FULL BENCH.

Before R. S. Narula, C.J. Bal Raj Tuli and

Bhopinder Singh Dhillon, JJ.

DR. HARKISHAN SINGH,—*Petitioner.*

versus.

UNION OF INDIA, etc.,—*Respondents.*

Civil Writ No. 266 of 1974.

October 9, 1974.

East Punjab Urban Rent Restriction Act (III of 1949)—Sections 1(2), 1(3) and 2(j)—Punjab Reorganisation Act (XXXI of 1966)—Sections 87 to 89—Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order (1968)—Paras 1, 2 and 4—Rent Restriction Act—Whether in force before the appointed day in the whole or any part of territories now comprising the Union Territory of Chandigarh—Such Act—Whether can be made applicable to the territory by a notification under section 1(3) of the Act—Section 88, Reorganisation Act—Whether extends any law not in force in a part of Punjab State to that part of territory when it forms part of a successor State.

Held, that from para 4 of Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968, it is quite clear that only 'existing law', as defined in para 2(1)(b) of the Order, could be adapted for application to the Union Territory of Chandigarh. According to section 1(2) of the East Punjab Urban Rent Restriction Act, 1949, the Act extended to all urban areas in the 'existing State of Punjab' as defined in section 2(j) of the Act, and came into force therein at once, that is, on March 25, 1949, when it was published in the Punjab Government Gazette under section 1(3) of the Act. The Act was capable of being brought into force in any other urban area of the State by a notification issued by the State Government. No such notification was ever issued before November 1, 1966, the appointed day, enforcing the Act in the whole or any part of the territories now comprised in the Union Territory of Chandigarh by declaring the same as urban area under section 2(j) of the Act or by constituting a municipal committee or a town committee or a notified area committee for these territories. The Act was, therefore, not in force in the whole or any part of the territories now comprised in Union Territory of Chandigarh immediately before the appointed day. If an Act extends to the entire State, but it can be brought into force in any part thereof by a notification in the Official Gazette, such a notification is a condition precedent to the enforcement of the Act in the area for which notification is or has to be made. Unless an Act is brought into operation in a particular area, it does not become *'in force'* therein. The only meaning of these two words is that the Act

must have been in actual operation and action could have been taken in accordance with its provision. As the Act did not apply to, or was not in force in, the territories now comprised in the Union Territory of Chandigarh, immediately before the appointed day, reference to Punjab in section 1(2) of the Act cannot be read as Union Territory of Chandigarh. Hence the Act cannot be made applicable to these territories by a notification under section 1(2) of the Act. Any such notification issued for bringing the Act in force in the Union Territory of Chandigarh or any part thereof is illegal.

(Paras 4, 5, 7 and 11).

Held, that section 88 of the Punjab Reorganisation Act, 1966, maintains the continuity of laws which were in force in any part of the territory and does not enact that any law which applied to a part of the territories of the 'existing State of Punjab' was to extend to the entire territories comprised in the 'existing State of Punjab' and thus to all the successor States because of reorganisation. This section only continues the laws in force in such territories in which they were in force immediately before the appointed day and does not enact them for any other territory of the 'existing State of Punjab wherein they were not in force before the reorganisation.

(Para 4).

Case referred by Hon'ble Mr. Justice Bal Raj Tuli, on 25th July, 1974, to a Division Bench for decision of an important question of law involved in the case. The Division Bench consisting of Hon'ble Mr. Justice Bal Raj Tuli and the Hon'ble Mr. Justice Bhopinder Singh Dhillon, further referred the case on 26th August, 1974 to the Full Bench. The Full Bench consisting of Hon'ble the Chief Justice R. S. Narula, Hon'ble Mr. Justice Bal Raj Tuli and Hon'ble Mr. Justice Bhopinder Singh Dhillon, finally decided the case on 9th October, 1974.

