

PUNJAB AND HARYANA HIGH COURT

Khushi Ram

Vs

Shanti Rani

(Dulat, J.)

18.03.1964

JUDGEMENT

Dulat, J.

(1.) THESE are two petitions under section 15(5) of the East Punjab Urban Rent Restriction Act (Civil Revision 608 of 1963 and Civil Revision 750 of 1962) and although the facts are different, the question of law arising on the facts is the same in both the cases and they can be conveniently disposed of together

(2.) IN Khushi Ram v. Shanti Rani and others (Civil Revision 608 of 1963) the landlords filed an application for the eviction of the tenant Khushi Ram, and the main ground was non -payment of rent. The Rent Controller found that the rent was Rs. 30/ - per month and it had been paid up to the 6th August, 1961, and that in respect of the subsequent period, that is, from the 7th August, 1961 till the date of the application which was filed on the 31st January 1962, a sum of Rs. 150/ - had been deposited by the tenant in the Court of the Senior Subordinate Judge in accordance with section 31 of the Punjab Relief of Indebtedness Act, 1934, and that payment covered the rent payable at that time. The prayer for eviction was, therefore, refused and the application dismissed. On appeal, however, the Appellate Authority held that the deposit of Rs. 150/ - under the Punjab Relief of Indebtedness Act did not in law amount to a payment of rent to the landlords, nor did it amount to a valid tender of that rent and, therefore, held that arrears of rent had not been paid or tendered in time, and on this finding the Appellate Authority allowed the appeal and ordered the tenant's eviction leaving the parties to their own costs. The tenant, Khushi Ram, has now filed the present revision petition. In the second case, Shri Vidya Prachar Trust v. Basant Ram (Civil Revision 750 of 1962), the application for the tenant's eviction was made again on the ground of non -payment of rent, the application being filed on the 14th June. 1961. It was found that on the 23rd December 1959 the tenant had deposited a sum of Rs. 300/ - in Court in accordance with section 31 of the Punjab Relief of Indebtedness Act as rent for the period, 1st October 1959 to the 30th September, 1960, and then again a sum of Rs. 292/8/ - was deposited under section 31 of the Punjab Relief of Indebtedness Act on the 18th July 1960 in

respect of the period, 1st October, 1960 to the 30th June, 1981. Further it was found that after the application for eviction was filed, another sum of money, being Rs. 25/-, as costs of the petition and Rs. 7/- as interest were paid on the first date of heading. The Rent Controller held that the deposits made under section 31 of the Punjab Relief of Indebtedness Act amounted to valid payment or tender of rent and that it could not, therefore, be said that the tenant was in arrears. In the result, the application for eviction was rejected the landlords appealed but the Appellate Authority accepted the view of the Rent Controller and dismissed the appeal. Hence Civil Revision 750 of 1962 on behalf of the landlords.

(3.) THE main argument in both the cases is that a deposit made under section 31 of the Punjab Relief of Indebtedness Act is not payment of rent to the landlord, nor does it amount to a tender of that rent. A decision by a learned Single Judge of this Court *Sat Pal v. Mathoo Ram* (Civil Revision 357 of 1962); which has been mentioned by the Appellate Authority in *Khushi Ram's* case (Civil Revision 008 of 1963), supports that view, but all counsel agree before us that that view was not accepted by a Division Bench of this Court in *Mam Chand v. Chhotu Ram and others*¹, where it was held that a deposit made by a tenant in accordance with section 31 of the Punjab Relief of Indebtedness Act was sufficient compliance with the terms of section 13(2) of the East Punjab Urban Rent Restriction Act. It is suggested on behalf of the landlords in both the cases before us that the view of the Division Bench is not sound and requires reconsideration. Section 31 of the Punjab Relief of Indebtedness Act says this - 31. (1) Any person who owes money may at any time deposit in Court a sum of money in full or part payment to his creditor. (2) The Court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him. (3) From the date of such deposit interest shall cease to run on the sum so deposited. In *Mam Chand v. Chhotu Ram and others*, Grover J., delivering the judgment of the Bench and disapproving the view of the learned Single Judge in *Sat Pal v. Mathoo Ram*, observed - The money deposited in these circumstances simply remains in the custody of the Court for payment to the creditor who can claim it at any time and who must be paid that amount without any hindrance or obstruction by the other party. In this manner the Court must be regarded as a statutory agent of the creditor so far as the amount deposited is concerned. Later on, he had occasion to say - It cannot be said in the present case that there is any express authority on the part of the creditor given to the Court to accept payment on his behalf when an amount is deposited under section 31 of the Punjab Relief of Indebtedness Act. But the question at once arises whether it cannot be legitimately said that the statute itself creates an implied agency in the sense that once the payment is made into Court it is deemed to be a payment to the creditor. The language of section 31 itself is clear that the person who owes money can deposit the same in Court in full or part payment to his creditor. This means that deposit in Court is tantamount to payment having been made to the creditor. The submission made to us is that an agent acts by virtue of an authority given to him by his principal and since no authority is given by a landlord to any Court to recover rent for himself, it is wholly wrong to say that the Court receiving a deposit under section 31 of the Punjab Relief of Indebtedness Act becomes the agent of the landlord. This argument leads nowhere and merely seeks to find fault

with the use of the expression agent in the Division Bench case. It is clear, however, that Grover, J., when making the above observations, was merely trying to explain a situation of fact in terms of a familiar concept, the real point of the decision being that since the law authorizes a debtor to pay into Court any money due from him to a creditor, the intention and the purpose is that such payment is to be equivalent to payment to the creditor. This is made clear by the consequence mentioned in the statute regarding stoppage of further interest. ;

Cases Referred.

1(1964) 66 P. L. R. 93