

Ved Parkash
 v.
 Karam Narain

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the circumstances, I am of the opinion that the appellant is not entitled to exclude the period which elapsed between the dismissal of his application by the Tribunal and the filing of his revision petition in this court and it is conceded that on this basis his suit was barred by time. I accordingly accept the appeal and set aside the order of the appellate Court remanding the case to the trial court for a decision on merits. I consider, however, that the parties should be left to bear their own costs.

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REVISIONAL CIVIL.

Before D. Falshaw and G. L. Chopra, JJ.

M/s. BANKE BEHARI LAL—*Petitioner.*

versus

M/s JAGAN NATH-RAM NATH Etc.,—*Respondents.*

Civil Revision Case No. 229-D of 1952.

1959

 Nov., 18th

Delhi and Ajmer Merwara Rent Control Act (XIX of 1947) as amended by Amendment Act (L of 1947)—Section 7 A and Fourth Schedule—Whether constitute complete code for fixation of standard rent of newly constructed premises—Section 14—Rules framed by the High Court under—Rule 6—Revision against the order passed under the provisions of the Fourth Schedule—Whether competent.

Held, that as far as the fixation of standard rent of newly-constructed bulidings is concerned, Section 7A and the Fourth Schedule of the Delhi and Ajmer Merwara Rent Control Act, XIX of 1947, as amended by the Amendment Act L of 1947 constitute a complete code in which no right of revision is conferred and that the rules framed by the High Court under Section 14 do not apply in such cases. In the Fourth Schedule not only is the fixation of

standard rent for newly-constructed buildings entrusted to an officer to be nominated as the Rent Controller by the Central Government but also the right of appeal to the District Judge, Delhi is given. Both the Rent Controller and the District Judge as the appellate authority are *personal designatae* and not normal courts and therefore no revision under the rules framed by the High Court is competent against the orders passed by them. These rules only apply to the courts referred to therein which are the ordinary civil courts of Delhi.

Petition under Section 35 of Act XXXVIII of 1952 (The Delhi and Ajmer Rent Control Act), for revision of the order of Shri S. S. Dulat, District Judge, Delhi, dated the 5th July, 1952, confirming that of S. M. Bhatia, Rent Controller, dated the 30th May, 1951; dismissing the petition.

JUDGMENT

FALSHAW, J.—The facts in this revision petition which has been referred to a Division Bench are that the petitioners are the proprietors of a newly constructed building within the meaning of section 7A of the Delhi and Ajmer-Merwara Rent Control Act, 1947. The exact number of the tenants occupying shops or other premises forming portions of the building is not clear, but it seems that 34 of the tenants applied to the Rent Controller for fixation of the standard rent, as also did the proprietors. The Rent Controller delivered his order on the 30th of May, 1951, and appeals filed by both parties against the order were decided by the then District Judge, Mr. S. S. Dulat, by his order, dated the 5th of July, 1952, dismissing the appeals of both sides. The present revision petition was thereafter filed in this Court and on the 6th of May, 1954, it was referred by my Lord the Chief Justice to a Division Bench.

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On behalf of the tenants a preliminary objection has been raised that no revision petition lies under the provisions of the Act. Section 14 of the Act reads:—

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“Except as may be otherwise provided by rules made under sub-section (2), any question which under this Act is to be determined by the court may be determined by any court which would have jurisdiction to hear and decide a suit for eviction of a tenant from the premises in respect of which the question arises.

- (2) With the concurrence of the Chief Commissioner, the High Court may make rules to determine the classes of Courts which shall have power to hear and decide original cases, appeals and applications for revision and to deal with execution proceedings under this Act and the procedure to be followed by them.
- (3) The power conferred by sub-section (2) shall include power to determine in what circumstances the parties shall have a right to appeal or apply for review or revision in cases under this Act, and further to determine how and by what authority it shall be decided whether any particular case shall be deemed to be a case under this Act.”

The High Court did frame a set of rules under sub-sections (2) and (3) which were published in the Gazette of India on the 14th of February, 1948. The relevant rules read as follows:—

- “3. All Civil Courts in the Province of Delhi shall have power to hear and

decide original cases and to deal with execution proceedings under the Act to the extent of their pecuniary jurisdiction in respect of civil suits or decrees governed by the Code of Civil Procedure, 1908.

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Provided that all cases in which the value does not exceed Rs. 2,000 arising under the Act except cases of eviction under section 9 shall be tried by the Judge, Small Cause Court.

(4) A party to an original case shall have a right of appeal as follows:

(i) to the Court of the Senior Subordinate Judge in cases in which the value does not exceed Rs. 2,000;

(ii) to the Court of the District Judge in cases in which the value exceeds Rs. 2,000 but does not exceed Rs. 10,000; and

(iii) to the High Court in cases in which the value exceeds Rs. 10,000:

Provided that there shall be no right of appeal in a case decided by the Judge, Small Cause Court, but there shall be a right of revision to the High Court.

(5) There shall be no right of second appeal.

(6)(i) The High Court, for the purposes of satisfying itself that a decision made in any case under the Act was according to law, may call for the case and pass

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such orders with respect thereto as it thinks fit.