Petition under Article 226 of the Constitution of India praying that a writ in the nature of Certiorari, Mandamus, prohibition or any other appropriate writ, order or direction be issued declaring the provisions of Section 2(ii)(c) of the Amending Act (Punjab Act No. 29 of 1956) as illegal, ultra vires and unconstitutional as the same offend the provisions of Article 14, 19(1)(g) and 31 of the Constitution of India and quashing the impugned Notifications No. SO-3639, dated 13th October, 1972, published in the Chandigarh Administration Gazette (Extra), dated 28th November, 1972 and directing the Respondents No. 1 and 2 to refrain from enforcing the provisions of East Punjab Urban Rent Restriction Act, 1949, and further directing the Respondents No. 1 and 2 not to apply the provisions of East Punjab Urban Rent Restriction Act, 1949, for a period of 25 years from the date of assurances, i.e., from May, 1959 and further declaring that the East Punjab Urban Rent Restriction Act,

1949 *cannot be deemed to have been adapted by the Punjab Reorganisation Act, Chandigarh (Adaptation of Laws on States and Concurrent Subjects) Order,* 1968. *Since the statutory period of two years provided in Section* 89 *of the Punjab Reorganisation Act,* 1966 *empowering the Central Government to adapt has expired, and also declaring that the East Punjab Urban Rent Restriction Act,* 1949 *has become the dead Act after* 1st *November,* 1968 *and can no longer be adapted.*

J. S. Chawla, Harbhagwan Singh and Kulwant Chowdhry, Advocates, *for the petitioner.*

Anand Swaroop, Senior Advocate with R. S. Mittal and K. G. Chowdhry, Advocates, *for respondents* 1 and 2.

G. C. Mittal, R. L. Batta, S. K. Jain and Arun Jain, Advocates, *for respondent* 3.

JUDGMENT

TULI, J.—These two writ petitions (Civil Writs Nos. 266 and 1924 of 1974) will be disposed of by this judgment as they raise a common question of law.

(2) The facts of C.W. 266 of 1974, briefly stated, are that the petitioner, Dr. Harkishan Singh, his wife and two sons, purchased shop-cum-flat No. 7, Sector 8-B, Chandigarh, from Lt. Col. Surjit Singh Padda by means of a registered sale deed dated October 13, 1971. At that time, Tara Chand Jain, respondent 3, was the tenant of those premises and he attorned as a tenant to the petitioner. The rent of the premises was Rs. 300 per mensem which he paid from November, 1971 to February, 1972, to the petitioner. The petitioner, his two sons and his wife, terminated the tenancy by issuing a notice under section 106 of the Transfer of Property Act to respondent 3 and, on his failure to vacate the premises, they filed a suit for his ejectment and recovery of arrears of rent and damages on May 12, 1972. The plea raised by respondent 3 was that he had attorned only to the petitioner and not to his wife and sons. He also resisted the suit on other grounds but the learned Senior Subordinate Judge passed a decree for his ejectment on July 25, 1973. Against that decree, respondent 3 filed an appeal which was dismissed by the learned District Judge on December 1, 1973. In the meanwhile, the petitioner had sued out execution of the decree in his favour to which respondent 3 raised objections. The execution application was

dismissed by the learned Senior Subordinate Judge on November 9, 1973, on the ground that it had become unexecutable under section 13 of the East Punjab Urban Rent Restriction Act (hereinafter referred to as the Act), which had been applied to the Union Territory of Chandigarh by notification of the Central Government dated October 13, 1972, published in the Government of India Gazette, dated November 4, 1972, and Chandigarh Administration Gazette (Extraordinary), dated November 28, 1972. The validity of that notification has been challenged by the petitioner on the following grounds:—

1. That the erstwhile State of Punjab had decided to exempt Chandigarh for 25 years from the operation of the Act and some other Acts under which tax on land or buildings could be imposed and this decision was notified by means of a Press Note dated May 23, 1959. In view of that decision, the Central Government was estopped from applying the Act to Chandigarh prior to 1984.

