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Authority" under the Act. This is clear from the word "also" used in this section. The expression "in such cases" occurring in this section refers to the cases relating to those sections of which powers, exercisable by the Competent Authority, have been delegated to the officer or the local authority concerned. The words "subject to such conditions" in this section contemplate that the Competent Authority can say that the powers under a particular clause of a section only will be exercised by the officer or the local authority concerned while the rest by the Competent Authority itself. It can also mention that the cases relating to a particular area only will be decided by them. The intention of the Legislature seems to be that in order to reduce its work, the Competent Authority can delegate its powers in certain cases or relating to a particular area, which it deems proper. But, under no circumstances, can it be held that the Legislature intended that the Competent Authority could invest itself with the powers of revision or supervision over the orders passed by the officer or the local authority concerned. It follows therefore, that the Commissioner, Municipal Corporation, Delhi, could not insert the words "subject to my supervision, control and revision" in the notification, dated 29th July, 1959 by virtue of the powers given to him under section 36 of the Act. That being so, the order, dated 14th November, 1960, passed by Shri Parmatma Sarup was valid and could not be revised by the Commissioner, Municipal Corporation, Delhi.

In view of what I have said above, these revision petitions fail and are dismissed. In the circumstances of these cases, however, I would leave the parties to bear their own costs throughout.

B.R.T.

REVISIONAL CIVIL

Before S. S. Dulat and K. L. Gosain, JJ.

MAN MOHAN LAL,—*Petitioner.*

versus

B. D. GUPTA,—*Respondent.*

Civil Revision No. 376-D of 1959.

1961

Sept. 29th

Delhi Rent Control Act (LIX of 1958)—Section 57(2) first proviso—Whether directory—Direction contained in the proviso—Whether applies to appeals or petitions for

revision arising out of the decrees passed under the Delhi and Ajmer Rent Control Act (XXXVIII of 1952).

Held, that the words "suits and other proceedings" used in the operative part of sub-section (2) of section 57 of the Delhi Rent Control Act, 1958, mean only the suits and other proceedings at the stage of their trial in the Court of the first instance and do not include appeals or petitions for revision. The legislature never intended that for the purposes of applying the first proviso to sub-section (2) of section 57, the cases should, at the appellate stage or even at the revisional stage, be reopened and remanded for fresh trial with a view to enable the parties to lead evidence on the new points introduced by Act 59 of 1958.

Petition under section 35 of Act 38 of 1952, Delhi Rent Control Act, 1952 from the order of Shri H. R. Khanna, District Judge, Delhi, dated 21st August, 1959, confirming the order of Shri O. P. Garg, Sub-Judge, 1st Class, Delhi, dated 12th June, 1958, succeeding the suit of the plaintiff and Decreeing with costs for defendants eviction, under section 13(1)(k) Rent Control Act, 1952, and for recovery of Rs. 572.

HARDYAL HARDY AND M. K. CHAWLA, ADVOCATES, for the Petitioner.

R. S. NARULA, AND S. L. PANDHI, ADVOCATES, for the Respondent.

JUDGMENT

The Judgment of the Court was delivered by:—

GOSAIN, J.—These two petitions for revision (Nos. 376-D of 1959 and 427-D of 1957) under section 35 of the Delhi and Ajmer Rent Control Act, 1952, involve identically the same point for decision and both will, therefore, be disposed of by this judgment. Gosain, J.

In the first case, i.e., No. 376-D of 1959 the landlord of a premises in Delhi filed a suit on 14th July, 1946, for eviction of his tenant which was decreed on 12th June, 1958, in his favour. The only ground on

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the basis of which the tenant was ordered to be evicted was the one provided by clause (k) of section 13(1) of the Delhi and Ajmer Rent Control Act, 1952 (hereinafter called the old Act). This provision, in so far as it is relevant for the purpose of this case, is as under:—

> "(k) that the tenant.....notwithstanding previous notice has used or dealt with the premises in a manner contrary to any condition imposed on the landlord by the Government or the Delhi Improvement Trust while giving him a lease of the land on which the premises are situated."

