

Zenobia Bhanot

Vs

P.K. Vasudeva and Another

Civil Appeals Nos. 607-608 of 1992

(Kuldip Singh, K. S. Paripoornan JJ)

14.11.1995

JUDGMENT

K.S. PARIPOORNAN, J

1. The appellant in the appeals is one Smt. Zenobia Bhanot, wife of late Shri S.N. Bhanot (hereinafter referred to as the 'landlady'). The respondents are (1) Shri P.K. Vasudeva and (2) Shri Surinder Sharma (hereinafter referred to as the 'tenants'). One Shri S.N. Bhanot, IAS, who was working as Commissioner in the Government of Haryana, retired on 31-8-1975. He died on 5-1-1985. The appellant is his widow. Late S.N. Bhanot owned a building - House No. 2 Sector 18-A, Chandigarh. The said building was let out in four portions to four separate tenants. They are - (1) Shri Bhupinder Singh (one room), (2) Dr. (Mrs) S.K. Gill (two rooms), (3) Shri P.K. Vasudeva (two rooms, kitchen, toilet, verandah, bathroom, etc.) and (4) Shri Surinder Sharma (two rooms, kitchen, verandah, toilet, etc.).

2. The East Punjab Urban Rent Restriction Act, 1949 (hereinafter referred to as the 'Act') is applicable in the city of Chandigarh. The said Act was amended by the East Punjab Urban Rent Restriction (Amendment) Act, 1985 (Act No. 2 of 1985). The Amendment Act received the assent of Governor of Punjab on 15-11-1985 and was published by notification dated 16-11-1985. The said amendment was adopted for the Union Territory of Chandigarh on 15-12-1986 by Notification No. GSR 1287 (E) dated 15-12-1986.

3. In the appeals, we are concerned with the scope of Section 13-A of the Act, as amended. By the said provision a right was conferred on a "specified landlord" to recover immediate possession of residential or scheduled building. It will be useful to extract the relevant provisions of the Act, applicable in this case, to adjudicate the controversy posed herein :

"2. (g) 'residential building' means any building which is not a non-residential building;

2. (hh) 'specified landlord' means a person who is entitled to receive rent in respect of a building on his own account and who is holding or has held an appointment in a public service or post in connection with the affairs of the Union or of a State;

13-A. Right to recover immediate possession of residential or scheduled building to accrue to certain persons :- Where a specified landlord at anytime, within one year prior to or within one year after the date of his retirement or after his retirement but within one year of the date of execution of the East Punjab Urban Rent Restriction

(Amendment) Act, 1985, whichever is later, applies to the Controller along with a certificate from the authority competent to remove him from service indicating the date of his retirement and his affidavit to the effect that he does not own or possess any other suitable accommodation in the local area in which he intends to reside to recover possession of his residential building or scheduled building, as the case may be, for his own occupation, there shall accrue, on and from the date of such application to such specified landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether expressed or implied), custom or usage to the contrary, a right to recover immediately the possession of such residential building or scheduled building or any part or parts of such building if it is let out in part or parts :

Provided that in case of death of the specified landlord, the widow or widower of such specified landlord and in the case of death of such widow or widower, a child or a grandchild or a widowed daughter-in-law who was dependent upon such specified landlord at the time of his death shall be entitled to make an application under this section to the Controller, -

(a) in the case of death of such specified landlord, before the extension of the East Punjab Urban Rent Restriction (Amendment) Act, 1985 to the Union Territory of Chandigarh within one year of such extension;

(b) in the case of death of such specified landlord, after such commencement, but before the date of his retirement, within one year of the date of his death;

(c) in the case of death of such specified landlord, after such commencement and the date of his retirement, within one year of the date of such retirement;

and on the date of such application the right to recover the possession of the residential building or scheduled building, as the case may be, which belonged to such specified landlord at the time of his death shall accrue to the applicant :

Provided further that nothing in this section shall be so construed as conferring a right, on any person to recover possession of more than one residential or scheduled building inclusive of any part or parts thereof if it is let out in part or parts :

Provided further that the Controller may give the tenant a reasonable period for putting the specified landlord or, as the case may be the widow, widower, child, grandchild or widowed daughter-in-law in possession of the residential building or scheduled building, as the case may be, and may extend such time so as not to exceed three months in the aggregate.

Explanation. - For the purposes of this section expression 'retirement' means termination of service of a specified landlord otherwise than by resignation."

4. The appellant, widow of late S.N. Bhanot, a "specified landlord" filed four applications under Section 13-A of the Act against the four tenants mentioned hereinabove, to whom the building, House No. 2, Sector 18-A, Chandigarh, was let out in four portions. The said application came up before three different Rent Controllers. The application filed against Shri Bhupinder Singh was disposed of by Shri Gursewak Singh, Rent Controller, who ordered eviction on 15-3-1989.

