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all things done under the old law, will stand in the absence of intent to the contrary plainly manifested; pending actions may be affected by general words only as to future proceedings from the point reached when the new law becomes operative; without clear intention expressed or necessarily implied such law cannot invalidate or even disturb past proceedings as it cannot create vested right in the new procedure; it certainly cannot be deemed to invalidate lawful assumption of jurisdiction.

For the foregoing reasons, this appeal must be allowed and the order of the lower appellate Court set aside. The case must, therefore, go back to the Court below for disposing of the appeal on the merits in accordance with law and in the light of the observations made above. The parties have been directed through their counsel to appear in the lower appellate Court on 7th September, 1964 when a short date would be given for further proceedings.

B.R.T.

REVISIONAL CIVIL

Before Inder Dev Dua, J.

SUBHADRAN DEVI AND OTHERS.—*Petitioners.*

versus

SUNDER DASS AND ANOTHER—*Respondents.*

Civil Revision No. 580 of 1962

1964

August, 6th.

East Punjab Urban Rent Restriction Act (III of 1949)—S. 13(a)—Bona fide requirement of the landlord for his own occupation—How to be determined—Rent Restriction Acts—Purpose of.

Held, that the word "requires" in section 13(a) of the East Punjab Urban Rent Restriction Act, 1949, connotes

something less than absolute necessity considered in the limited background of his legal obligations; of course it does not mean mere wish and may be intended to contain, as has sometimes been described, "to a certain extent an element of need", but it would scarcely be correct to say that where accommodation in possession of the owner is somewhat inadequate for his requirements, he is debarred from making himself more comfortable in the premises owned by him, if he can show that he has *bona fide* intention of occupying it. The word "*bona fide*" means in good faith or genuinely, in other words, it conveys absence of intent to deceive. If, therefore, a landlord is not seeking eviction on the false pretence of requiring additional accommodation with some collateral or oblique motive or for achieving some other ulterior purpose, his claim deserves to be upheld as *bona fide*. The word "*bona fide*" has apparently been used in section 13 in the sense of honest intention to occupy the premises.

Held, that it is true that on account of shortage of built accommodation in the country, the rent restriction legislation has been brought on the statute book to protect tenants from greedy and unscrupulous landlords, who, on various pretexts, adopt methods and devices to charge or extract exorbitant rents, but at the same time this statute does not seem to be intended to deprive a landlord of his *bona fide* desire, within reasonable limits from a practical point of view, to be more comfortable by occupying his own house; may be that if his requirement is held on a proper consideration of all aspects and circumstances to be wholly unreasonable, the Rent Controller may have some justification for feeling unsatisfied with the *bona fide* of his claim. The law, however, does not require the landlord to sacrifice his own comforts and requirements by way of personally using the premises merely because they are in the possession of a tenant. The Act in question does not aim at restricting or curtailing the landlord's requirements for personal use, if the claim is genuine and honest. And then, social customs, conventions and habits, usages and practices of the society and other similar considerations also cannot be completely ignored as irrelevant while determining the question of requirement of the landlord.

Petition under Section 15(5) of the East Punjab Urban Rent Restriction Act for revision of the order of Shri

Ranjit Singh Sarkaria, Appellate Authority, Ludhiana, dated the 19th April, 1962, reversing that of Shri Fauja Singh Gill, Senior Sub-Judge (Rent Controller), Ludhiana, dated the 25th January, 1961, dismissing the landlord's petition for ejectment and leaving the parties to bear their own costs.

H. S. WASU, ADVOCATE, for the Petitioners.

ANAND MOHAN SURI, ADVOCATE, for the Respondents.

JUDGMENT

Dua, J.

DUA, J.—This revision was heard by me initially on 11th September, 1963, and I called for a report of the Rent Controller with the comments of the appellate authority through whom the report was called because in view of *Messrs Sant Ram-Des Raj* v. *Karam Chand* (1), it was considered necessary to decide issue No. 5 as well. The Full Bench decision in the case of *Messrs Sant Ram-Des Raj*, overruled the decision of a Division Bench in *Ramkishan Das and others* v. *Gordhan Das and another* (2). The case has now been placed before me after receipt of the reports of the Rent Controller and the Appellate Authority.

