

Wazir Chand

v.

S Swarankar Sabha

(Supreme Court Of India)

HON'BLE MR. JUSTICE K. JAGANNATHA SHETTY HON'BLE MR.
JUSTICE R.M. SAHAI

Civil Appeal No. 300 Of 1987 | 15-02-1990

K. JAGANNATHA SHETTY, J.

(1) Wazir Chand, the appellant was a tenant of the building belonging to the respondent. He has been ordered to be evicted on the ground that the building under his occupation was unfit for human habitation. He has now appealed to this court challenging the eviction order. He has also raised another contention that even if the eviction could be justified on the ground that the building has become unsafe or unfit for human habitation, he has a right of re-entry to the newly constructed building and a landlord is therefore, obliged to give him the space equivalent to the one he was earlier occupying in the old building.

(2) The question of considering the validity of the eviction order does not arise since counsel on both sides admitted before us that the building has been re-constructed and it is now being used as "dharamshala". The only question that survives for consideration is whether the tenant could claim that he has got a right of re-entry to the newly constructed building.

(3) Ss. (3) (c) and (6) of S. 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 are relevant and they are as under: "section 13 (3) (c): In the case of any building or rented land, if he requires it to carry out any building work at the instance of the State government or local authority or any improvement trust under some improvement or development scheme or if it has become unsafe or unfit for human habitation. Sec. 13 (6): Where a landlord, who has obtained possession of a building or rented land in pursuance of an order under sub-clause (i) of clause (a) or clause (b) of Ss. (3), does not himself occupy it or if possession was obtained under sub-clause (v) of clause (a) of

subsection (3), his family does not occupy the residential building, or if possession was obtained by him on behalf of his son in pursuance of an order under sub-clause (ii) of clause (a) of Ss. (3), his son does not occupy it for the purpose for which possession was obtained for a continuous period of twelve months from the date of obtaining possession or if possession was obtained under Ss. (3a) he does not occupy it for his exclusive personal use, for a continuous period of three years or where a landlord who has obtained possession of a building under clause (c) of Ss. (3) puts that building to any use or lets it out to any tenant other than the tenant evicted from it, the tenant who has been evicted may apply to the Controller for an order directing that the possession of such building or rented land shall be restored to him and the Controller shall make an order accordingly. "

(4) The eviction in the instant case was made under S. 13 (3) (c) since the building was found to be unsafe or unfit for human habitation. The latter portion of Ss. (6) of S. 13 provides

"where a landlord who has obtained possession of a building under clause (c) of subsection (3) puts that building to any use or lets it out to any tenant other than the tenant evicted from it, the tenant who has been evicted may apply to the Controller for an order directing that the possession of such building or rented land shall be restored to him and if that application is made, the Controller shall make an order accordingly. "

(5) Counsel for the appellant argued that since the eviction order was made under S. 13 (3) (c) and that the landlord has re-constructed the building and put that building to use, he should be reinducted into the building. We do not think that there is any substance in this contention. The building referred to in Ss. (6) of S. 13 is the building in respect of which there was eviction order under S. 13 (3) (c). That was a building which was found unsafe or unfit for human habitation and if that building is put to any use or let out to any other tenant other than the tenant evicted therefrom, certainly the evicted tenant has a right to demand that he should be restored to possession. This conclusion also gains support from the definition of "building under S. 2 (a) of the Act. It has been defined to mean "any building or a part of building let for any purpose whether being actually used for that purpose or not, etc. "

(6) It seems to us that Ss. (6) of S. 13 has, no application to a building re-constructed by the landlord. There is no other provision to which our attention has been invited in support of the claim of the tenant. Of course, similar provisions are found in other enactments for example, statutes of Maharashtra, Karnataka, Kerala, West Bengal, where there are provisions for reinduction of tenants in the premises after reconstruction. The Tamil Nadu Building (Lease and Rent Control) Act, 1960 also does not provide for any such provision for re-induction. For want of such a right of re-entry to the tenant, the Constitutional validity of the Tamil Nadu Rent Act was challenged on the ground that it is arbitrary, discriminatory and unreasonable and that it is violative of Article 14 of the Constitution. This court in upheld the validity of that Act. In the circumstances, we cannot accept the claim put forward by the tenant under Ss. (6) of S. 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973 for re-induction into the re-constructed building. The appeal accordingly fails and is dismissed.

(7) We make no order as to costs.