

Avinash Kaur Vs. Beli Ram

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Court : Delhi

Decided On : Sep-23-1970

Reported in : ILR1970Delhi651

Judge : H.R. Khanna, C.J. and; Jagjit singh, J.

Acts : [Delhi Rent Control Act, 1958](#) - Sections 14(1)

Appeal No. : Second Appeal No. 125 of 1967

Appellant : Avinash Kaur

Respondent : Beli Ram

Advocate for Pet/Ap. : R.M. Lal,; Arun Mohan,; D.V. Patel and ;

Judgement :

H.R. Khanna, C.J.

(1) The short question, which has been referred to the Division Bench, is whether a tenant is liable to be ejected from any premises under clause (h) of the proviso to sub-section (1) of section 14 of the [Delhi Rent Control Act, 1958](#) (59 of 1958) (hereinafter referred to as the Act) if he has built, acquired vacant possession of or been allotted a residence before the commencement of the tenancy. The question had arisen in S.A.O. Nos. 125 of 1967 and 161-D of 1965. Brief reference has been made to the facts in the case of S.A.O. No. 125 of 1967, and the learned

counsel for the parties are agreed that the answer to the above question in S.A.O. No. 125 of 1967 would also govern the other case.

(2) The premises in dispute, situated in Golf Links Colony, New Delhi, were let out to Shrimati Avinash Kaur appellant for her residence on a monthly rent of Rs. 1,400.00 on June 1, 1962. Before that, on January 18, 1956 the appellant acquired vacant possession of a residential house, known as Bungalow No. 3, South End Road, New Delhi. The landlord respondent sought the ejectment of the appellant from the premises in dispute under clause (h) of the proviso to sub-section (1) of section 14 of the Act which reads as under:-

'(1)Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any court or Controller in favor of the landlord against a tenant:

PROVIDED that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only namely x x x x x x x x Xxx

(H)that the tenant has, whether before or after the commencement of this Act, built, acquired vacant possession of, or been allotted, a residence.'

ITwas stated that as the appellant had purchased bungalow No. 3, South End Road, with vacant possession, she was liable to ejectment under the above clause, The application for ejectment was resisted by the tenant- appellant on the ground that as the bungalow on South End Road had been purchased by her before the commencement of the tenancy and not during the continuance of tenancy, she was not liable to ejectment under the above clause. The above plea of the appellant did not find favor with the Additional Controller. He also did not find force in some of the other contentions which were raised on behalf of the appellant and with which we are not concerned. In the result an order for eviction from the premises in dispute was made in favor of the landlord-respondent against the tenant-appellant. On appeal the Rent Control Tribunal agreed with the Additional Controller and affirmed the order of eviction. When the matter came up in Second Appeal before Ismail J' reliance was placed on behalf of the landlord

respondent upon two cases- Gian Singh v. Surinder Lal and another, decided by Mahajan J. reported in (1963) 65 Plr 300, and Jaswant Singh v. Daya Singh and others decided by Grover J and reported in (1966) 2 Dlt 183. As against that, the counsel for the appellant relied upon the decision of S.K. Klapur J. in the case of Brijender Kumar v. Lachhman Das Duggal, reported in I LR (1966) 19 Pun 522, wherein the learned Judge had expressed his doubt about the correctness of the decision of Mahajan J. in Gian Singh v. Surinder Lal and another. As Ismail J. found it difficult to agree with the view expressed in the cases of Gian Singh v Surinder Lal and another, and Jaswant Singh v Daya Singh and others'), he referred the matter to a larger Bench.

(3) We have heard Mr. Radhey Mohan Lal and Mr. Harjinder Singh on behalf of the tenant-appellant, and Mr. D.V. Patel and Mr. S.N. Chopra on behalf of the landlord respondents, and are of the view that clause (h) of the proviso to sub-section (1) of section 14 of the Act can only be invoked by the landlord against the tenant if the latter builds, acquires vacant possession of, or is allotted a residence after the commencement of tenancy. Before, however, we give our reasons for the above conclusion, we may deal, with some of the cases which have a bearing on the matter. In Gian Singh v Surinder Lal and another, the ejectment of the tenant was sought on the ground that he had, after the coming into force of the Act of 1952, built some other premises. Mahajan J., while dealing with clause (h) of sub-section (1) of section 13 of the Delhi and Ajmer Rent Control Act, 1952 (Act No. 38 of 1952) which was more or less similar to the clause with which we are concerned, observed that there was no warrant for holding that the premises must be built by the tenant when he was the tenant of the landlord.

