

Surinder Singh Sibia

Vs

Vijay Kumar Sood

Civil Appeal No. 2383 of 1988

(Dr. T. K. Thommen, R. M. Sahai JJ)

10.10.1991

JUDGEMENT

R. M. SAHAI, J.:-

1. The short but interesting question of law that arises for consideration in this appeal, directed against judgment of the Himachal Pradesh High Court, is if possession given to competent authority under Himachal Pradesh Requisition and Acquisition of Immovable Property Act, 1972 (for brevity 'Requisition Act') is vacation of premises without sufficient cause within second proviso to sub-section (3) of S. 14 of Himachal Pradesh Urban Rent Control Act, 1987 deemed to have come into force with effect from 17th November, 1971 (hereinafter referred to as 'the Act').

Sub-section (3) of S. 14 is extracted below :

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

(a) in the case of a residential building, if-

(i) he requires it for his own occupation:

Provided that he is not occupying another residential building owned by him, in the urban area concerned:

Provided further that he has not vacated such a building without sufficient cause within five years of the filing of the application, in the said urban area;"

It enables a landlord to obtain an order for eviction of the tenant if he requires the building for his own occupation and he has no other building in the area concerned. This right however stands deferred under second proviso for a period of five years if the landlord has vacated a building in his use without sufficient cause. The question is how the expression, 'he has not vacated such building without sufficient cause' in the second proviso should be construed. It has two aspects one whether the proviso applies to voluntary vacation only or it extends to vacating under pressure of legal proceedings such as requisition order by competent authority. Second, even assuming that the expression 'vacate such building' is given wide interpretation does giving up possession in consequence of a requisition order amounts to vacation without sufficient cause? Vacate, normally, means to go away, to leave. The setting or context in which the word has been used does not indicate any different meaning. Nor it is necessary to decide if it applies to voluntary vacation only

as it was urged that even assuming that giving up possession in pursuance of requisition order is included in the proviso can it be said to be without sufficient cause. Sufficient cause is an expression which is found in various statutes. It has been construed liberally in keeping with its ordinary dictionary meaning as adequate or enough. That is any justifiable reason resulting in vacation has to be understood as sufficient cause. For instance economic difficulty or financial stringency or family reasons may compel a landlord to let out a building in his occupation. So long it is found to be genuine and bona fide it would amount to vacating a building for sufficient cause. And the bar of second proviso stands lifted. In other words if the vacation of the building was not a pretence or pretext the proviso could not frustrate the right of landlord to approach the controller for necessary direction to tenant to hand over possession to him.

2. Vacation of a building by landlord in pursuance of an order of requisition by the competent authority could not be characterised as, 'not without sufficient cause'. A landlord has no option. He is required to vacate under constraint of law. Therefore the statutory restriction created by second proviso would not apply in such a case. Does it make any difference in law or the action of the landlord is not rendered without sufficient cause as he did not file any objection in requisition proceedings either under mistake advice or ignorance of law? For this it is necessary to narrate facts in brief. The appellant is owner of Kennilworth house/ Simla and its annexe. He was in occupation of first floor of Kennilworth house. Second floor was let out to the District Judge, who, later was elevated to the Bench. For his occupation the entire house was requisitioned. The appellant did not file any objection. After vacating, the building he applied for eviction of respondent from the annexe. His application was rejected as it was found to be in teeth of the second proviso. It was held that the order of requisition was passed because the appellant did not show any cause by filing any objection under sub-section (2) of S. 3 of the Requisition Act even though proviso to the subsection precluded any property or part from being requisitioned if it was in bona fide use by the owner. The explanation of the appellant that he was advised by his lawyer not to file any objection as the building was required for a High Court judge was not accepted.

3. Validity or invalidity of an order under Requisition Act could not adversely reflect on sufficiency of cause under Rent Control Act. Reason for either arises in different circumstances. Vacating a building even under an incorrect order passed by a competent authority under Requisition Act would be for sufficient reason. The Rent Control authorities could not examine merit of the order under Requisition Act. Therefore it could not be a valid consideration for holding that the building was vacated without sufficient cause. The Courts below thus committed an error of law in applying second proviso to reject the application filed on behalf of the appellant.

4. Even the finding on requirement of the appellant to occupy the building is not well founded. The inference drawn by the two Courts below that the appellant being a rich man would not occupy the annexe or that he would use it occasionally is not well founded. It being undisputed that the appellant has no other building in the urban area and it having been found that he vacated the other building for sufficient reason there was no fetter on the right of appellant to seek eviction of the tenant.

5. In the result this appeal succeeds and is allowed. The orders of all the Courts below are set aside. The application of appellant shall stand allowed. He shall approach the Rent Control authorities for appropriate directions. Parties shall bear their own costs. Appeal allowed.

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