

**SUPREME COURT OF INDIA**

Onkar Nath

Vs.

Ved Vyas

C.A.No.339 of 1979

(V. R. Krishna Iyer and D. A. Desai, JJ.)

29.01.1979

**ORDER:-**

1. Leave granted.

2. We have heard counsel on both sides in this short rent control case. The ground on which eviction was sought was in terms of Section 13 (3) (a) (i) of the East Punjab Urban Rent Restriction Act, 1949. The sub-section reads thus :

"3. (a) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession :-

(i) in case of the residential building,

(a) he requires it for his own occupation;

(b) he is not occupying any other residential building in the urban area concerned; and

(c) he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area;"

It is common ground that there are three requirements to make out a cause of action for eviction under that provision, and indeed this is apparent from a bare reading of the sub-section. In the present case the finding is to the effect that the landlord requires the residential building for his own occupation. But, the legislation has taken care to insist upon two more conditions, namely. (a) that the landlord is not occupying any other residential building in the area concerned; and (b) that he has not vacated such a building without sufficient cause. There is not a scintilla of evidence nor indeed there is any averment in compliance with these latter conditions. The necessary consequence follows that not merely is there inadequacy of pleadings sufficient to make out a cause of action but total absence of proof of two vital requirements.

3. The statute benignly designed to protect tenants from unreasonable evictions has taken care to put restrictions which must be rigorously construed to fulfil the purpose of the statute. A mere affidavit at a late stage of the litigative process can hardly be adequate to meet the mandate of Section 13 (3) of the Act. In these circumstances, we are constrained to allow the appeal. It is unfortunate that the respondent who moved for eviction is himself an advocate and at least for that reason, cannot plead ignorance of law. The appeal is allowed but as a special extenuation in favour of his ignorance of law, we allow him to file proceedings, for eviction de novo if so advised making it clear that the allowance of the present appeal will not stand in his way. The appeal is allowed with costs quantified at Rs. 1000/-.

Appeal allowed.