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Suchet Singh Vs. Chander Bal

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Court : Delhi

Decided On : Mar-06-1979

Reported in : 18(1980)DLT104; 1980RLR612

Judge : Rajinder Sachar, J.

Acts : Delhi Rent Control Act, 1958 - Sections 25B

Appeal No. : Civil Revision Appeal No. 34 of 1979

Appellant : Suchet Singh

Respondent : Chander Bal

Advocate for Pet/Ap. : Amarjit Singh,; Ashwani Kumar and; Y.K. Sabharwal, Advs

Judgement :

Rajinder Sachar, J.

(1) This is a petition for revision against the order of the Rent Controller permitting amendment of the petition for eviction filed against the petitioner tenant.

(2) The landlord filed an application on 1.3.1976 for eviction under 14A of the Delhi Rent Control Act. It appears the proceedings did not reach the finality and thereforee the matter was fixed, for evidence of the respondent-landlord obviously

in view of the subsequent developments and changes so far as the orders-issued under Section 14A, thought of amending the petition and applied to the Rent Controller for so doing. The petitioner wanted to include ground (e) under proviso to Sub-section (1) of Section 14 of the Act. This has been allowed and the tenant has come up to this court by way of revision.

(3) Much arguments were raised by both the counsel as to the desirability or the premissibility of the amendment. On behalf of the petitioner it was objected that the amendment could not be allowed under law because the same would be barred under Order 2 Rule 2 C. P. C. if a fresh eviction was brought at this stage. The contention being that if a fresh application was to be barred under Sec. 14(1) of the Act it is impermissible to allow the amendment which would take away the vested right which had accured to the petitioner-tenant and the ground now sought to be argued under Section 14(1)(e) was identical or more or less similar to the one pleaded under Section 14A and thereforee the amendment was permissible. He had even gone to the extent of saying that even if it was held that the ground for eviction under Sec. 14(1)(e) would be barred under Order 2 Rule 2 G. P. G. the same would have relevancy to a new eviction petition but would not have relevancy for the purposes of allowing the amendment. He cited before me Chimanlal Ambalal v. Shah Hasmukhlal and another : AIR1976 Guj60 and Jagat Singh and others v. Sangar Singh and others . He had also sought to argue that the various grounds given in Section 14 of the Act give cause of action. Mr. Ghandiok has countered this and mentioned that 8mt. Abhash Kaur v. Mr. Avinash Nayyar and others, : AIR1975 Delhi46) which has held that the cause of action is a combination of the notice of termination of contractual tenancy and the grounds mentioned in proviso to Section 14(1) of the Act give different causes of action and by the amendment of the petitioner which was originally filed under Section 14(1)(a) is sought to be converted into under Section 14(1)(e); a different and new cause of action, and since it was available to the landlord when the application for eviction was filed in 1976 it cannot be permitted. I am not expressing any opinion on any of the points raised before me by the parties because the preliminary objection taken by Mr. Sabharwal is to succeed. Section 25B provides that every application by a landlord for the recovery of possession of any premises on the ground specified in Clause (e) of the proviso to Sub-section (1) of Section 14 or

under Section 14-A shall be dealt with in accordance with the procedure specified in this action. It has been held by Avadh Behari, J. in R. K. Parikh v. Smt. Uma Verma 1971 (2) R. L. R. 296 that Chapter Iii A overrides the provision of any other section under the Act and thereforee, the only right of parties to approach this court is by way of Sub-section (8) and proviso to Section 25B. Now Sub-section (8) of Section 25B provides that no appeal or second appeal shall lie against an order for the recovery of possession of any premises made by the controller. Proviso, however, permits the High Court for the purpose of satisfying itself that the order made by the Controller is according to law, to call for the records of the case and pass such order in respect thereto as it thinks fit. It is thus apparent that the only provision which could be invoked in revision by the party when the proceedings are under Section 25B (as they are in this case) would be the revisional power provided in Sub-section (8) of Section 25B. But this unfortunately cannot be invoked by the petitioner tenant in the present case because it is against an interim order and no order for the recovery of possession from him has yet been passed. I have held in Devi Singh v. Chaman Lal Itorara I. L. R. (1978) 2 Del 782 that even an order granting leave to a tenant is not revisable under Section 25B(8). This is because the legislature has provided for an expeditious remedy and thereforee is not permitting appeals and revisions etc. against orders other than the ones which are passed at the final stage namely either the order for recovery of the possession or the order dismissing the eviction application thus only those orders are revisable under the provision of Section 25B(8). Normally the only other alternative left for the petitioner would have been either Section 115 Civil Procedure Code or Article 227 of the constitution. But that again has unfortunately been shut out on him by the Division Bench of this court, N. P. Berry v. Delhi Transport Corps, 1979 Raj L. R. 87 where this court has reaffirmed the earlier view of this court that the Rent Controller is not a court and hence is not subject to the jurisdiction of this court under Section 115 G. P. C. Nor is Article 227 available after the amendment of the Article. Reliance is placed by the petitioner on Smt. Karam Wali v. Shri Rajinder Singh (1978)(2)R.L.R. 714. In that case the controller had passed an eviction order. Tenant filed an appeal before the Tribunal which remand it to the controller for further enquiry. Landlord filed second appeal in the High Court. Avadh Behari J. held that no appeal under the Rent Control Act

was competent before the Tribunal and the order remanding the case back to the Rent Controller was without jurisdiction but he refused to interfere as landlord has raised no objection before the Tribunal. In alternative it was held that under Section 25(B)(8) only revision lay from the controller's order and as an appeal had been filed against the order of the Tribunal it was incompetent. I do not see how this helps the petitioner. I am asked to hold that the order of the controller which is revisable under proviso to Subsection (8) of Section 25B would cover orders passed at any stage if they decide some rights of the parties. I cannot agree. Sub-section (8) of 25B specifically provides that no appeal or the second appeal shall lie against an order of recovery of possession made by the controller except to provide that the High Court may call for the record to satisfy itself that the order made by the controller is according to law. Thus a very limited right of revision is provided under Section 25(B)(8). To hold that though it has expected provision of appeal and second appeal against the final orders otherwise provided under the Act yet has permitted revision against interlocutory orders of the controller would be to defeat the object of the Act which is to dispose of the matter expeditiously. This consideration persuades me to hold that proviso to Sub-section (8) of Section 25B necessarily restricts the stage at which the High Court revisional power could be invoked and that only be sought at the stage when order has been passed finally either accepting or rejecting the revision petition. I am afraid that the point whether the amendment should or should not have been allowed by the trial court will have to be left undetermined at this stage because the revision is not com petent against such an order.

(4) The result is that the petition is dismissed as not maintainable with no order as to costs.

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