(4) In Jaswant Singh v Daya Singh and others, the lease deed was dated October 1, 1939. The ejectment of the tenant was sought inter alias on the ground that he had built a big house in Central Lane, Barakhamba Colony. The contention, which was raised on behalf of the tenant in second appeal, was that as the house in Central Lane, Barakhamba Colony, had been built in 1938, the construction of that house would not justify the eviction of the tenant. This contention was repelled by Grover J. with the following observations:-

'IT is contended, therefore, that Bhagwan Singh could not be regarded to have acquired vacant possession of the aforesaid property which essentially must be acquired after the creation of the tenancy. Now, the statutory provision referred to before does not lay down that vacant possession should be acquired by the tenant after the premises have been taken on lease. All that is provided is that if vacant possession has been acquired before or after the commencement of the Act of a suitable residence the eviction of the tenant could be ordered.

(5) It was further observed:

'MR.Khanna has next laid emphasis on the words 'has acquired which according to him necessarily cannot be some event which would be subsequent to the commencement of the tenancy. In view of the wide sweep of the language employed in clause (h) of section 13(1) of the Act of 1952 it is difficult to agree with Mr Khanna and indeed Mahajan J in *Gian Singh v Surinder Lal*, (1963) 65 Plr 300', negated the view commended by Mr. Khanna by holding that it was not necessary for the applicability of the aforesaid provision that the premises should be built by the tenant when he was a tenant of the landlord and that he was liable to eviction even if he had built his own premises before the commencement of the tenancy.'

(6) The decision in *Gian Singh v Surinder Lal* and another was cited before Kapur J. in the case of *Brijender Kumar v Lachhman Das Duggal*. Kapur J. felt that a lot could be said for the opposite view and observed:

'If one reads the language of the opening part of the proviso with clause together, it appears to lead to the conclusion that the acquisition or allotment, etc., of a residence by a tenant must be after taking the premises, from which eviction is sought, on lease.'

(7) It was further observed:

'THE object of the Act is to regulate relationship between landlord and tenant and the availability of accommodation. It is in accord with that object to hold that what the legislature intended was to withdraw the veil of protection from a tenant who

has acquired another residence after taking the lease of the premises in dispute. If a person has some residential accommodation and then takes a lease, the law seems to presume a justification for such a lease. That is why the word's 'acquired vacant possession of a residence, seem to have been used. Of course, if a tenant owns a house constructed by him before the disputed premises are taken on lease and the same falls vacant after the date of the lease, it may or rather must be said that the tenant has acquired vacant possession of a residence providing ground for eviction. But surely it looks too far-fetched to say that a tenant who had a premises in his possession and then rents the premises in dispute has 'acquired vacant possession of. . . .a residence.'

(8) The underlying object of enacting clause (b) of the proviso to sub-section (1) of section 14, as observed by one of us in the case of *Shyam Sunder v. Khan Chand*, (1966) 2 Dlt 223, was that the tenant should not have more than one premises for his residence in these days of housing shortage. In case the tenant has taken on rent any premises for his residence and he thereafter builds, acquires vacant possession of, or is allotted another premises for his residence, the tenant in such an eventuality would have to quit the earlier tenanted premises. In case, however, the tenant had built, acquired vacant possession of, or been allotted a residence before the commencement of the tenancy, the landlord, in our opinion, would not be entitled to invoke the above clause. What the clause contemplates is that a person shall be liable to be evicted from the rented premises if, while being a tenant, he builds, acquires vacant possession of, or is allotted a residence. The word 'tenant' in the beginning of the clause cannot be lost sight of and the case would be covered by the above clause only if the tenant builds, acquires vacant possession of, or is allotted a residence. Construction of any building, acquisition of vacant possession, or allotment of a residence by or to a person before he became a tenant, would not attract the above clause as it cannot be said in such a case that the tenant has built, acquired vacant possession of, or been allotted a residence. To take the opposite view, would lead to strange and startling results. Let us take the case of a person who built a residential house in 1910 and sold it thereafter in 1920. In 1960 he takes a house on rent. If the contention advanced on behalf of the landlord were to be accepted, the aforesaid person would be liable to be evicted under clause (h) because in 1910 he had built a residential house.

Again let us take another case. It is well known that millions of persons, who had built houses in areas now forming part of Pakistan, were uprooted and had to migrate to India as a result of partition of the country. Many of those persons are living in tenanted premises in Delhi. If the construction placed on clause (h) on behalf of the respondent were to be accepted, all those tenants would be liable to ejectment on the short ground that they had at one time built residential houses even though those houses had to be forcibly abandoned in areas now forming part of Pakistan. It is obvious that that could not have been the intention of the legislature. Indeed, the language used by the legislature does not admit of the construction placed upon the clause by the learned counsel for the respondents.