Similarly, in the application filed against Dr. (Mrs) S.K. Gill, eviction was ordered by Shri Birender Singh, Rent Controller on 27-1-1989. The tenants filed revisions, CRP No. 1260 of 1989 and CRP No. 1306 of 1989, assailing the order of ejectment passed against them. They were disposed of by a common judgment dated 6-11-1989. The judgment is reported in Bhupinder Singh v. Zenobia Bhanot. The learned Single Judge of the High Court took the view that under the second proviso to Section 13-A of the Act the landlord is entitled to recover possession of only one residential building - one part. In the way events turned out, the landlord exercised the option by choosing the portion of the building, which was let out to Dr. (Mrs) S.K. Gill, and the ejectment order was upheld (CRP No. 1306 of 1989). In this process, the ejectment petition against Shri Bhupinder Singh was dismissed and the revision filed by the tenant was allowed (CRP No. 1260 of 1989). The Special Leave Petition (C) No. 14900 of 1991 filed by the appellant against the Order in CRP No. 1260 of 1989 was dismissed on the ground by this Court.

5. As a sequel to the above proceedings, the applications filed against Shri Surinder Sharma and Shri P.K. Vasudeva were dismissed by the Rent Controller, Shri B.M. Bajaj, on 20-12-1989. It was held that the petitions have become infructuous in view of the decision of the High Court dated 6-11-1989 (Bhupinder Singh). The appellant herein (landlady) filed CRP No. 3025 of 1990 and CRP No. 3040 of 1990 in the High Court of Punjab and Haryana and assailed the decision of the Rent Controller dated 20-12-1989. When the revision came up before a learned Single Judge, (Sodhi, J.), he referred the matter to a Division Bench for consideration by order dated 26-11-1990. The order of reference is in the following terms :

"The underlying purpose in enacting the East Punjab Rent Restriction (Amendment) Act, 1985 as revealed by the Statement of its Objects and Reasons, is to provide a summary procedure for eviction of tenants of defence personnel and other Central and State Government employees, from residential premises, which on retirement, they may require for their personal occupation. It needs to be appreciated, in this context, that when any residential premises are let out and are taken on rent, what prevails are the needs and requirements of the tenant and these may not necessarily be in accord with those of the landlord when he seeks back possession thereof for his personal occupation. To illustrate a specified landlord, in terms of Section 13-A of the East Punjab Urban Rent Restriction Act (hereinafter referred to as 'the Act') owning a single residential unit consisting of three bedrooms, lets out each bedroom separately to different tenants, while he and his family comprising his wife and three grown-up children reside in government residential accommodation, provided to him while in service. Would the purpose as envisaged by the Legislature be fulfilled, if on retirement, one bedroom is all the accommodation that he can obtain by this summary procedure.

To take another example, while in service, a specified landlord buys a plot of land and builds two huts thereon leaving the other construction to be done after retirement from service. In the meanwhile he lets out these two huts to two different tenants. On retirement, is he to be granted the facility of summary eviction from only one such hut? Many other instances of similar anomalous situations can be visualised and would indeed arise. Absurdity cannot, however, be imputed to the Legislature.

As is apparent, the Amending Act of 1985 was enacted to fulfil a specific need and to serve a definite purpose. It is imperative, therefore, that its provisions are so construed, as to be in accord with the clear legislative intent. The relevant provisions must thus be read to imply that a specified

landlord would be entitled to recover, by the summary procedure, such accommodation, not exceeding one residential house, as could meet his requirements for personal accommodation. Seen in this light, the judgment of this Court in *Sohan Lal of Patiala v. Col Prem Singh Grewal* and Civil Revision No. 1260 of 1989 (*Bhupinder Singh v. Zenobia Bhanot*), decided on 6-11-1989 deserve reconsideration." [Bhupinder Singh case is reported in 1990 (2) PLR 335.]

6. The revisions were heard by the Division Bench of the High Court, which, by its Order dated 20-7-1993, approved the interpretation placed on the second proviso to Section 13-A of the Act by earlier two decisions (of Single Judges) *Sohan Lal of Patiala v. Col Prem Singh Grewal*, *Bhupinder Singh v. Zenobia Bhanot* and held thus :

"The concession granted under Section 13-A of the Act was subject to certain rigours. Second proviso to this section envisages that a specified landlord can recover immediate possession of the residential or scheduled building and if the building has been let out in parts to different tenants, the specified landlord can evict the tenants under this provision only from the portion in possession of that tenant. The language used in the section that the specified landlord could recover possession of one residential or scheduled building inclusive of any part or parts thereof if it is let out in part or parts suggests that if a residential or a scheduled building is let out in parts, each part will become a scheduled building enabling the specified landlord to avail the concession only from a part.