The controversy arises out of proceedings for ejectment of the respondents Sunder Das and Kishan Chand initiated by Smt. Subhadran Devi, widow of Dr. Jagan Nath Sood, Smt. Salkashna Devi and Smt. Krishna Kumari, daughters of the deceased, and Jatindar Nath and Devinder Nath, sons of the deceased. Various grounds in support of the prayer for ejectment were raised including (i) subletting of a part of the building, (ii) nuisance, (iii) Sundar Das, having ceased to occupy the building in dispute for a continuous period of

(1) I.L.R. (1962) 2 Punj. 405=1962 P.L.R. 758.
(2) I.L.R. (1960) 2 Punj. 633=1960 P.L.R. 670.

four months without reasonable cause, (iv) the building in dispute having been *bona fide* required for the personal occupation of the petitioners and (v) the respondents having impaired the value and utility of the building. The petition was resisted and the Rent Controller framed the following issues during the course of trial:—

(1) Whether the respondents have sublet a part of the building?

(2) Whether Sundar Dass, left this building more than four months ago? If so, its effect?

(3) Whether the respondents are a nuisance to the applicants and the neighbours ?

(4) Whether the Chaubara is also a part of the tenancy premises ? If so, what is the effect of its non-inclusion in the application ?

(5) Whether the applicants require the building *bona fide* for their personal occupation ?

(6) Whether the respondents have impaired the value and utility of the building ?

The first issue was found by the Rent Controller against the petitioners; under the second issue, it was conceded that Sunder Das, had vacated the premises long ago and Kishan Chand was in its possession as a tenant; issue No. 3 was decided in favour of the petitioners and under issue No. 4 it was held that the Chaubara did not constitute a part of the tenancy premises; issue No. 5 following the Bench decision of this Court in *Ram Kishan*

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Das' case was decided against the petitioners and issue No. 6 was not pressed. On the findings on issue No. 3, ejectment order was passed.

An appeal having been taken to the Appellate Authority, the controversy was stated to be confined to issue No. 3 only. The decision on this issue was reversed by the learned District Judge acting as Appellate Authority with the result that the tenants' appeal was allowed and the landlords' petition for ejectment dismissed.

On further revision in this Court, as already observed, the decision in *Ram Kishan Dass's case* having been overruled by a Full Bench, a report of the Controller and the Appellate Authority on issue No. 5 was called. On behalf of the petitioners, decision on issue No. 3 was also assailed before me and in support of the challenge, reliance was placed on *Ram Chander* v. *Kidar Nath, etc.*, (3). On behalf of the respondents, however, reliance was placed on *Raj Kumar* v. *Mangu Ram* (4), and *Kundan Lal* v. *Amar Nath* (5), both decisions having been given by the learned Chief Justice. Without deciding the respective contentions on issue No. 3, I considered it proper at that stage to call for a report on issue No. 5.

The learned Rent Controller and the learned Appellate Authority have both concurred in reporting that the petitioners do not require the demised premises *bona fide* for their personal occupation. The report has, however, been challenged by the petitioners and it has been stressed that the Rent Controller as well as the Appellate Authority have approached the consideration of the question from a wholly erroneous point of view and have also ignored some basic important factors and the

(3) I.L.R. 1954 Punj. 776=1954 P.L.R. 18
(4) 1963 PLR. 181
(5) I.L.R. (1962) I Punj. 727

rule of law that the requirement of the landlord is his requirement and not that of the Controller or the Appellate Authority, if they were landlords.

On the other hand, the respondents have supported the report on the ground that it is essentially a question of fact and should not be interfered with on revision. During the course of arguments, the respondents' learned counsel has made a passing reference to a Supreme Court decision in *Maharaj Jagat Bahadur Singh* v. *Badri Parshad Seth* (6), in which it has been laid down that the scope of section 15(5) of the East Punjab Urban Rent Restriction Act is wider than that of section 115, Civil Procedure Code, and that in that case the learned Single Judge of this Court was in error in treating an application under the Rent Act as one under section 115 of the Code. This judgment further shows that the decision of the learned District Judge holding that the landlord did not require the building to carry out the repair work suggested by the Municipal Committee in that case was considered to be justified. Reference by the respondents has also been made to another decision of the Supreme Court in *Neta Ram and others* v. *Jiwan Lal and another* (7), in which it has been observed that the law speaks not of the *bona fide* of the landlord but that the claim of the landlord that he requires the building for reconstruction and re-erection must be *bona fide*, that is to say, honest in the circumstances and that the Controller should investigate about the existence of an honest intention to reconstruct in the mind of the landlord. The Rent Restriction Acts having been passed in view of the shortage of houses and the high rents which were being charged by the landlords, the purpose of the Act would be defeated if the land-

(6) 1963 P.L.R. 452 (S.C.)
(7) 1962 P.L.R. 694.