The tenant filed an appeal against the said decree on 16th July, 1958 and while the same was still pending, Delhi Rent Control Act, 1958 (Act 59 of 1958), hereinafter called the new Act, came into force on the 9th of February, 1959. Clause (k) of the proviso to section 14 of this Act is somewhat analogous to the provision of law under which the tenant's eviction in this case had been ordered but this Act enacted a new provision which is sub-section (11) of section 14, and which reads as under:—

> "No order for the recovery of possession of any premises shall be made on the ground specified in clause (k) of the proviso to sub-section (1), if the tenant within such time as may be specified in this behalf by the Controller, complies with the condition imposed on the landlord by any of the authorities referred to in that clause or pays to that authority such amount by way of compensation as the Controller may direct."

At the hearing of the appeal the tenant contended that the case had to be determined by the provisions of the new Act as envisaged by the first proviso to sub-section (2) of section 57 of the said Act and that the provisions of sub-section (11) of section 14 had, therefore, to be complied with before his eviction could be ordered. The appellate Court did not agree with the

said contention and dismissed the appeal. The tenant then filed this petition for revision in this Court.

In the second case, i.e., No. 427-D of 1957, the landlord of another premises in Delhi filed a suit on 28th December, 1954, for eviction of his tenant, which was dismissed by the trial Court on the 11th of June, 1956. The landlord's appeal against the said decree was accepted by the Additional Senior Sub Judge, Delhi, on 11th June, 1957. The tenant filed this petition for revision in this Court on the 11th of September, 1957. The only ground on which the appellate Court had ordered eviction of the tenant in this case was the one provided by clause (c) (i) of the proviso to section 13 of the old Act, which is in the following terms:—

> " that the tenant, without obtaining the consent of the landlord has, before the commencement of this act—
>
> (i) sublet assigned or otherwise parted with the possession of the whole or any part of the premises."

During the pendency of this petition for revision in this Court, the new Act came into force on the 9th of February, 1959, and the tenant then placed his reliance on sub-section (1) of section 16 of the same. This provision reads as under:—

> "16(1) where at any time before the 9th day of June, 1952, a tenant has sublet the whole or any part of the premises and the sub-tenant is, at the commencement of this Act, in occupation of such premises, then, notwithstanding that the consent of the landlord was not obtained for such sub-letting, the premises shall be deemed to have been lawfully sublet."

In both these cases, therefore, two law points arose for decision, which were—

> (1) Whether the first proviso to sub-section (2) of section 57 of the Delhi Rent Control

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Act, 1958 (Act 59 of 1958 is merely directory and not mandatory?

(2) Whether the direction contained in this proviso does not apply to appeals or petitions for revision arising out of the decrees passed under the Delhi and Ajmer Rent Control Act (38 of 1952).

As there was a good deal of conflict of authority on both these points, Gurdev Singh, J., who heard the cases in the first instance, though it fit to refer them to a larger Bench and it is on this reference that they have come up for hearing before us.

Lengthy and detailed arguments on both these points have been addressed to us by the learned counsel for the parties, but we propose to decide point No. (2) alone as the view that we are taking on the said point is enough to dispose of these two cases.

Section 57 of the new Act reads as under:—

"*Repeal and Savings.*—(1) The Delhi and Ajmer Rent Control Act, 1952 (38 of 1952), in so far as it is applicable to the Union territory of Delhi is hereby repealed.

(2) Notwithstanding such repeal, all suits and other proceedings under the said Act pending, at the commencement of this Act, before any court or other authority shall be continued and disposed of in accordance with the provisions of the said Act, as if the said Act had continued in force and this Act had not been passed:

Provided that in any such suit or proceedings for the fixation of standard rent or for the eviction of a tenant from any premises to which section 54 does not apply the court or other authority shall have regard to the provisions of this Act:

Provided further that the provisions for appeal under the said Act shall continue in force

in respect of suits and proceedings disposed of thereunder."

The words "all suits and other proceedings" in sub-section (2) of this section are sought to be interpreted in two different ways by the learned counsel for the parties. Mr. Hardayal Hardy, learned counsel for the petitioners, urges that these words also include appeals and revisions, whereas Mr. R. S. Narula, learned counsel for the respondents, contends that they do not. These words have been interpreted by two learned Judges of this Court also in two different ways. In *Shri Krishna Aggarwal* v. *Satya Dev* (1), Bishan Narain, J. has held that these words refer only to the original proceedings in the trial Courts and do not include appeals or revisions. In *Shri Bimal Parshad Jain* v. *Shri Niadarmal* (2), Falshaw, J. has held that the word "suits" includes appeals and revisions because they are in the nature of rehearing of the suits. After giving our careful consideration to the matter we are definitely of the opinion that the words "suits and other proceedings" used in the operative part of sub-section (2) of this section mean only the suits and other proceedings at the stage of their trial in the court of the first instance.