2. That by virtue of section 89 of the Punjab Re-organisation Act, 1966 (hereinafter referred to as the Re-organisation Act), the Central Government was empowered to adapt any law made before the appointed day for the purpose of facilitating its application to the Union Territory of Chandigarh and in exercise of that power the Central Government issued the Punjab Reorganisation Act, 1966 (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968 (hereinafter referred to as the Adaptation Order), by notification dated November 20, 1968, which was published in the Chandigarh Administration Gazette (Extraordinary) dated November 21, 1968, but under that Order the Act could not be adapted for application to the Union Territory of Chandigarh, in view of the definition of 'existing law' in para 2(b) of that Order.

(3) At the hearing the learned counsel for the petitioner has confined his arguments only to point No. 2 and has not pressed point No. 1 at all and we have, therefore, to determnie whether there is any substance in point No. 2; without expressing any opinion on point No. 1.

(4) In order to decide this matter, it is necessary to set out the relevant provisions of the Re-organisation Act which are sections 87, 88 and 89. These provisions read as under:—

"*Section* 87. *Power to extend enactments to Chandigarh.*

The Central Government may, by notification in the Official Gazette, extend with such restrictions or modifications as it thinks fit, to the Union Territory of Chandigarh any enactment which is in force in a State at the date of the notification.

Section 88. *Territorial extent of laws.*

The provisions of part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Punjab shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day.

Section 89. *Power to adapt laws.*

For the purpose of facilitating the application in relation to the State of Punjab or Haryana or to the Union territory of Himachal Pradesh or Chandigarh of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent legislature or other competent authority.

Explanation.—In this section, the expression 'appropriate Government' means:—

(a) as respects any law relating to a matter enumerated in the Union List, the Central Government; and

(b) as respects any other law,—

(*i*) in its application to a State, the State Government, and

(*ii*) in its application to a Union territory, the Central Government."

The relevant provisions of the Adaptation Order are as under:—

"1 (1) This Order may be called the Punjab Reorganisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968.

(2) It shall be deemed to have come into force on the 1st day of November, 1966.

2 (1) In this Order—

(a) 'appointed day' means the 1st day of November, 1966;

(b) 'existing law' means any State Act or Provincial Act in force immediately before the appointed day in the whole or any part of the territories now comprised in the Union Territory of Chandigarh and includes any rule, order, bye-law, scheme, notification or other instrument made under such State Act or Provincial Act, but does not include any law relating to a matter enumerated in the Union List ;

(c) 'Law' has the same meaning as in clause (g) of section 2 of the Punjab Reorganisation Act, 1966.

(2) The General Clauses Act, 1897, applies for the interpretation of this Order as it applies for the interpretation of a Central Act.

(3) As from the appointed day, the existing laws and the Central Acts mentioned in the Schedule to this Order shall, until altered, repealed or amended by a competent legislature or other competent authority, have effect subject to the adaptations and modifications directed by the Schedule or, if it is so directed, shall stand repealed.

(4) Whenever an expression mentioned in column I of the Table hereunder printed, occurs (otherwise than in a

title or preamble or in a citation or description of an enactment) in an existing law, whether an Act mentioned in the Schedule to this Order or not, then, in the application of that law to the Union Territory of Chandigarh, or as the case may be, to any part thereof, unless that expression is by this order expressly directed to be otherwise adapted or modified or to be omitted, or unless the context otherwise requires, there shall be substituted therefor the expression set opposite to it in column 2 of the said Table, and there shall also be made in any sentence in which that expression occurs, such consequential amendments as the rules of grammer may require :

TABLE

1	2
1. Punjab State State of Punjab. whole of Punjab State or Punjab where it refers to the State of Punjab	Union Territory of Chandigarh.
2. Punjab Government; Government of Punjab; Government of the State of Punjab. State Government. State Government of Punjab:	Central Government.
3. High Court of Punjab; Punjab High Court.	High Court of Punjab and Haryana."