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lords were to come forward to get tenants turned out on the bare plea that they want to reconstruct the houses without first establishing that the plea is *bona fide* with regard to all the circumstances. While commenting on the revisional power of this Court under section 15(5) of the East Punjab Urban Rent Restriction Act, the Supreme Court further proceeded to observe that the power of the High Court does not include power to reverse concurrent findings without showing how those findings are erroneous and that the Court on revision should be slow to interfere with the decision reached by the Rent Controller and the Appellate Authority on examining facts and after instructing themselves correctly about the law, unless the High Court demonstrates by its own decision the impropriety of the order which it seeks to revise. *Mahabir Parshad* v. *Mohinder Kumar* (8) and *Ganga Bishan* v. *Puran Singh* (9) have also been cited by the respondents where it has been laid down that it is the requirement of the landlord which is material and it is not for the Controller to consider the question from the point of view that if he were in the position of a landlord, he would not have required the premises in question, though of course, it is open to the Controller on proper material to conclude that the landlord is not requiring the premises *bona fide*. Shri Suri has indeed said fairly and forcefully all that is possible to say for the respondents.

In the case in hand, the learned Rent Controller noticed the fact that the premises in question had been purchased by Dr. Jagan Nath in an auction from the Rehabilitation Department on 22nd April, 1957 and that the said Dr. Jagan Nath passed away less than two months later on 16th June, 1957, with the result that it was only his legal representatives consisting of his widow, sons

(8) 1959 P.L.R. 625.
(9) 1964 P.L.R. 452.

and daughters, who initiated the present proceedings for eviction of their tenants from a portion of the said premises. The tenants had been on the premises in that capacity under the District Rent and Managing Officer, Ludhiana, on a monthly rent of Rs. 12.50 Paise. It is as a result of the statutory provision that after 22nd April, 1957, these occupants became tenants under Dr. Jagan Nath as a result of the purchase of the building by him. The learned Rent Controller, after remand, referred to Exhibits R.W. 3/1, a certified copy of the order of the District Rent Officer, Ludhiana, dated 27th August, 1955 from which it appeared that two chaubaras (16′ × 12′ each), two verandahs (10′ × 6′ each) and two barsatis (10′ × 6′ each) were in possession of the owners. Smt. Sulakhna Devi, petitioner No. 2, a daughter of Dr. Jagan Nath deceased, had got married before the institution of the present proceedings and Smt. Krishna Devi, another daughter, got married during the pendency of the present proceedings. One of the sons of the deceased doctor had joined service at Nangal. This showed that out of five petitioners only Smt. Subhadra Devi and her two sons were living with her in the portion of the building mentioned above. In the ration-card, four members were shown to be residing with Devinder Nath, one of the son of the deceased doctor. The son who resided at Nangal and the elder sister and her children were not included in the ration-card. Devinder Nath is noted in the order to have deposed that on account of the illness of his mother, Smt. Subhadra Devi, his elder sister, and her two children were also living at Ludhiana. The Rent Controller, however, did not feel inclined to believe this part of the evidence on the ground that if they had in fact been living at Ludhiana, then their names would certainly have been mentioned in the ration-card. Considering these cir-

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cumstances, the Rent Controller came to the conclusion that for three persons the accommodation in possession of the landlords could not be regarded as insufficient. The learned Rent Controller sought support for his view from the decision in the case of *Messrs Sant Ram-Des Raj*, observing that it had not come on the record as to what was the income of the deceased doctor and that in any case there was nothing on the record to suggest that the petitioners belonged to a very high family and were thus accustomed to a high standard of living. The size of the Chaubaras was, according to the learned Rent Controller, quite big enough and one of the Verandahs could also easily be converted into a kitchen and a bath-room. He ended his conclusion by observing that even if it be taken into consideration that the daughters of Smt. Subhadra Devi and her son paid occasional visits to Ludhiana, the accommodation mentioned above was more than sufficient to accommodate them. The demised premises were thus found not have been required *bona fide* for their personal occupation by the landlords.