So far as petitions for revision are concerned, there can be no doubt that they are not included in the word "suits" because they cannot be said to be in the nature of rehearing of the same. It is a well known proposition of law that no party has a right to insist that a particular order must be revised by the High Court under the powers of revision vested in the said Court and that it is the right of the High Court alone to interfere in revision as and when it thinks fit to do so and as and when the conditions precedent for its interference, as mentioned in the provision of law vesting the powers of revision in this Court, are satisfied,—*vide* in this connection, *Dinshaw Iron Works* v. *Mikhan Adamji and Co.* (3), *Bishambhar Nath* v. *Achal Singh* (4), and *Laxmandas* v. *Chunilal and others* (5). Falshaw, J. in the case decided by him and

(1) 1959 P.L.R. 574.
(2) 1960 P.L.R. 664.
(3) I.L.R. 1943 Bom. 33.
(4) I.L.R. 54 All. 891.
(5) A.I.R. 1931 Nagpur 17.

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referred to above has sought to draw a distinction between the powers of revision under the provisions of section 115 of the Civil Procedure Code and those under the provisions of section 35 of the Delhi and Ajmer Rent Control Act, 1952. He has taken the view that as the scope of revision under the Rent Act was much larger than the one under the Civil Procedure Code, the revision under the Rent Act could be treated more or less on the same footing as a second appeal. With great respect we cannot endorse this view. It may be that the scope of interference by this Court in one case is less and in the other more but the fact remains that none of the two is a right of any of the parties. The provisions under both the enactments give only a power to the High Court to call for the records and to pass such orders as it may deem fit. Unlike a second appeal, where this Court is bound to interfere when there is error of law in the judgment of the lower appellate Court, this Court may well refuse to interfere in revision if it feels that substantial justice has been done between the parties. No revision, whether it is under the Civil Procedure Code or any other law, can, in these circumstances, be treated as a rehearing of the suit inasmuch as the party itself has no right to have such a rehearing.

If the second proviso to sub-section (2) of section 57 had not existed, we might have been inclined to think that the word "suits" used in the operative part may be taken to include appeals as they undoubtedly are in the nature of rehearing of suits but the enactment of proviso to it separately providing for appeals gives a clear indication that the Legislature used the word "suits" in the operative part as the one at the trial stage only. This proviso reads as under:—

> "Provided further that the provisions for appeal under the said Act shall continue in force in respect of suits and proceedings disposed of thereunder."

Now if "suits and other proceedings" in the operative part of sub-section (2) were held to include the appeals and revisions also it would not have been necessary to provide for the appeals again in the last proviso. The word 'Appeal' in the proviso has been

used in its generic sense and must be taken to include revisions also. This word has not been defined either in the Civil Procedure Code or in any of the two Rent Acts now in question. According to Webstor's Dictionary the first meaning, in law, of the noun 'appeal' is "the removal of a cause or a suit from an inferior to a superior Judge or Court for re-examination or re-review." The explanation of the term in Wharton's Law Lexicon, which is only different in words, is "the removal of a cause from an inferior to a superior Court for the purpose of test in the soundness of the decision of the inferior Court."

Bishan Narain, J. in his aforesaid judgment referred to the first proviso to sub-section (2) of section 57 and observed as under:—

> "In my view there is a reason why the legislature did not intend to extend its scope to appeals or revisions. At the stage of trial, the Court may call upon the parties to establish the right claimed under the new Act, mould its proceedings and examine the evidence of the parties in accordance with the provisions of the Act whenever the Court considers it proper or necessary to do so in the interest of justice. At the stage of appeal such a course would necessitate a remand and further delay in the disposal of the case."

We respectfully agree with the above observations and feel that the Legislature never intended that for the purposes of applying the first proviso to sub-section (2) of section 57, the cases should, at the appellate stage or even at the revisional stage, be reopened and remanded for fresh trial with a view to enable the parties to lead evidence on the new points introduced by Act 59 of 1958.

For the reasons given above we hold that the first proviso to sub-section (2) of section 57 cannot be held to be applicable at the stage of appeals or revisions. These cases will now go back to the learned Single Judge for final disposal.

B.R.T.