On going through the proviso and Section 13-A as a whole, I am also of the opinion that a landlord can get possession of the tenanted premises under the aforesaid provision of the from one of the tenants if there are more. The intention of the Legislature in enacting the provision is that the specified landlord should be in position to the get possession of the tenanted premises from his tenant immediately on his retirement. The question whether accommodation with the landlord after taking possession from one of the tenants is sufficient for his personal requirement or not is not to be gone into in such proceedings. On such grounds, the landlord has to take recourse to the provision of Section 13(3) of the main Act."

Thereafter, the appellant moved this Court by Special Leave Petitions (C) Nos. 1298-99 of 1993 and after obtaining leave, has filed the appeals against the aforesaid judgment of the Division Bench of the High Court dated 20-7-1992.

7. We heard counsel. The appellant's counsel submitted that the interpretation placed on Section 13-A of the Act by the High Court is clearly erroneous and fails to give effect to the concluding words in the opening clause of Section 13-A of the Act and has totally misinterpreted and misunderstood Section 13-A and also the second proviso thereto. The submission was that Section 13-A is a special provision enacted to give relief to 'specified landlord', to recover immediate possession of his residential or scheduled building. It was argued that Section 13-a gives a right to the 'specified landlord'. Who does not own or posses any other suitable accommodation for his own occupation, a right to recover immediately the possession of his residential building and if such residential building is let out in part or parts, the landlord has the right or option to recover immediately the possession of the building or any part or parts of such building. The proviso enjoins that the said right shall not enable the landlord to recover possession of more than one residential or scheduled building inclusive of any part or parts thereof. In a case where the residential building is let out in part or parts, the landlord will have the right to recover the possession of the building itself,

inclusive of any part or parts thereof. It is a clear error to conclude that in the case of residential building, which is let out in part or parts, each part will become a scheduled building or a residential building restricting the right of the "specified landlord" to avail the concession "only from a part". It is erroneous to surmise that the landlord can get possession of the tenanted premises under Section 13-A of the Act from one of the tenants only, if there are more than one and the question whether accommodation of the landlord after taking possession from one tenant is sufficient for his personal requirement or not, is not to be gone into in such proceedings. Counsel submitted that Section 13-A of the Act should be construed as a whole and reasonably, and bearing in mind the Statement of Objects and Reasons for inserting Section 13-A of the Act in the main statute. On the other hand, counsel for the respondents submitted that interpretation placed by two earlier decisions of the Punjab and Haryana High Court in *Sohan Lal of Patiala v. Col. Prem Singh Grewal, Bhupinder Singh v. Zenobia Bhanot* and also in the decision under appeal, are warranted by the terms of Section 13-A of the Act.

8. The Statement of Object and Reasons for incorporating Section 13-A of the Act is as follows, as is seen from the Punjab Government Gazette Extraordinary dated 30-10-1985:

"There have been representations that defence personnel and other Central and State Government employees are facing considerable difficulties in getting their residential houses vacated from tenants. The existing provisions of the East Punjab Urban Rent Restriction Act, 1949 do not provide any immediate relief to such employees. Cases have come to the notice of the State Government where such personnel are forced to face protracted litigation in courts involving considerable hardship and financial loss. The Kendriya Sainik Board has also been pressing the State Government to provide relief in this regard.

With a view to mitigate the hardship being faced by defence personnel and other Central and State Government employees, there is a need to amend the East Punjab Urban Rent Restriction Act, 1949 providing summary procedure for eviction of tenants from the residential and scheduled buildings of defence personnel and other Central and State Government employees on the eve of their retirement for their personal occupation and enabling such employees to get such buildings vacated from tenants within one year prior to or within one year after the date of retirement or after their retirement within one year of the date of commencement of this legislative measure. In the case of death of such a person the benefit of seeking eviction through summary procedure is also proposed to be granted to his widow or widower, as the case may be, a child or a grandchild or a widowed daughter-in-law, who was dependent upon him.

Further safeguarding against misuse, the Bill also makes a provision for imprisonment and fine in case such a person after having evicted a tenant/tenants through summary procedure does not occupy the building within three months or lets it out or any portion thereof within three years of such eviction and evicted tenant has also been made entitled to restoration of possession of the building in question."

9. On an anxious consideration of the rival pleas urged before us, we are of the opinion that the decisions of the Punjab and Haryana High Court in *Sohan Lal* case and the *Bhupinder Singh* case, which were followed in the judgment under appeal, are erroneous in law. In *Sohan Lal* case, Gupta, J., at p. 142, adverted to the second proviso to Section 13-A of the Act and stated thus :

"Even if it be assumed for the sake of argument, that the whole building was let out in different parts to the different tenants, even then according to the said proviso, the landlord could not recover possession of more than one residential building inclusive of any part or parts thereof if it is out in part or parts."