From para 4 of the Adaptation Order, it is quite clear that only 'existing law', as defined in para 2(1)(b) of the Order, could be adapted for application to the Union Territory of Chandigarh. It is, therefore, to be determined whether the Act was in force in the whole or any part of the territories now comprised in the Union Territory of Chandigarh immediately before the appointed day, that is, November 1, 1966. There is no manner of doubt that according to section 1(2) of the Act, it extended to all urban areas in the 'existing State of Punjab', as defined in section 2(j) of the Act, and came into force therein at once, that is, on March 25, 1949, when it was published in the Punjab Government Gazette, under section 1(3) of the Act. The Act was capable of being brought into force in any other urban area of the State by a notification issued by the State Government. No such notification was ever issued before November 1, 1966, enforcing the Act in the whole or any part of the territories now comprised in the Union Territory of Chandigarh, by declaring the same as urban area under section 2(j) of the Act or by constituting a municipal committee or a town committee or a notified area committee for these territories. The Act was, therefore, not in force in the whole or any part of the territories now comprised in the Union Territory of Chandigarh immediately before the appointed day: Under section 88 of the Reorganisation Act, any law in force immediately before the appointed day in any territory forming part of the 'existing State of Punjab' was to continue to apply to that part of the territory even after reorganisation so as to maintain the continuity of the laws that were applicable in the territories of the 'existing State of Punjab' which were being divided into four successor States. 'Law' has been defined in section 2(g) of the Reorganisation Act as any Act, rule, regulation etc., having the force of law in the whole or any part of the territories of the 'existing State of Punjab'. As I understand section 88 of the Reorganisation Act, it maintains the continuity of the laws which were in force in any part of the territory and does not enact that any law which applied to a part of the territories of the 'existing State of Punjab' was to extend to the entire territories comprised in the 'existing State of Punjab' and thus to all the successor States because of reorganisation. Section 88 only continued the laws in force in such territories in which they were in force immediately before the appointed day and did not enact them for any other territory of the 'existing State of Punjab' wherein they were not in force before the reorganisation. In other words, section 88 did not enact any law; it

only continued the laws in the territories in which they were already in force immediately before the appointed day.

(5) The arguments by the learned counsel for the parties have centred round the meaning of the words 'in force'. The learned counsel for the petitioner maintains that 'in force' means actually in operation in a territory so that action could be taken under it and not merely that the State legislature had enacted it without making it operative in that territory. In Stroud's Judicial Dictionary, Third Edition, Volume 2, the meanings of the phrase 'in force' have been given as under :—

"*In force.* —

(1) A beerhouse licence 'in force' on 1st May, 1869 (s. 19, Wine and Beerhouse Act, 1869 (32 & 33 Vict. c. 27), means a licence in existence on that date and which has continued and remains in existence at the time application is made for its RENEWAL (*Hargreaves* v. *Dawson* (1), R. v. *Curzon* (2), and this is so whether the application is under that section or is for a transfer under section 14. Alehouse Act, 1828 (9 Geo. 4; c 61) (*Freer* v. *Murray*; (3) applied in *Tower Justices* v. *Chambers* (4) distinguished in *Igoe* v. *Shann* (5).

(2) In the interpretation of 'Sanitary Acts', in s. 2, Public Health (Ireland) Act, 1878 (41 & 42 Vict., c. 52), "in force" means in force for the time being' (s. 31, Public Health (Ireland) Act, 1896 (59 & 60 Vict., c 54). It is submitted that this is the general meaning.

(3) An absolute order for sale by the Land Judge is not 'in force' within s. 48(4), Irish Land Act, 1903 (3 Edw. c. 37), if a stay has been put upon the proceedings (Re *Howlin*, (6). —

(1) 24 L.T. 428.
(2) L.R. 8 Q.B. 400.
(3) (1894) A.C. 576.
(4) (1904) 2 K.B. 903.
(5) (1903) A.C. 320.
(6) (1906) 1 Ir. R. 303.

