Jai Narain

Vs

Kishanchand

Civil Appeal No. 389 of 1966

(CJI M. Hidayatullah, V. Ramaswami - I, G.K. Mitter JJ)

27.02.1969

JUDGMENT

HIDAYATULLAH, C.J. -

1. This is an appeal by a tent who had rented a shop No. 2687 in Kinari Bazar, Delhi from the respondent on Rs. 13.50 per month. In those premises he was selling Usha sewing machines and fans. It appeals that the level of the shop was too high from the road and his clients were troubled in going to his shop and so he lowered the level and thereby altered the premises to suit his conveniences. The landlord thereupon filed a suit against him for his eviction under Section 13(1)(k) of the Delhi and Ajmer Rent Control Act, 1952. The suit was filed on November 13, 1957. The trial court order on February 19, 1959, ejectment and payment of Rs. 145/- as arrears of rent. An appeal against the order of the trial court was dismissed by the appellate authority on November 16, 1959. A revision application was then filed by the tenant on March 25, 1960. During the course of that revision he invoked the provisions of the Delhi Rent Control Act, 1958, which had come into force on February 9, 1959 and relied upon Section 14(1)(j) of the new Act read with Section 57. Previously he had not relied upon the new Act although the Act had been in force during the pendency of the previous proceedings. The High Court acting under Section 14(1)(j) and sub-section (10) of the same section, gave him the alternative of paying compensation in the sum of Rs. 500/- which it appears that the landlord himself had assessed as the damages caused by the act of the tenant. The landlord later filed an application for review of the order and pointed out that the new Act was not applicable to the case in view of the first proviso of Section 57, sub-section (2). The High Court thereupon granted the review and reserved its earlier order and ordered the eviction of the tenant.

2. In this appeal it is contended that the High Court was in error in passing the order on review and that the previous order was the correct order in the light of the provisions of the Act of 1958. We have, therefore, to consider which of the two orders of the High Court is the correct order and whether the review was properly granted or not.

3. As is very frequent in our country. Rent Control Acts are changed from time to time causing numerous difficulties in their interpretation and application. Here too, we have a succession of Acts which were passed, to say nothing of the amendments which were made in the body of each of the Acts as they came. We are concerned first with the Act of 1952, namely. The Delhi and Ajmer Rent Control Act, 1952. Section 13(1)(k) of that Act gave a right to the landlord to evict a tenant who, whether before or after the commencement of the Act had caused or permitted to be caused substantial damages to the premises, or notwithstanding previous notice, had used or default 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 were situated. We are not concerned with the latter part but with the first part where the tenant before or after the commencement of the Act had caused or permitted to be caused substantial damage to the premises. Whether the lowering of the floor was causing substantial damages to the premises is a question into which we need not go, because the concurrent finding of the courts of facts is that it did so. This question was not raised before us. Therefore, if Section 13(1)(k) of the Delhi and Ajmer Rent Control Act, 1952, applied, the eviction of the tenant was the proper order to make in view of the finding that he had caused substantial damage to the premises. However, the matter comes to the court because of the passing of the Delhi Rent Control Act, 1958, which came into force on February 9, 1959. Section 57(1) of Act provided that the Delhi and Ajmer Rent Control Act, 1952, in so far as it was applicable to the Union territory of Delhi, was being repealed. While repealing it, a special saving was however, made by sub-section (2) of the same section in favour of all suits and other proceedings which were then pending under the repealed Act and it was provided that those suits and proceedings should be continued and disposed of in accordance with the provisions of the Act as if that Act had continued to be in force and the new Act had not been passed. This would have really been a very proper provision to make a separate the operation of the two Acts but the Legislature went still further and added two provisions. We are concerned only with the first of the two provisos on which much dispute has arisen in this case. That proviso reads as follows :

> "Provided that in any such suit or proceeding 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."

This proviso contains a proviso within itself which excepts the case of premises to which Section 54 of the Act does not apply. That section provides as follows :

> "Nothing in this Act shall affect the provisions of the Administration of Evacuee Property Act, 1950, or the Slum Areas (Improvement and Clearance) Act, 1956 or the Delhi Tenants (Temporary Protection) Act, 1956."

The effect of the proviso which we have quoted above is variously described by counsel on opposite sides. According to Mr. C. B. Agarwala who argued for the tenant the words "to which Section 54 does not apply" govern the words "any such suit or proceeding" and not the words "any premises". The High Court in the order passed on review was of the opinion that these words governed the words "any premises". In our opinion, this is the correct view to take of the matter.

4. To begin with, it must be noticed that the proviso speaks of two things, namely, the fixation of standard rent and the eviction of a tenant from any premises. The words "from any premises" cannot be connected with the phrase "for the fixation of standard rent", because then the preposition would have been "of any premises" or "for any premises" and not "from any premises". This means that the first phrase has to be read as complete in itself beginning from the words "for the fixation" and ending with the words "standard rent". The second phrase then reads "or for the eviction of a tenant from any premises". The words "from any premises" go very clearly with the words "eviction of a tenant" and not with the words "any suit or proceeding".

5. The question then arises, where does the phrase "to which Section 54 does not apply" connect itself ? According to Mr. Agarwala that phrase must be connected with the words "in any such suit or proceeding". Since the suits contain two kinds of matters, namely, fixation of standard rent and eviction of a tenant from any premises, we have to turn to the provisions of the statutes to which

Section 54 refers, namely, the Administration of Evacuee Property Act, 1950, the Slum Areas (Improvement and Clearance) Act, 1956, and the Delhi Tenants (Temporary Protection) Act, 1956. The first two do not deal at all with the fixation of fair rent and the third speaks of fair rent, but it does not provide for its fixation. It would be pointless to use the language 'any suit or proceeding to which Section 54 does not apply' in relation to fixation of standard rent. It follows therefore that the phrase "to which Section 54 does not apply" really governs 'premises'. Read in that way, all the three Acts fall in line, because they provide for premises and not for fixation of standard rent. The Administration of Evacuee Property Act, 1950, the Slum Areas (Improvement and Clearance) Act, 1956, and the Delhi (Tenants Temporary Protection) Act, 1956, all deal with premises and property and therefore the phrase "to which Section 54 does not apply" is connected with the word 'premises'. That is the view which the High Court has taken and we think rightly. The proviso did not apply and the matter had to be governed by the old Delhi and Ajmer Rent Control Act, 1952, which had been repealed.

6. It was contended before us that this legislation was intended to soften action against tenants still further and that the policy of the law had been to give more and more protection to the tenants and we must therefore read the statue in consonance with the policy. This would be an argument to consider if the language of the statue was not quite clear. But the language is clear enough to show that the proviso applies only to those cases in which Section 54 cannot be made applicable. It is admitted before us that this area is subjected to the Slum Areas (Improvement and Clearance) Act, 1956. If that is so, then, on the terms of the proviso on which much reliance is placed by Mr. Agarwala, the provisions of the Delhi Rent Control Act, 1958, cannot be taken into consideration. They are to be taken into consideration only in those cases to which the Acts mentioned in Section 54 do not apply, that is to say, in respect of premises not governed by those statutes. Since this shop is governed by one of the statutes, the proviso has no application. The High Court's view was therefore right. In the circumstances, the appeal fails and will be dismissed with costs.

</html