In so formulating the law, the learned Judge failed to advert to the Statement of Objects and Reasons for introducing Section 13-A and also the concluding words of the opening clause in Section 13-A itself. At the same time undue emphasis has been given to the second proviso alone, to hold that when the whole building is let out in different parts to different tenants, the landlord could not recover possession of more than one residential building inclusive of any part or parts thereof, if it is let out in part or parts. The landlord could claim ejection of one of the tenants from one parts of the building. The latter decision in Bhupinder Singh has only followed the earlier decision, wherein the learned Judge stated thus :

"Second proviso to the aforesaid section, as reproduced above, makes it abundantly clear that the main section is not to be so considered as conferring a right to recover possession of more than one residential or scheduled building inclusive of any part or parts thereof if the same was let out in part or parts. The combined reading of this proviso along with the provision of the section leaves no manner of doubt that the landlord is required to take possession of the building or part or parts as let out to a tenant."

In the judgment under appeal the learned Judges have held that when a residential building is let out in part or parts, each part will become a residential building, enabling the "specified landlord" to avail the concession only from a part and the question as to the whether accommodation of the landlord, after taking possession from one of the tenants, is sufficient for his personal requirement or not, is not to be gone into in such proceedings. The Division Bench did not advert, to the salient aspects mentioned in the order or reference dated 26-11-1990. We hold that Section 13-A of the Act, construed as a whole, does not warrant the conclusion arrived at in the three decisions referred to hereinabove.

10. The title to Section 13-A states that the right is given to a "specified landlord" to recover immediate possession of residential or scheduled building. The Statement of Objects and Reasons also states that the summary procedure for eviction of tenants from the residential and scheduled buildings is provided in Section 13-A. The crucial words in Section 13-A, clearly point out that, where a specified landlord, at any time within one year... applies to the Rent Controller... to recover possession of his residential building for his own occupation ..., there shall accrue, on and from the date of such application to such specified landlord,..., a right to recover immediately the possession of such residential building... or any part or parts of such building, if it is let out in part or parts. The provisions of the statute are clear. The right is given to a "specified landlord" to recover immediate possession of the residential building. He should have retired from the service and should file an affidavit that he does not own and possess any other suitable accommodation to reside. In such a case, he can require possession of his residential or scheduled building for his own occupation. The right is given to the landlord notwithstanding any other provision in the Act or any other law or any contract to the contrary, to recover immediately the possession of such residential building. If such residential building is let out in parts, the landlord is given the option to recover immediately the possession of such residential building itself or any part or parts of such building, in cases where it is let out in part or parts. In cases where the building is let out in parts, the parts so let out, will form part of the building itself. All that the second proviso provides is that the said right shall not enable

the landlord to recover possession of more than one residential or scheduled building inclusive of any part or parts thereof, if the building is let out in part or parts. There are no words in Section 13-A of the Act to import the idea that if a residential building thereby fettering the "specified landlord" to avail the concession only from a part. Section 13-A, which gives a special right to the landlord, is to enable him to exercise the right to recover the residential building for his own occupation, if he does not own or possess any other suitable accommodation. In interpreting the section, it is a far-cry to state, that the question as to whether the accommodation with the landlord after taking possession from one of the tenants is sufficient for his personal requirement or not, is not to be gone into in such proceedings. The right is given to the landlord, in case where he does not own or possess any other suitable accommodation to recover possession of his residential building. If the building is let out in parts, any or all such parts can also be recovered, since the part or parts let out, form part of the building. Section 13-A clearly points out that the landlord has an option to the the recovery (the immediate possession) of the said residential building or any part or parts of such building, in a case where the building is let out in parts. The option so given to the landlord by the concluding words in the opening clause of Section 13-A, in cases where the building is let out in part or parts, either to recover the whole building or to recover in part or parts thereof is reinforced by the second proviso. By no stretch of reasoning, the second proviso to Section 13-A can be construed as nullifying the main provision of Section 13-A and, in particular, the concluding words in the opening clause of Section 13-A whereby the option is given to the landlord to recover the possession of residential building itself or any part or parts thereof in cases where the building is let out in part or parts. We hold that the reasoning and conclusion to the contrary in the two reported judgments of the Punjab and Haryana High Court and also in the judgment under appeal dated 20-7-1992 are clearly erroneous and unjustified. On the other hand, the reasoning contained in the order of reference dated 26-11-1990, appeals to us, as reasonable and fair and the same is in accord with the legislative intent and the language of Section 13-A of the Act. We set aside the judgment of the Division Bench of the Punjab and Haryana High Court dated 20-7-1992 appealed against herein and allow the appeals.

11. There shall be no order as to costs.