(4) A section of an Act may be in operation without being in force, e.g. s. 86 of the Agriculture Act, 1947 (10 & 11 Geo. 6, c. 48), was brought into operation on October 1st, 1947; although it was not to be treated as being in force until an order was made."

In *Sunder Singh* v. *Faqir Chand* (7), a learned Single Judge interpreted sub-sections (2) and (3) of section 1 of the Punjab Urban Rent Restriction Act (10 of 1941). Sub-section (2) of section 1 extended that Act to all urban areas in the Punjab with the proviso that "nothing herein contained shall be deemed to affect the regulation of house accommodation in any Cantonment area". Sub-section (3) of section 1 read as follows :—

"It shall come into force in such urban areas and on such dates as the Provincial Government may, by notification in the Official Gazette, appoint in this behalf, and shall remain in force in each such area for five years from the date of its enforcement in that area unless such period is extended by a resolution of the Punjab Legislative Assembly".

The argument advanced before the learned Judge was that according to sub-section (2) of section 1, the Act did not apply to any Cantonment Area and that notwithstanding sub-section (3) of section 1, the Provincial Government had no power to extend its provisions to any Cantonment. The contention was held to be wholly untenable for the reasons stated in the following para of the judgment:—

"From what I have said above, it will be seen that the words of sub-section (2) are quite different from those used in the first part of sub-section (3). All that sub-section (2) lays down is that the Act extends to all urban areas in the Punjab, but it is provided in sub-section (3) that in order that it shall come into force in any such urban area a notification to this effect in the Official Gazette by the Provincial Government is essential and that the date of the enforcement in the urban areas included in the notification will be the date of the notification. It need not be pointed out that there is considerable difference between enactment extending to a particular area and

(7) A.I.R. 1948 E.P. 47.

its coming into force in that area and that the term 'extends' is not quite analogous to the phrase 'shall come into force'. When it is laid down in an enactment that it extends to the whole of a country or a part of it, it does not necessarily mean that it is also in force therein, particularly when there is an express provision that before it can come into force, something further, such as the issue of a notification, is to be done. It may also be mentioned that even if it be conceded for the sake of argument that the term 'extends', when used in an enactment without any qualification, can be considered as analogous to the phrase 'shall come into force', when they appear in two sub-sections of the same section dealing with the applicability of the enactment, of which the section forms part, obviously they cannot mean the same thing. This is one of the fundamental principles governing the construction of statutes. Reference in this connection may be made to p. 322 of the Maxwell of Interpretation of Statutes wherein it is stated that when analogous words are used, each may be presumed to be susceptible of a separate and distinct meaning, for the Legislature is not supposed to use words without a meaning. Reading therefore sub-section (2) of section 1 with sub-section (3) of the section my opinion is that the intention of the Legislature was to provide the Government with a ready-made law and to empower it to bring that law into force in any urban areas and from any date that it may like."

These observations clearly indicate that even if any Act extends to the entire State but it can be brought into force in any part thereof by a notification in the Official Gazette, such a notification is a condition precedent to the enforcement of the Act in the area for which notification is or has to be made.

(6) A Division Bench of the Allahabad High Court In *L. Kedarnath* v. *Kishan Lal* (8) observed as follows:—

"*qua* a particular area to which the Act (U.P. (Temporary) Control of Rent and Eviction Act, 1947) is applied under

(8) A.I.R. 1952 All. 500.

sub-section (2-A) of section 1 of the Act 'the date of commencement of the Act' is the date on which it is so applied. Before the Act was applied to this area, it was non-existent so far as that area was concerned. On the day it was applied, the Act took its birth in that area and commenced in it.".

(7) The matter has been put beyond doubt by the Supreme Court in two judgments which may now be considered. In *Sardar Inder Singh* v. *The State of Rajasthan and others* (9), the point for consideration was whether Rajasthan (Protection of Tenants) Amendment Act (10 of 1954), was bad as it purported to extend the life of Ordinance No. IX of 1949 after the said Ordinance had already become dead. Their Lordships drew the distinction between delegated legislation and conditional legislation in para 9 of the report and came to the conclusion that—

"a provision in a statute conferring a power on an outside authority to bring it into force at such time as it might, in its own discretion, determine, is conditional and not delegated legislation, and that it will be valid, unless there is in the Constitution Act any limitation on its power to enact such a legislation."