- (ii) A party shall have a right of review in accordance with the provisions of the Code of Civil Procedure, 1908.”

It seems that the Act did not originally make any special provisions regarding newly constructed premises but section 7A and the Fourth Schedule to the Act were added by the Delhi and Ajmer-Merwara Rent Control (Amendment) Act (50) of 1947. Section 7A reads:—

“The provisions set out in the Fourth Schedule shall apply to the fixation of rent and other matters relating to the premises in Delhi (hereinafter referred to as the newly constructed premises) the construction of which was not completed before the commencement of the of this Act.”

The Fourth Schedule adding provisions relating to the fixation of rent and other matters in respect of newly constructed premises in Delhi begins with clause 1 which reads:

“Rent Controller for the purposes of this Schedule means the person appointed by the Central Government as the Rent Controller.”

The following clauses lay down the principles on which the standard rent of newly constructed buildings is to be fixed and the Schedule ends with clause 11 which reads:—

“Any person aggrieved by an order of the Rent Controller, may, within thirty

days from the date on which the order is communicated to him, appeal to the District Judge, Delhi.”

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The question before us is whether the general powers of revision of the High Court conferred by rule 6(i) of the Rules framed by the High Court under section 14 of the Act permit the filing of a revision petition against an order of the District Judge passed under clause 11 of the Fourth Schedule against an order of the Rent Controller, or whether section 7A and the Fourth Schedule furnish a complete code for dealing with the fixation of the standard rent of newly constructed premises and no revision lies to the High Court.

There are two decisions of learned Single Judges holding that no revision petition lies. I myself held so in Civil Revision No. 476 of 1950, decided on the 6th of July, 1951, after considering the provisions of the Act which I have set out above, and my Lord the Chief Justice held so in a Civil Revision (No. 239-D of 1952), decided on 3rd of November, 1953, simply on the strength of the decision of the Full Bench in *Messrs Pitman's Shorthand Academy v. Messrs B. Lila Ram and Sons and others* (1). In that case the question considered was whether a revision petition lay to the High Court under section 115 Civil Procedure Code under the provisions of the Punjab Urban Rent Restriction Act, in which the fixation of the standard rent was entrusted to a so-called Rent Controller from whose orders an appeal was prescribed to the District Judge. It was held by S. R. Das, C. J., and Khosla and Kapur, JJ., that a Rent Controller and the appellate authority to whom appeals from his orders lie are neither civil

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courts nor subordinate to the High Court, and that no revision lies to the High Court against their orders. Both the Rent Controller and the District Judge in the section relating to appeals were held to be *personae designatae*.

It was argued on behalf of the landlords that Rule 6 of the Rules framed by this Court was clearly applicable to any case under the Act, but in spite of this I am of the opinion that my interpretation of the relevant provisions of law in the earlier case mentioned above was correct, and that the rules only apply to courts referred to therein, which are the ordinary Civil Courts of Delhi.

As I have said the provisions relating to newly constructed buildings were added to the Act by way of amendment, and it is clear that as a result of the provisions of the Fourth Schedule the fixation of standard rent in the case of newly constructed buildings is taken away from the ordinary Civil Courts and entrusted to a Rent Controller to be nominated by the Central Government as such.

In the general provisions of the Act there was no provision whatever for appeals, revisions or reviews and under the terms of section 14(2) and (3) it was left entirely to the High Court to frame rules regarding the classes of courts which should have power to hear and decide original cases, appeals and applications for revision, and also to determine in what circumstances the parties should have a right to appeal or apply for review or revision.

On the other hand, in the Fourth Schedule not only is the fixation of standard rent for newly constructed buildings specifically entrusted to an

officer to be nominated as Rent Controller by the Central Government, but also the right of appeal to the District Judge, Delhi, is given, and even if I did not agree with the decision of the Full Bench in *Messrs Pitman's Shorthand Academy v. Messrs B. Lila Ram and Sons and others* (1), dealing with analogous provisions in the Punjab Urban Rent Restriction Act to the effect that in such circumstances both the Rent Controller and the District Judge are *personae designatae* and not normal courts, I should be bound to follow it. As a matter of fact I am in respectful agreement with it. I, therefore, consider that it must be held that as far as fixation of standard rent of newly constructed buildings is concerned section 7A and the Fourth Schedule constitute a complete Code in which no right of revision is conferred, and that the rules framed by this Court under section 14 do not apply in such cases.

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Some attempt was made on behalf of the petitioners to argue that even if the petition could not be treated as under the Act it could be treated as under section 115, Civil Procedure Code, but this contention is evidently untenable in view of the decision of the Full Bench. I would accordingly hold that the present revision does not lie and must be dismissed but would leave the parties to bear their own costs.

The petitioners (landlords) also subsequently filed a petition under Articles 226 and 227 of the Constitution, and this may now be placed before a Single Bench for decision at an early date.

CHOPRA, J.—I agree.

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(1) (1950) 52 P.L.R. 1=I.L.R. 1949 Punjab 606.