The learned Appellate Authority repeated that the petitioners were in occupation of two big chaubaras, two verandahs, two barsatis, a bath-room and a terrace of the house in dispute and the tenants were occupying mainly the accommodation on the ground-floor. Kishan Chand tenant, as noted by the learned Appellate Authority, had worked out the total floor area in possession of the landlords as 624 square feet whereas he himself was in occupation of only 494 square feet out of the house in dispute. The evidence on which the Appellate Authority was called upon to base its report had been recorded more than three years earlier and it was admitted before it that there had been some further changes in the circumstances

of the landlords' family since then, but the Appellate Authority felt that it had to make the report keeping in view the facts as they existed at the time the evidence of the parties was recorded in November, 1960. At that time, one of Devinder Nath's sisters had been married and her husband (petitioner in the case) was posted at Nangal. According to the ration-card issued to the family, there were only four family members living with him at Ludhiana. The Appellate Authority then proceeded to observe that even if the married daughter or her children came to stay at Ludhiana occasionally, their needs could not be made the basis for ordering the tenants' eviction because after her marriage, she and her children became the responsibility of her husband and it was no longer necessary for her brothers to provide her and her children accommodation in her parents' house. Jatinder Nath petitioner continued to be posted at Nangal till the day of the Appellate Authority's report and his family would normally be expected to live with him at his station of posting. Under these circumstances, the Appellate Authority observed that the landlords had tried very much to exaggerate their real needs and that they were not acting in a *bona fide* manner. The Appellate Authority agreed with the learned Rent Controller that two big chaubaras, two barsatis and two verandahs, one of which could easily be converted into a small kitchen, should be sufficient for a family consisting of four or five members. The landlords had already the amenity of a bathroom attached to their premises and they had been managing to live in the present accommodation from the time when Dr. Jagan Nath was alive. Since then, due to deaths and marriages in the family and postings of some members outside Ludhiana, so proceeds the opinion of the learned

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Appellate Authority, there must have been further relief if the family really felt congested at one time in the accommodation in their occupation. The evidence regarding social position and standing in the profession of the deceased Dr. Jagan Nath was not clear on the record with the result that the learned Appellate Authority was unable to say that having regard to all the circumstances the petitioners had no sufficient accommodation for their present needs.

The learned counsel for the petitioners has criticised these reports and has submitted that the entire approach of the two Tribunals below betrays a complete lack of grasp of the real legal position in the background of which such cases have to be adjudicated upon. The criticism is, in my opinion, not without substance. Here it is desirable to state the legal position on the point as I understand it. Section 13 of the East Punjab Urban Rent Restriction Act, 1949, so far as relevant for our purposes in the present case, provides that a landlord may apply to the Controller for an order directing the tenant to put the landlord in possession—

(a) in the case of a residential building if he requires it for his own occupation,

and the Controller shall, if he is satisfied that the claim of the landlord is *bona fide*, make an order directing the tenant to put the landlord in possession of the building or rented land from such date as may be specified by the Controller and if the Controller is not so satisfied, he shall make an order rejecting the application. The word "requires" in the context appears to connote something less than absolute necessity considered in the limited background of his legal obligations; of course it does not mean mere wish and may be intended to contain, as has sometimes been described "to a certain extent an element of need",

but it would scarcely be correct to say that where accommodation in possession of the owner is somewhat inadequate for his requirements, he is debarred from making himself more comfortable in the premises owned by him, if he can show that he has a *bona fide* intention of occupying it. The word "*bona fide*" means in good faith or genuinely; in other words, it conveys absence of intent to deceive. If, therefore, a landlord is not seeking eviction on the false pretence of requiring additional accommodation with some collateral or oblique motive or for achieving some other ulterior purpose, his claim deserves to be upheld as *bona fide*. The word "*bona fide*" has, apparently, been used in section 13 in the sense of honest intention to occupy the premises. It is true that on account of shortage of built accommodation in the country, the rent restriction legislation has been brought on the statute-book to protect tenants from greedy, unscrupulous landlords, who on various pretexts adopt methods and devices to charge or extract exhorbitant rents, but at the same time this statute does not seem to be intended to deprive a landlord of his *bona fide* desire, within reasonable limits from a practical point of view, to be more comfortable by occupying his own house; may be that if his requirement is held, on a proper consideration of all aspects and circumstances to be wholly unreasonable, the Rent Controller may have some justification for feeling unsatisfied with the *bona fide* of his claim. The law, however does not require the landlord to sacrifice his own comforts and requirements by way of personally using the premises merely because they are in the possession of a tenant. The Act in question does not aim at restricting or curtailing the landlord's requirements for personal use, if the claim is genuine and honest. And then, social customs, conventions and habits, usages and