It was contended before the Supreme Court by the petitioners that while it may be competent to the legislature to leave it to an outside authority to decide when an enactment might be brought into force, it is not competent to it to authorise that authority to extend the life of the Act beyond the period fixed therein. Dealing with this contention, their Lordships observed :—

"On principle, it is difficult to see why if the one is competent, the other is not. The reason for upholding a legislative provision authorising an outside authority to bring an Act into force at such time as it may determine is that it must depend on the facts as they may exist at a given point of time whether the law should then be made to operate, and that the decision of such an issue is best left to an executive authority. Such legislation is termed conditional, because the Legislature has itself made the law in all its completeness as regards 'place,

(9) A.IR. 1957 S.C. 510.

person, laws, powers,' leaving nothing for an outside authority to legislate on, the only function assigned to it being to bring the law into operation at such time as it might decide. And it can make no difference in the character of a legislation as a conditional one that the Legislature, after itself enacting the law and fixing, on a consideration of the facts as they might have then existed, the period of its duration, confers a power on an outside authority to extend its operation for a further period if it is satisfied that the state of facts which called forth the legislation continues to subsist".

From these observations, it follows that unless an Act is brought into operation in a particular area, it does not become 'in force' therein.

(8) The judgment in *State of Bombay* v. *Salat Pragji Karamsi* (10) makes this point clearer still. The relevant observations are to be found in para 13 of the report which read as under :—

"It was then contended that by the mere application of the Bombay Act (Bombay Prevention of Gambling Act IV of 1887) to Kutch it became operative and came into force in the whole of Kutch. This argument suffers from the infirmity that in its application to Kutch section 1 of the Bombay Act would have to be excluded which would be an incorrect way of looking at the question. *The true position is that the whole of the Act including amended section* 1 *as given above, because applicable to Kutch and, therefore, a notification was necessary before it could be brought into force in any part of Kutch. It was applied to Kutch, but its provisions were not in operation before the notification."* (Emphasis supplied).

These observations leave no room for doubt that the meaning of the term 'in force' is 'in actual operation; that is, action can be taken under the Act in accordance with its provisions. Since the Act was not in force in the territories now comprised in the Union Territory of Chandigarh, or any part thereof, no action under any

(10) A.I.R. 1957 S.C. 517.

provision of the Act could be taken in Chandigarh on October 31, 1966. If the Act was not in force in the whole or any part of the territories now comprised in the Union Territory of Chandigarh, as I have held above, the references to territory in the Act cannot be read as references to Union Territory of Chandigarh after the re-organisation, because under section 88, two conditions are necessary, that is, the Act extended or applied to those territories and was in force in those territories. Even if it be accepted that the Act extended or applied to the territories now comprised in the Union Territory of Chandigarh because these territories formed part of the 'existing State of Punjab', the Act was not in force in these territories as no notification under section 2(j) declaring these territories to be urban area was ever issued. For this reason, under section 88 of the Reorganisation Act, the term 'Union Territory of Chandigarh' cannot be read in place of 'Punjab' in section 2(1) of the Act.

(9) Shri Anand Swarup, the learned counsel for the Union of India, has stressed that 'any law in force' in section 88 means any enacted law whether or not it applied or had been brought into force in the territories now comprised in the Union Territory of Chandigarh or a part thereof. I regret my inability to agree to this submission. To the reasons already stated above, I have only to add that the law, as defined in section 2(g) of the Reorganisation Act, means any Act etc., having the force of law. If that was the meaning to be given to the word 'law', there was no necessity for the legislature to use the words 'in force' after law. These two words have to be given a meaning and the only meaning that can be given is that such a law must have been in actual operation in the territories now comprised in the Union Territory of Chandigarh or a part thereof. Only then this Act could be said to have had the force of law or to have been in force in those territories and could have been adapted for facilitating its application to the Union Territory of Chandigarh, as constituted under the Reorganisation Act, or a part thereof under section 88 or 89 of the Reorganisation Act.

