administration of Evacuee Property Act on the other hand does not at all speak of the standard rent but merely says that the Custodian may vary the terms of any lease, etc.,including, I take it, the amount of rent fixed in the lease. It is clear that under the ordinary law such rent would not be variable at the will of one of the parties although it could of course be varied by agreement and the true meaning of section 12, therefore, seems to be that in the case of a lease of evacuee property the rent fixed by the agreement of the parties can be varied unilaterally by the Custodian and such rent then becomes the rent in terms of the lease. It does not, however, at all appear that such rent becomes in any sense the standard rent within the meaning of the Rent Control Act and the power of fixing the standard rent in case of dispute still remains with the Court under section 7 of the Rent Control Act. In other words, the position is that the agreed rent in respect of a lease may indeed be varied by the Custodian on his own but if any dispute arises as to the standard rent for the property the same would be determined by the Court under section 7 of the Rent Control Act. If the two provisions of law said to be in conflict are read in this manner there would appear to be no conflict at all between them and in my opinion that is the proper way to read them. I would, therefore, hold that section 12 of the Administration of Evacuee Property Act is no bar to the fixation of the standard rent for even evacuee property by the Court under section 7 of the

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Delhi and Ajmer-Merwara Rent Control Act and the Court below rightly exercised jurisdiction under section 7 of that Act.

Mr. Dua then contended that the present respondents were not tenants in the disputed premises but merely licensees. This is really speaking a question of fact to be decided on the evidence in each case and the Court below has considered the evidence and come to the conclusion that these persons are in fact tenants, and there is nothing to show that the findings are in law erroneous. No other question arises for consideration. All the three petitions must, therefore, fail and I would dismiss all of them, but in the circumstances leave the parties to bear their own costs in this Court.

Harnam Singh, J.

HARNAM SINGH, J.—I agree.

APPELLATE CIVIL

*Before Bhandari, C.J., and Dulat, J.*

RAGHBIR SINGH AND OTHERS,—*Defendants-Appellants*

*versus*

SHRIMATI KARTAR KAUR AND OTHERS,—*Respondents*

**Regular First Appeal No. 47 of 1947.**

1954

August, 4th

*Custom (Punjab)—Applicability*—Zargars of *Gurdaspur District—Whether governed by Custom—Hindu Law—Marriage—Abandonment or desertion by wife of the husband—Whether dissolves marriage—Whether such wife can contract a second marriage during the lifetime of her first husband.*

*Held*, that the *zargars* of Gurdaspur District are governed by their personal law and not by customary law. Members of an agricultural tribe following agriculture as their