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practices of the society and other similar considerations also cannot be completely ignored as irrelevant while determining the question of requirement of the landlord. The learned Appellate Authority was, in my opinion, not justified in taking a purely legalistic view that if the married daughter or her children do frequently come to stay with her widowed mother because of her old age and illness, then this factor cannot be taken into account for considering the *bona fide* requirement of the owners. To brush aside the claim of the owners with the curt observation that after marriage, the daughter and her children become the responsibility of her husband and that her brothers need not care to see that she and her children are made comfortable and lodged in suitable accommodation in her parents' house where they have to come frequently, is, with respect, a completely erroneous approach and does not seem to be in accord with the true statutory purpose, object and intendment. It is not absolute necessity for the minimum accommodation for the owner which the statute contemplates; on the contrary, the statute merely speaks of the landlord requiring the premises for his own occupation and the Controller's satisfaction that his claim is *bona fide*, that is to say, genuine, honest and in good faith, not inspired by a collateral or an oblique motive. Again, Jatinder Nath, though posted at Nangal, had, as is clear on the record, to send his family quite often to be with his aged and ailing widowed mother. It is difficult to appreciate how this circumstance can also be completely ignored, as has been done in this case, while considering the requirement or the *bona fide* claim of the owners. And then, it may be kept in view that as children grow up, their needs also grow, and both boys and girls, from the very nature of things, need more accommodation.

Having desired in good faith to occupy the premises, which cannot be considered to be wholly unreasonable from a broad practical point of view, it may well be held appropriately to fall within the purview of the statute.

It may be pointed out here that it was not Dr. Jagan Nath who had let out the premises after the purchase because he considered the same to be spare with him; on the other hand, he had purchased the house in question apparently for his own use from the Rehabilitation Department and the persons in occupation were virtually forced on him as occupants under statutory provisions. There is of course no suggestion, and none has been urged before me, that ejectment is being sought for any ulterior, collateral or oblique purpose or that higher rent having been refused by the tenants, the present proceedings have been instituted as a part of pressure-tactics for extracting higher rent. In case the landlords do not occupy the premises themselves, under section 13(4), the tenant has, it may be pointed out, a statutory right to claim back possession.

For the foregoing reasons, I am constrained to disagree with the learned Controller and the Appellate Authority in the opinion expressed by them in their remand reports and reversing the order of the Appellate Authority dated 19th April, 1962, restore the order of eviction passed by the Rent Controller on 25th January, 1961. The parties in the circumstances are directed to bear their own costs.

Before finally closing the judgment, however, I cannot help observing that these premises were required for personal use by the owners and

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they started the proceedings as far back as 1959 and till 1964 this cause has not been finally adjudicated. This length of delay in such cases is likely to give rise to a feeling of frustration in the minds of suitors in so far as the administration of justice in our country goes. It is, therefore, desirable to see that such claims are finally disposed of with greater promptitude.

The occupant is given three months for vacating the premises and he should not be evicted before the expiry of three months.

B.R.T.

FULL BENCH

Before S. S. Dulat, A. N. Grover, Harbans Singh, D. K. Mahajan and H. R. Khanna, JJ.

RAMESH KAPUR,—*Appellant*

versus

THE PUNJAB UNIVERSITY AND ANOTHER,—*Respondents.*

Letters Patent Appeal No. 7 of 1964

1964

August, 31st

Constitution of India (1950)—Article 226—Candidate apprised of allegations of using unfair means in the examination and his explanation called—Thereafter University authorities collecting material and evidence against the candidate at his back—Such material and evidence not supplied to candidate nor his explanation called—Action taken by University—Whether liable to be quashed—Rules of natural justice—Whether to be complied with.

Held, that it will depend on the facts and circumstances of each case whether the rule of natural justice has been