(10) Shri G. C. Mittal, the learned counsel for the tenant-respondent, has urged that any law which had been made by the 'existing State of Punjab' before the appointed day could be adapted under section 89 of the Reorganisation Act, irrespective of the fact whether it applied to those territories immediately before

the appointed day or not. This submission calls for no decision in this case because the Adaptation Order restricted the scope of adaptation only to existing laws, that is, the laws which were in force in the Union Territory of Chandigarh or a part thereof immediately before the appointed day and thus excluded every other law. Since the Act was not in force in those territories, the manner of adaptation stated in para 4 of the Adaptation Order could not be employed to adapt the Act to the Union Territory of Chandigarh without first applying it to that territory. In order to apply the Act to the Union Territory of Chandigarh, a notification had to be issued in the Official Gazette under section 37 of the Reorganisation Act. In any case, para 4 of the Adaptation Order only adapted those laws which answered the description of existing law, as defined in para 2(1)(b) of the Order, and not any other law which was in force in any part of the erstwhile State of Punjab but was not in force in the whole or any part of the territories comprised in the Union Territory of Chandigarh with effect from November 1, 1966.

(11) The learned counsel for the respondents have placed great reliance in section 88 of the Reorganisation Act and have urged that according to that section territorial references in any Act have to be read as references to all the successor States, that is, State of Punjab, State of Haryana, Union Territory of Himachal Pradesh in respect of the transferred areas and the Union Territory of Chandigarh, irrespective of the provisions of section 89 of the Reorganisation Act or the Adaptation Order. I regret my inability to agree to this submission. In my opinion, all that section 88 of the Reorganisation Act means is that any law which was in force immediately before the appointed day in the erstwhile State of Punjab or any part thereof was to continue to apply to those territories irrespective of the reorganisation of that State into four successor States. For example, if any law was in force in the district of Ludhiana only immediately before the appointed day, and not in any other part of the State, it continued to remain in force in that district and did not extend to all the successor States because of the reorganisation. *A fortiori* I am of the opinion that since the Act did not apply to or was not in force in the territories now comprised in the Union Territory of Chandigarh, immediately before the appointed day, reference to Punjab in section 1(2) of the Act cannot be read as Union Territory of Chandigarh nor could this Act be adapted under section 89 of the Reorganisation Act for

facilitating its application to the Union Territory of Chandigarh or any part thereof. The Act had first to be applied to the Union Territory of Chandigarh or any part thereof by a notification in the Official Gazette by the Central Government under section 87 of the Reorganisation Act with the necessary adaptation.

(12) Shri G. C. Mital has then submitted that the definition of law in sectios 2(g) of the Reorganisation Act, which applies to the interpretation of the word 'law' in the Adaptation Order, includes any enactment, etc., which had the force of law immediately before the appointed day in the whole or any part of 'the existing State of Punjab' and since the Act was in force in a part of 'the existing State of Punjab' immediately before the appointed day, it became automatically applicable to the Union Territory of Chandigarh by virtue of section 88 of the Reorganisation Act, even if it did not apply to that territory immediately before the appointed day. I have no hesitation in rejecting this argument because, in my opinion, section 88 of the Reorganisation Act only continued the application of the laws to such territories comprised in the 'existing State of Punjab', to which they were applicable immediately before the appointed day and did not extend or apply any law, which was in force in a part of that State, to the territories of the successor States even if it was not in force in those territories immediately before the appointed day. In other words, section 88 did not enact laws for the successor States but continued the application of the existing laws to the territories of those States wherever they were applicable.

