

## **PUNJAB AND HARYANA HIGH COURT**

Kartar Singh

Vs

Tarlok Singh

Civil Revision No. 1182 of 1971

(Prem Chand Pandit, J.)

05.04.1973

### **JUDGMENT**

#### **Prem Chand Pandit, J.**

1. This is a tenant's revision petition against the decision of the appellate authority confirming on appeal the order of the Rent Controller, Amritsar, ejecting them from the premises in question.

2. On 10th February, 1949, Tarlok Singh, his brother Mohan Singh and their mother Smt. Balwant Kaur gave on lease for twenty years on a yearly rent of Rs. 600/- four shops, a Deori and a vacant site (Khola) situate in Amritsar, to Tara Singh. The condition in the rent deed was that the tenant would be entitled to construct shops and houses on the aforesaid property at his cost and he would be competent to have sub-tenants under him. After the expiry of the lease, however, he would deliver possession of the property built thereon to the landlords without receiving any compensation and the eviction of his sub-tenants would be his responsibility. During the period of lease, the tenant did induct sub-tenants by means of separate rent notes.

3. After the expiry of the lease in February, 1969, the landlords filed an ejectment application against the legal representatives of the tenant, he having died in the meantime. Later on the sub-tenants were also impleaded by the order of the Court. The grounds for eviction were -

(1) that the tenants were in arrears of rent, and

(2) that they had sublet the premises without written consent of the landlords.

The ground of non-payment of rent, however, became infructuous, because the said arrears were tendered and accepted by the landlords on the first date of hearing. The only ground of eviction which survived was regarding subletting. Both the Rent Controller and the appellate authority came to the conclusion that the tenants had sublet the demised premises without the written consent of the landlords, and consequently an order for eviction was passed by the Rent Controller and the same was confirmed on appeal by the appellate authority.

3A. It appears that the original tenant Tara Singh died during the contractual period of the lease and the ejectment application was, therefore, filed against his legal representatives, namely, his sons Kartar Singh and Tarlochan Singh and his widow Smt. Roop Kaur, and it is they who have filed the present revision petition.

4. Learned counsel for the petitioner raised two contentions before me :-

(1) That the subletting was with the express permission of the landlords contained in the registered lease-deed and it was validly done during the 20 years' period of lease. The petitioners had, therefore, in no way contravened any provision of the East Punjab Urban Rent Restriction Act, 1949, hereinafter called the Act, to merit eviction. The sub-tenants were inducted long before the termination of the period of lease with the written permission of the landlords which was one of the conditions of the lease. They had not sublet the premises after the lease was over, and that being so, it could not be said that they had after the commencement of the Act, without the written consent of the landlords, sub let the premises and were, thus, guilty of contravention of the provisions of section 13(2)(ii)(a) of the Act; and

(2) that both the Rent Controller and the appellate authority had ignored the fact that the landlords had accepted the arrears of rent, after the expiry of the period of lease when the same were tendered on the first date of hearing of the case, and that being so, a fresh tenancy in law had been created in favour of the petitioners.

5. Coming to the second contention first, there is no merit in the same. This matter is concluded by the decision of the Supreme Court in *Ganga Dutt Murarka v. Kartik Chandra Das and others*<sup>1</sup>, where it was held that,

"Where a contractual tenancy to which the rent control legislation applies has expired by efflux of time or by determination by notice to quit and the tenant continues in possession of the premises by virtue of statutory protection, acceptance of rent from the tenant by the landlord after the expiration or determination of the contractual tenancy will not afford ground for holding that the landlord has assented to a new contractual tenancy."

6. As regards the first contention, it would be noticed that the premises had been let out to the tenant for a fixed period of 20 years by registered lease deed dated 10th February, 1949. The Act, it may be stated, came into force in March, 1949. The lease had to expire on 10th February, 1969. It is true that during the currency of the lease period, the tenant had been, by a specific term in the lease deed, authorised to construct shops and houses on the property at his cost, and have sub-tenants under him, but after the expiry of the period of lease he had to deliver possession of the property, including the portion built thereon, to the landlords without receiving any compensation, and also evict the sub tenants therefrom. The contention of the learned counsel for the petitioners is that the tenants had not, after March, 1949, sublet the premises without the written permission of the landlords. The sub tenants had been validly inducted with the permission of the landlords and were on the premises when the lease expired in February, 1969. The tenants had not done anything, after the termination of the lease, which would have

attracted the provisions of section 13 (2)(ii)(a) of the Act. It is clear from the terms of the lease, however, that the permission had been given by the landlords to the tenant to have sub-tenants only during the currency of the lease. That being so, the landlords could not eject the tenants from the premises on the ground of subletting up to 10th February, 1969, but thereafter the tenants were not permitted to have the sub-tenants on the premises. As a matter of fact, according to the lease deed, it was the duty of the tenant to evict the sub-tenants and hand over the possession of the property to the landlords on the expiry of the lease period. It is, therefore, obvious that the permission to sublet, which was given in the lease deed itself, was for a fixed period of 20 years and it automatically ended with the expiry of the period of lease. With the termination of the lease, the terms and conditions contained therein were also extinguished. Besides, if a lessee remains in occupation of the premises after the lease period is over, he becomes a statutory tenant, and he is not, under the law, authorised to sublet the premises. Consequently, if the sub-tenants continued on the property even after the expiry of the period of lease, then the tenants would be guilty of subletting without the written permission of the landlords, which, as I have already said, pertained to a period of only 20 years, that is, up to 10th February, 1969. There is, thus, no substance in the first contention as well.

7. The result is that this petition fails and is dismissed. In the circumstances of the case, however, the parties will bear their own costs in this Court as well.

Petition dismissed.

Cases Referred.

1 AIR 1961 SC 1967