

Faqir Singh  
and others  
v.  
Mst. Gurbachan  
Kaur and an-  
other  
\_\_\_\_\_  
Mahajan, J.

For the reasons given above, this appeal fails and is rejected. I, however, make no order as to costs in this Court.

B.R.T.

## APPELLATE CIVIL.

Before A. N. Bhandari, C. J.

SULTANI MAL, *Petitioner.*

*versus*

KALWANT RAI, *Respondent.*

**Civil Revision No. 289 of 1958.**

1959  
\_\_\_\_\_  
May, 25th

*Patiala & East Punjab States Union Urban Rent Restriction Ordinance (VIII of 2006 Bk.)—Section 13(4)—“Does not himself occupy it for a continuous period of twelve months”—Meaning of.*

*Held*, that the expression “does not himself occupy it for a continuous period of twelve months” in sub-section (4) of section 3 of the Patiala & East Punjab States Union Urban Rent Restriction Ordinance, 2006 Bk. means “fails to occupy it for a continuous period of twelve months”. It could not have been the intention of the Legislature that a landlord who has secured an order for the eviction of his tenant should enter into possession of the property as soon as he is put in possession thereof. On the other hand, the Legislature appears to have contemplated that the landlord should remain in possession of the property until and unless the tenant is able to satisfy the Court that the landlord has not occupied the property for a continuous period of twelve months from the date of obtaining possession thereof.

*Petition under Article 227 of the Constitution of India for revision of the order of Sh. Ranjit Singh Sarkaria, Appellate Authority, Barnala, dated 30th April, 1958, affirming that of Sh. Kahan Chand Kalra, Rent Controller, Malerkotla, dated 31st January, 1958, ordering that the respondent be put in possession of the shop in dispute within 30 days from the date of the order.*

H. L. SARIN, for Petitioner.

ATMA RAM, for Respondent.

### JUDGMENT

BHANDARI, C.J.—This petition under Article 227 of the Constitution raises a question concerning the interpretation of sub-section (4) of section 13 of the Patiala and East Punjab States Union Urban Rent Restriction Ordinance, 2006 Bk. Bhandari, C. J.

Sultani Mal petitioner is the owner of a certain shop situate in Malerkotla while Kulwant Rai was a tenant of this shop. On the 28th May, 1954, the landlord presented a petition under the provisions of the Ordinance of 2006 Bk., for the eviction of the tenant on the ground that he required the shop for his own personal use. The Rent Controller ordered the eviction of the tenant on the 28th February, 1955, and the order of the Rent Controller was upheld by the learned District Judge on the 28th May, 1955. The landlord took formal possession of the shop on the 11th October, 1955, but did not occupy it till the 21st January, 1956. It appears that about a week before the landlord commenced his business in the shop, that is on the 14th January, 1956, the tenant applied to the Rent Controller for the restoration of the shop under the provisions of sub-section (4) of section 13 of the Ordinance of 2006 Bk., on the ground that the landlord had failed to occupy the shop within the statutory period. The Rent Controller acceded to the request of the tenant and passed the appropriate order and the order of the Rent Controller was upheld by the learned District Judge in appeal. The landlord is dissatisfied with the order and has come to this Court under Article 227 of the Constitution.

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Sub-section (4) of section 13 of the Ordinance of 2006 Bk., is in the following terms :—

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13. \* \* \* \* \*  
\* \* \* \* \*

(4) Where a landlord who has obtained possession of building or rented land in pursuance of an order under sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) of sub-section (3) does not himself occupy it or, if possession was obtained by him on behalf of his son in pursuance of an order under sub-paragraph (iv) of paragraph (a) of sub-section (3), his son does not occupy it for the purpose for which possession was obtained, for a continuous period of twelve months from the date of obtaining possession or where a landlord who has obtained possession of a building under sub-paragraph (iii) of the aforesaid paragraph (a) puts that building to any use or lets it out to any tenant other than the tenant evicted from it, the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of such building or rented land and the Controller shall make an order accordingly.”

Divested of unnecessary details sub-section (4) reads somewhat as follows :—

“Where a landlord who has obtained possession of building in pursuance of an order under sub-paragraph (ii) of paragraph (a) or sub-section (3) does not himself occupy it for a continuous period of twelve months from the date

of obtaining possession, the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of such building or rented land, and the Controller shall make an order accordingly."

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The evidence which has been produced in this case makes it quite clear that although the landlord took possession of the property on the 11th October, 1955, he could not occupy the shop till the 21st January, 1956, as he wanted certain repairs to be effected before starting his business on an auspicious day. This explanation seems to me to be perfectly plausible, and it appears that the landlord did in fact start his business in this shop on the 21st January, 1956.

Mr. Atma Ram, who appears for the tenant contends that according to sub-section (4) reproduced above a landlord must occupy the premises for a continuous period of twelve months from the date of possession failing which the tenant is at liberty to apply for restoration of the property. The landlord was put in possession of the property on the 11th October, 1955, and it was his duty to occupy it the same day. He failed to occupy it till the 21st January, 1956, and it is obvious that he cannot be said to have remained in continuous occupation for a period of twelve months from the date of obtaining possession thereof. It follows as a consequence that the order passed by the Rent Controller restoring the possession to the tenant is fully justified.

This contention appears to me to be wholly untenable. The expression "does not himself occupy it for a continuous period of twelve months" appears to mean "fails to occupy it for a continuous period of twelve months". It could not have

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been the intention of the Legislature that a landlord who has secured an order for the eviction of his tenant should enter into the possession of the property as soon as he is put in possession thereof. On the other hand, the Legislature appears to have contemplated that the landlord should remain in possession of the property until and unless the tenant is able to satisfy the Court that the landlord has not occupied the property for a continuous period of twelve months from the date of obtaining possession thereof. In other words, the right of a tenant to repossess the shop from which he has been evicted arises only if he satisfies the Court that the landlord has failed to occupy it for a continuous period of twelve months from the date of obtaining possession thereof. That period of twelve months has obviously not expired in the present case. It would expire on the 11th October, 1956. As the landlord actually occupied the shop on the 21st January, 1956, and as he has been in continuous possession of the shop ever since, it seems to me that the tenant's prayer for possession must be summarily rejected.

For these reasons I would accept the petition, set aside the order of the Courts below and dismiss the tenant's application with costs. Ordered accordingly.

*B.R.T.*

APPELLATE CIVIL.

*Before D. Falshaw and I.D. Dua, JJ.*  
RULIA RAM,—Appellant.

*versus*

CHAUDHRI MULTAN SINGH AND OTHERS,—Respondents.

First appeal from Order No. 2-E of 1959.

*Representation of the People Act (XLIII of 1951)—  
Section 116-A—Appeal under—Scope and extent of—Sec-  
tion 123(1)—Bribery—Charity or gift—Whether amounts*

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