(13) A submission has also been made very strenuously that section 2(j) of the Act shows that the Act was in force in the entire State of Punjab as it could be made applicable to any territory by the State Government declaring it to be an urban area by notification. This submission has no merit and does not require any serious consideration. The definition clause does not relate to the extent or applicability of the Act to a territory. For that purpose reference has to be made to the provision of the statute prescribing its extent. The definition of 'urban area' in section 2(j) of the Act only empowers the State Government to declare any area to be urban and it is only after that declaration that the Act will come into force in that area. Until such a declaration is made, the Act cannot be said to be in force in that area. It can also not be said that section 2(j) of the Act was in force in the entire State of Punjab as it existed before the appointed day but the other provisions of the

Act were not applicable. The argument can be met in a simple way by asking: could any body say on October 31, 1966, that the Act was in force in the territories now comprised in the Union Territory of Chandigarh so that an action under any provision of the Act could be taken with regard to the various kinds of buildings and rented lands to which it applied? Even the learned counsel for the respondents had to concede that no action or proceedings could be taken under the Act with regard to any building or rented land in the territories now comprised in the Union Territory of Chandigarh prior to the appointed day but it is emphasised that it could be made applicable to Chandigarh by a declaration. Merely because an Act is capable of being applied to any territory does not mean that it is in force in that territory before it is applied in accordance with the statutory provision. I, therefore, find no merit in this submission as well.

(14) It has then been pointed out that the Act, as adapted by the Chandigarh Administration, has been printed in Chandigarh Code, Volume II, which shows that it has been made applicable to the Union Territory of Chandigarh. In the Act, as adapted, section 1(2) reads—

> "Section 1(2). It extends to all urban areas in Union Territory of Chandigarh, but nothing herein contained shall be deemed to affect the regulation of house accommodation in any Cantonment area."

> "Section 2(j). 'Urban area' means any area administered by a municipal committee, a cantonment board, a town committee or a notified area committee or any area declared by the Central Government by notification to be urban for the purpose of this Act."

In section 3, 'Central Government' has been substituted for 'State Government'. In short, necessary changes have been made in the Act in accordance with para 4 of the Adaptation Order but, in my opinion, this adaptation is without authority and the printing of the Adapted Act in the Chandigarh Code is no ground to hold that the Act was in force in the Union Territory of Chandigarh immediately before the appointed day. Reliance has been placed by Shri Anand Swarup, the learned counsel for respondents 1 and 2, on *Hari Chand* v. *Niranjan Singh* (11), *M/s. Shri Laxmi Cotton Traders*

(11) I.L.R. (1964) 2 Pb. 344.

Pvt. Ltd. v. *The State of Haryana and another* (12), *The State of Haryana* v. *Dev Dutt Gupta and another* (13) *and Jarnail Singh* v. *The Union Territory of Chandigarh and another* (14) but no such point was involved in or decided by those cases and they are clearly distinguishable and afford no help for the decision of the point of law with which we are faced.

(15) For the reasons given above, this petition is accepted and the notification of the Central Government dated October 13, 1972, published in the Government of India Gazette dated November 4, 1972, and Chandigarh Administration Gazette (Extraordinary), dated November 28, 1972, is hereby quashed and it is held that the Act has not been brought into force in the Union Territory of Chandigarh or any part thereof. In view of the difficult nature of the point of law involved, the parties are left to bear their cost costs.

(16) C.W. 1924 of 1974 is by Building Owners Association, Chandigarh, and some individual owners of houses, and it has been opposed by the Union of India, Chandigarh Administration and an association of tenants. The only point canvassed in this writ petition is about the validity of the notification which has been quashed in C.W. 266 of 1974. This petition is also allowed in the same terms and the parties are left to bear their own costs.

R. S. Narula, C.J.—I agree.

B. S. Dhillon, J.—I also agree.

B. S. G.

(12) I.L.R. (1969) 2 Pb. & H. 23.
(13) I.L.R. (1971) 1 Pb. & H. 194.
(14) I.L.R. (1972) 2 Pb. & H. 498.

17624 ILR—Govt. Press, Chd.