

Gurdial Singh vs. Shri Gobind Ram and others (J. M. Tandon, J.)

Before J. M. Tandon, J.

GURDIAL SINGH,—Petitioner.

versus

SHRI GOBIND RAM AND OTHERS,—Respondents.

Civil Revision No. 1391 of 1984.

October 18, 1984.

East Punjab Urban Rent Restriction Act (III of 1949)—Sections 13, 16 and 17—Code of Civil Procedure (V of 1908)—Order 39 Rules 1 and 2—Ejectment proceedings under the Rent Control Act—Rent Controller—Whether has jurisdiction to issue ad interim injunction under Order 39 Rules 1 and 2.

Held, that the Code of Civil Procedure, 1908 as such does not govern the proceedings under the East Punjab Urban Rent Restriction Act, 1949 except to the limited extent provided for under sections 16 and 17 thereof. Even by applying those provisions most liberally one cannot bring in either expressly or by necessary implication the rest of the provisions of the Code. The Controllers and the Appellate Authorities being *persona designata* are entitled to devise their own procedure within the confines prescribed by the Act itself and the specific detailed provisions of Order 39 Rules 1 and 2 of the Code would not, therefore, be applicable to rent jurisdiction. Although the authorities under the Rent Control Act are entitled to devise their own procedure, it cannot be inferred by implication that they are competent to issue *ad interim* injunctions in terms of Order 39 Rules 1 and 2 of the Code in exercise of inherent powers. The power to issue a temporary injunction under Order 39 is specific and cannot be exercised by the authorities under the Rent Control Act.

(Paras 3 & 4).

Petition U/s 15(5) of the Punjab Rent Restriction Act for revision of the order of Shri Hukam Chand, Rent Controller, Amritsar, dated 6th January, 1984 directing the parties to maintain the status quo regarding the nature of the property till the decision of this application at this stage.

B. K. Jhingan, Advocate, for the Petitioner.

H. S. Mattewal, Advocate, for the Respondent.

JUDGMENT

J. M. Tandon, J.

(1) Gurdial Singh petitioner is in occupation of the disputed premises (godown) in Amritsar as a tenant under the respondents.

The respondents filed an ejection application against the petitioner on the ground that it has become unfit and unsafe for human habitation. The respondents filed an application under Order 39, rules 1 and 2, read with section 151, Civil Procedure Code, seeking *ad interim* injunction restraining the petitioner from making any addition alteration or rebuilding the fallen roof and to carry out any repair in the disputed godown till the disposal of the ejection application. The learned Rent Controller,—*vide* order dated January 6, 1984, issued the *ad interim* injunction as prayed for against the petitioner. It is against this order that the present revision has been filed.

(2) The learned counsel for the petitioner has argued that the Rent Controller has no jurisdiction to issue *ad interim* injunction under Order 39, rules 1 and 2, Civil Procedure Code, in ejection proceedings under the Rent Control Act pending before him. Even otherwise, the respondents have failed to make out a case for *ad interim* injunction in their favour in terms of Order 39, rules 1 and 2, Civil Procedure Code. The contention of the learned counsel for the respondents is that the Rent Controller has inherent power to issue the *ad interim* injunction to meet the ends of justice and it is what has happened in the instant case. Reliance has been placed on *Madan Lal vs. Vir Inder Kumar Kaura*, (1).

(3) In *Madan Lal's case* (supra), the learned Single Judge upheld the order of the Appellate Authority under the Rent Control Act to allow the landlord to withdraw the application with permission to file a fresh one on the same cause of action in terms of Order 23, rule 1(3), Civil Procedure Code. The ratio of this authority was overruled by a Division Bench in *Ram Dass vs. Smt. Sukhdev Kaur and another*, (2). It has been held therein that the Civil Procedure Code as such does not govern the proceedings under the Act except to the limited extent provided for under section 16 and 17 thereof. Even by applying those provisions most liberally one cannot bring in either expressly or by necessary implication the rest of the provisions of the Civil Procedure Code. It was further held that in particular it would be evident that the specific and detailed provisions of Order 23, rule 1 of the Civil Procedure Code would not, therefore, be applicable to rent jurisdiction. The Controllers and the Appellate Authorities being *persona designata*

(1) 1978 P.L.R. 388.

(2) A.I.R. 1981 Pb. and Hary. 301.

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are entitled to devise their own procedure within the confines prescribed by the Act itself.

(4) The learned counsel for the respondents has contended that in view of the fact that the authorities under the Rent Control Act are entitled to devise their own procedure though within the confines prescribed by the East Punjab Urban Rent Restriction Act, it should be inferred by implication that they are competent to issue *ad interim* injunctions in terms of Order 39, Rules 1 and 2, Civil Procedure Code, in exercise of inherent powers. The contention is without merit. The power to issue a temporary injunction under Order 39 is specific like the power exercisable under Order 23, rule 1, Civil Procedure Code, cannot be exercised by the authorities under the Rent Control Act. For the same reason, the authorities under the Rent Control Act cannot exercise the power of issuing temporary injunction in terms of Order 39, rules 1 and 2, Civil Procedure Code in proceedings under the Rent Control Act.

(5) In view of discussion above, the impugned order of the Rent Controller cannot be sustained.

(6) In the result, the revision is allowed and the impugned order of Rent Controller dated January 6, 1984, set aside.

N. K. S.

Before M. M. Punchhi, J.

BASANT SINGH,—*Petitioner.*

versus

THE STATE OF PUNJAB,—*Respondent.*

Criminal Misc. No. 5843—M of 1984.

October 19, 1984.

Terrorist Affected Areas (Special Courts) Act (LXI of 1984)—Sections 8, 10(4) and 16—Code of Criminal Procedure (II of 1974)—Sections 323, 326 and 475—Cross cases—One set of accused charged with a scheduled offence exclusively triable by a Special Court—Accused in the cross case charged with offences triable by a Magistrate under the Code of Criminal Procedure—Latter set of accused—Whether to be tried by the Special Court trying accused in the cross case.