

S.D.Bakshi

Vs

P.L.Morada

Civil Appeal No. 1490 of 1974

(A.Alagiriswami, P.K.Goswami, N.L.Untawalia JJ)

14.07.1975

JUDGMENT

ALAGIRISWAMI, J. -

1. In view of the enactment of the Himachal Pradesh Urban Rent Control (Amendment) Act, 1975, by which a proviso was added to sub-section (2) of section 28 of the Himachal Pradesh Urban Rent Control Act, 1971, providing that all orders of ejection passed whether before or after the commencement of this Act under the provisions of the Acts hereby repealed, shall be executed in accordance with the provisions of the Act., this appeal will have to be allowed. The result would be that the appellant will be entitled to execute the order of eviction obtained by him. However, it appears that before the High Court, for the first time, a point was raised that the present appellant landlord has assumed possession over a considerable portion of the accommodation which had since fallen vacant and as such he no longer stood in need of any further accommodation so as to eject the tenant. The High Court disposal of this question on the assumption that the appellant had to take new proceedings under the provisions of Section 14 of the Himachal Pradesh Urban Rent Control Act, 1971. That assumption is no longer valid. The High Court will, therefore, now have to consider and dispose of the point raised before it, with regard to the appellant-landlord having assumed possession over a considerable portion of the accommodation which had since fallen vacant, and as such being no longer in need of any further accommodation so as to eject tenant-respondent here. The High Court will also have to consider the question whether the tenant is entitled to raise the question at the stage at which he did so. There will be an order in the above term. No costs.

</html