

Raghunath Vs. Sushil Kumar

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Court : Delhi

Decided On : Jan-06-1971

Reported in : AIR1972Delhi33

Judge : P.S. Safer, J.

Acts : [East Punjab Urban Rent Restriction Act, 1949](#) - Sections 2 and 3

Appeal No. : Civil Revn. Appln. No. 29 of 1969

Appellant : Raghunath

Respondent : Sushil Kumar

Advocate for Def. : Inder Singh, Adv.

Advocate for Pet/Ap. : C.L. Kapila, Adv

Judgement :

ORDER

1. This revision petition preferred under Section 15(5) of the [East Punjab Urban Rent Restriction Act, 1949](#) (Act lii of 1949) hereinafter referred to as the Act, which was made applicable to Himachal Pradesh, is concerned with two hundred square yards of land taken on lease by the present petitioner in terms of the document Ex. PA.

2. The document was executed on the 2nd of October 1957. The Municipal Committee, Nahan, rented out the land at Rs.4/- per year. The land was comprised in Khasra No. 77/1. A significant condition of the lease was that the present petitioner agreed to give the vacant possession of the land back to the Municipal Committee on being served with a month's notice. He was to pay rent only against written receipt and no oral plea that he had paid the rent was to be available to him.

3. The definition contained in Section 2 (f) the Act, which is relevant, is :-

'(f) 'rented land' means any land let separately for the purpose of being used principally for business or trade,'

4. One of the significant aspects of the definition is that the land to be 'rented land' should have been let out separately as such. Ex. Pa does not mention the purpose of letting. The property described therein is however, clearly 200sq. Yards of land belonging to the Municipal Committee, Nahan. The learned counsel for the petitioner has referred me to : [1967]2SCR50 (After Singh v. Inder Kumar) in order to support his submission that after the construction of the shop on it the property ceased to be 'rented land'. The Supreme Court while dealing with Section 2 (f) of the Act observed :-

'Thus rented land is a piece of land on which there is no building - residential or non-residential-, but which has been let for business or trade, as in this case, for keeping a firewood stall.'

5. The ending words of the observation were concerned with the particular letting out in that case for keeping a firewood stall. Nevertheless, the Court was while spelling out the meaning of the provision giving effect to its plain phraseology. What is rented out is to be determined as on the date when it is let out. It has not been urged that on 2nd of October, 1957 what was leased out in terms of Ex. Pa was not 'rented land' falling within the definition of Section 2 (f) of the Act. Even after the illegal and unauthorized construction by the petitioner on the 'rented land' the nature of what was rented out could not be concluded to have changed. It is not contended and it could not have been contended on behalf of the petitioner

that the land under the shop does not belong to the Municipal Committee. To such land the notification mentioned in paragraph 7 of the impugned appellate judgment would be applicable. The validity of the notification is not impugned before me. According to that notification the provisions of the Act have been expressly made inapplicable to the land owned by a Municipal Committee.

6. The present case bears sufficient similarity to the one reported in (1970) 72 Pun Lr 431 (Kirpal Singh v. Parabhjot Singh).

7. The other aspect with which the appellate authority dealt was that the present petitioner could not be held as the landlord of the respondent. After scrutinizing the reasons advanced by the appellate authority, I am of the view that considering the scope of the definitions the assailed judgment is based on sound conclusions.

8. I do not find any illegality or impropriety calling for interference by me. The petition fails but is dismissed without costs.

9. Revision dismissed.

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