(9) It is argued on behalf of the landlord-respondents that there are no express words in clause (h) that the tenant should build, acquire vacant possession of, or be allotted a residence during the continuance of the tenancy. It is urged that a literal construction should be placed upon the words of the statute. This contention cannot be accepted because what the clause contemplates is, as stated earlier, that the person as a tenant has built, acquired vacant possession of, or been allotted a residence. It is implicit in the clause that the act of building, acquisition of vacant possession, or allotment, is during the continuance of tenancy. A literal interpretation, it is well-established, is not always the only interpretation of a provision in a statute and the Court has to look at the setting in which the words are used and the circumstances in which the law came to be passed to decide whether there is something implicit behind the words actually used which would control the literal meaning of the words used in a provision of the statute. It is permissible to control the wide language used in a statute if that is possible by the setting in which the words are used and the intention of the law making body which may be apparent from the circumstances in which the particular provision came to be made. thereforee a literal and mechanical interpretation is not the only interpretation which courts are bound to give to the words of a statute; and it may be possible to control the wide language in which a provision is made by taking into account what is implicit in it in view of the setting in which it might have been enacted. See in this connection *R.L. Arora v State of Uttar Pradesh*, : [1964]6SCR784 .

(10) One of the objects of the Act, as given in its preamble is- to control evictions. Clauses (a) to (1) of the proviso to sub-section (1) of section 14 of the Act deal with the various grounds on which a tenant can be evicted. Perusal of those grounds shows that they all deal with things and events happening during the period of tenancy and not prior to that. Clause (a) deals with non-payment of rent by the tenant, while clause (b) relates to subletting or parting with possession of premises by the tenant. Clause (c) refers to cases where tenant uses premises for a purpose other than that for which they were let, while clause (d) pertains to cases where the tenant and his family members do not reside in the premises. Clause (e) provides for cases where the landlord after letting out premises for residential purposes bona-fide requires them for occupation as a residence for himself and other family members. Clause (f) deals with cases where premises become unsafe and unfit for human habitation and as such need repairs, while clause (g) relates to those cases where premises are bona-fide required by landlord for purposes of building or rebuilding. Clause (i) refers to cases where premises are let out to an employee of the landlord and he ceases to be an employee, while clause (j) pertains to cases where the tenant causes substantial damage to the premises. Clause (k) provides for cases where the tenant uses or deals with premises in a manner forbidden by the landlord or other authorities. Clause (1) covers cases where the landlord requires premises in order to carry out any building at the instance of the Government or other authorities. It is manifest that the facts constituting ground for ejectment in all the mentioned clauses must come into existence after the commencement of tenancy and not prior to that. The entire setting of clause (h) shows that it is the events happening during the tenancy which can provide a cause of action for the eviction of the tenant. We have no doubt in our mind that in clause (h) also the legislature intended that it is only act of building, acquisition of vacant possession or, allotment of a residence during the continuance of tenancy which can justify eviction of tenant, it is difficult to subscribe to the view that clause (h) runs counter to the entire scheme of the enactment as revealed by the various clauses.

(11) One of the principles of interpretation of statutes, which has to be kept in view, is given on page 199 of Maxwell on the Interpretation of Statutes, 12th Edition, and reads as under:-

'In determining either the general object of the legislature, or the meaning of its language in any particular passage, it is obvious that the intention which appears to be most in accord with convenience, reason, justice and legal principles should, in all cases of doubtful significance, be presumed to be true one. 'An intention to produce an unreasonable result is not to be imputed to a statute if there is some other construction available.'

(12) Keeping the above principle also in view, we are of the opinion that the only reasonable construction which can be placed upon clause (h) is that it applies to those cases where the tenant builds, acquires vacant possession of, or is allotted a residence after the commencement of the tenancy.

(13) Reference has been made to the words 'whether before or after the commencement of the Act' in the clause. These words show that the clause would be attracted where the tenant builds, acquires vacant possession of or is allotted a residence, both before as well as after the commencement of the Act. It does not, however follow from the words 'whether before or after the commencement of the Act' that the clause would also apply to those cases where a person built, acquired vacant possession of, or was allotted a residence before the commencement of the tenancy. We agree in this respect with the view expressed by Kapur J. and are unable to subscribe to the opposite view. We would, therefore, hold that a tenant would be liable to be evicted under the above clause only if during the tenancy he builds, acquires vacant possession of, or is allotted a residence.

(14) The two appeals shall now go back to the learned Single Judge for disposal in accordance with law. The costs shall abide the event.