

Ram Chand
v.
Sardara Singh
and another
—
Falshaw, J.

regarding property either movable or immovable on the basis of a will executed in the Punjab and not relating to property situated in the territories mentioned in section 57(a). I accordingly accept the revision petition and set aside the order of the lower Court requiring the petitioner to obtain probate. The matter may now be disposed of by the lower Court, where the parties have been directed to appear on the 4th of December, 1961. The parties will bear their own costs in this Court.

B.R.T.

CRIMINAL MISCELLANEOUS

Before D. Falshaw, J.

TARA CHAND,—Petitioner.

versus

THE STATE AND ANOTHER,—Respondents.

Criminal Miscellaneous No. 553 of 1960.

1961
Nov., 21st

Code of Criminal Procedure (Act V of 1898)—Section 476—Rent Controller and Appellate Authority constituted under East Punjab Urban Rent Restriction Act (III of 1949)—Whether civil Courts.

Held, that neither the Rent Controller nor Appellate Authority constituted under the East Punjab Urban Rent Restriction Act, 1949, is a Court and so they cannot be held to be civil Courts within the meaning of section 476 of the Code of Criminal Procedure.

Petition under section 439/561-A Criminal Procedure Code, praying that the order, dated 2nd May, 1960, passed under section 476, Criminal Procedure Code, by Shri Chaitan Dass Jain, District and Sessions Judge, (As Appellate Authority), Ferozepur, (calling upon the petitioner to show cause why he should not be prosecuted for perjury) be quashed and further proceedings be stayed.

Petition filed on 3rd August, 1960.

C. L. AGGARWAL AND P. N. AGGARWAL, ADVOCATES, for the Petitioner.

K. L. KAPUR, ADVOCATE, FOR THE ADVOCATE-GENERAL, for the Respondents.

JUDGMENT

FALSHAW, J.—This revision petition has been filed by Tara Chand in the following circumstances. The respondent Mool Chand instituted a petition for the ejectment of Tara Chand and his brother Parkash Chand before the Rent Controller on the ground of non-payment of rent. It was apparently matter of dispute whether the actual rent of the leased premises was Rs. 325 or Rs. 217 per annum. The Rent Controller passed an order for ejectment which was set aside by the Appellate Authority after admitting additional evidence, it being held that the deposit made by the tenant at the rate of Rs. 217 per annum for the arrears claimed was valid. In his order accepting the tenant's appeal the learned District Judge, as Appellate Authority held that a certain statement made by Tara Chand before the Rent Controller, and repeated before the Appellate Authority was false, and he issued notice to Tara Chand under section 476 Criminal Procedure Code to show cause why he should not be prosecuted for perjury in respect of these false statements.

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This order is challenged in the present petition on the ground that neither the Rent Controller nor the Appellate Authority under the East Punjab Urban Rent Restriction Act of 1949 is a Civil Court within the meaning of Section 476 Criminal Procedure Code, which contains provisions for the institution of prosecutions for perjury by any civil, revenue or criminal Court with regard to any offence committed in or in relation to a proceeding in that Court. Apart from certain observations made in the judgment in *Virindar Kumar Satyawadi v. The State of Punjab* (1), in which a returning officer under the Representation of the People Act was held not to be a Court for the purpose of section 476 Criminal Procedure Code reliance was principally placed on the decision of the Full Bench consisting of S. R. Das, C.J., and G. D.

(1) A.I.R. 1956 S.C. 153.

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Khosla and Kapur, JJ., in *Messrs Pitman's Shorthand Academy v. Messrs B. Lila Ram and Sons and others* (1), in which it was held that neither the Rent Controller nor the Appellate Authority under the Punjab Urban Rent Restriction Act of 1947 which was later superseded by the Act of 1949 were civil Courts nor subordinate to the High Court.

An attempt has been made on behalf of the respondent to distinguish this decision on the ground that in the Act of 1947 no provision was made for revision to the High Court such as is contained in the present Act, and that the matter was purely being considered from the angle whether any revision lay to the High Court against the order of an Appellate Authority under the Act under section 115 of the Code of Civil Procedure.

It does not seem to me, however, that this gives rise to any real distinction. Even in the current Act of 1949 the same provisions exist regarding the appointment of the Rent Controller and Appellate Authority and the manner in which appeals are to be dealt with by the Appellate Authority. There is now a provision in section 15(5) which amounts to giving this Court powers of revision, but the word 'revision' is not used. Sub-section (5) reads—

“The High Court may, at any time, on the application of any aggrieved party or on its own motion, call for and examine the records relating to any order passed or proceedings taken under this Act for the purpose of satisfying itself as to the legality or propriety of such order or proceedings and may pass such order in relation thereto as it may deem fit.”

Apart from this, although the question was being considered by the Full Bench from the point of view of whether section 115 of the Code of Civil Procedure applied, the question of what and what is not a Court has been exhaustively discussed and I am bound to follow the decision that neither the

(1) 52 P.L.R. 1.

Rent Controller nor Appellate Authority is a Court, and so they cannot be held to be civil Courts within the meaning of section 476 Criminal Procedure Code unless the term 'Civil Court' in that section is to be taken as having a much wider meaning than is ordinarily given to it. I accordingly accept the revision petition and set aside the order of the learned District and Sessions Judge as Appellate Authority calling on the petitioner to show cause why he should not be prosecuted for perjury.

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I feel bound, however, to add that I think that the resulting situation is unfortunate and anomalous in that witnesses in proceedings under the Act should in this way be immune from proceedings for perjury under Section 476, Cr. P. C. and I feel that the Act should be amended so as to make the Rent Controller and Appellate Authority Civil Courts for the purpose of Section 476.

B.R.T.

REVISIONAL CRIMINAL

Before D. Falshaw, J.

GURNAM SINGH,—Petitioner.

versus

THE STATE,—Respondent.

Criminal Revision No. 999 of 1961

Prevention of Food Adulteration Act (XXXVII of 1954)—Section 20—Prosecution lodged by Food Inspector to whom power to institute prosecutions delegated—Whether competent.

1961

Nov., 21st

Held, that the written consent, as provided in section 20 (1) of the Prevention of Food Adulteration Act, 1954, is only necessary where the prosecution is being instituted by some person who has not already been given powers to institute such prosecutions. So far as persons who have been duly delegated with authority to institute prosecutions under the Act are concerned the section can be