Arjan Singh Chopra *v.* Sewa Sadan Social Welfare Centre, Ferozepore Cantt. (Mehar Singh, C.J.)

REVISIONAL CIVIL

Before Mehar Singh, C.J.

ARJAN SINGH CHOPRA,—*Petitioner*

versus

SEWA SADAN SOCIAL WELFARE CENTRE, FEROZEPORE CANTT.,—*Respondent.*

Civil Revision No. 290 of 1965

January 13, 1967

East Punjab Urban Rent Restriction Act (III of 1949)—S. 2(d) and (g)—'Residential building' and 'Non-residential building'—Definition of—Maintaining and running a school—Whether amounts to carrying on business or trade.

Held, that the definitions of 'residential building' and 'non-residential building' make it clear that a building which is not a "non-residential building" is obviously within the meaning and scope of the expression "residential building" as in clause (g) of section 2 of the East Punjab Urban Rent Restriction Act, 1949. A building which is not a "residential building" is not necessarily a "non-residential building".

Held, that the activity of maintaining and running a school by engaging teachers as also same other ministerial staff comes within the scope of the term business or trade even if there is no profit motive and the building in which the school is run is a non-residential building.

Petition under section 15(5) of Act III of 1949 for revision of the order of Shri Sant Ram Garg, Appellate Authority (District and Sessions Judge), Ferozepore, dated the 21st day of February, 1964, affirming the order of Shri Jaswant Singh, Rent Controller, Ferozepore, dated the 11th May, 1964, dismissing the application and in the circumstances of this case leaving the parties to bear their own costs.

ANAND SARUP WITH B. S. BINDRA, ADVOCATES, for the Petitioner.

K. C. PURI, ADVOCATE, for the Respondent.

JUDGMENT

MEHAR SINGH, C.J.—The ejectment application by the landlord under section 13(3)(a)(i) of the East Punjab Urban Rent Restriction Act, 1949 (Act No. 3 of 1949), has failed before the appellate authority on the short ground that the demised premises are not 'residential building', as that expression is defined in section 2(g) of the Act.

There is a block of building known as Wazir Ali building in Ferozepore Cantt. The demised premises are a part of that. There is some evidence that before the partition of the country in 1947, the ground portion, which is the demised premises in this case, was a shop, but it has definitely been found as a fact that since then that part has been used for maintaining and running a school by the tenant Sewa Sadan Social Welfare Centre. The demised premises with the upper storey has been purchased by the landlord from the Custodian. He sought ejectment of the tenant on various grounds, and the only ground that is material for the present is the one referred to above that the landlord requires the premises *bona fide* for his own occupation. Obviously the ground can only succeed if the premises are residential building, for the ground is not available for non-residential building or rented land.

The question before the appellate authority was, is the activity of the tenant in maintaining and running the School 'business or trade' having regard to the use of those words in section 2(d) of the Act. That provision defines "non-residential building" to mean "a building being used solely for the purpose of business or trade;" and clause (g) of the very section defines "residential building" to mean "any building which is not a non-residential building". The appellate authority was of the opinion that a building which is not a residential building, is, having regard to the definitions of those two-expressions, necessarily a non-residential building, but this is not correct for the two definitions make it clear that a building which is not a "non-residential building", is obviously within the meaning and scope of the expression "residential building" as in clause (g) of section 2 of the Act. So if the landlord can show that the demised premises are not being used solely for purposes of business or trade, the same would come within the definition of 'residential building' in clause (g) of section 2 and the ground urged for ejectment would be available to him. The appellate authority was of the opinion that the activity of the tenant in running and maintaining the school is not trade, but, having regard to the dictionary meaning of the word 'business', he was of the opinion that that activity is within the meaning and scope of this last-mentioned word. Now, it is nobody's case that the tenant society is making any profits out of the running and maintaining of the school.

The learned counsel for the landlord contends that the two words 'business' and 'trade' having been used together in the Act the meaning of the words must take colour from each other. He is of the opinion that the word 'business' is a wider word than the word 'trade' and as the meaning and scope of the word 'trade' suggest

profit motive, obviously, it cannot be that the meaning of the word 'business' in the context is devoid of the same motive. In this respect he has referred to this paragraph at page 321 of Maxwell (eleventh edition)—

> "When two or more words which are susceptible of analogous meaning are coupled together *noscuntur a sociis*, they are understood to be used in their cognate sense. They take, as it were, their colour from each other, that is, the more general is restricted to a sense analogous to the less general. The expression, for instance, "places of public resort" assumes a very different meaning when coupled with 'roads and streets' from that which it would have if the accompanying expression was 'houses' ".

I am prepared to agree with the learned counsel to this extent that the meaning of one of these two words when considered separately will take colour from the other word for when the legislature was using the two words in the alternative the conception that was being conveyed was substantially the same. The question then remains, is the absence of profit motive a negation of an activity as a business or trade. There is one case almost directly in point in which the question was levy of estate duty on the Council of Law Reporting for England, a body, which prepared and published a number of legal publications, employed various persons in connection with that and distributed the publication against subscriptions, but in view of its memorandum of association was prohibited from making profit. The case is *In the matter of the duty on the estate of the incorporated Council of Law Reporting for England and Wales* (1) in which at pages 293 and 294 Lord Coleridge, C.J., observed thus :—

> "I may ask, as I asked during the course of the argument, what is it that the Incorporated Council of the Law Reports do if they do not carry of a business ? They do something; they carry on something; they are very actively engaged in something. I confess I should have thought it capable of strong argument that they carried on a trade, because it is not essential to the carrying on of a trade that the persons engaged in it should make, or desire to make, a profit by it. Though it may be true that in the great majority of cases the carrying on of a trade does, in fact, include the idea of profit, yet the definition of the mere

(1) (1889) 22 Q.B.D. 279.

word 'trade' does not necessarily mean something by which a profit is made. But putting aside the question whether they carry on a trade, how can it be denied that the Council carry on a business ? They are incorporated; they have a secretary; they employ editors, reporters, and printers; they print books; they sell these books; they do all that is ordinarily done in carrying on the business of a bookseller. It is said that though they make a profit, they cannot, by terms of their memorandum of association, put that profit into their own pockets. Be it so; they are carrying on a business in which, by the terms of its consolidation, they are prevented from making a profit to their own benefit. One can suppose the case of co-operative stores founded upon the principle that no profits shall be made by the members. They buy and sell, and if any profit is made, their articles of association compel them to dispose of it in this or that way, but prevent the members putting any money into their own pockets ? They also would probably employ secretaries, and other persons engaged in their warehouses and in buying and selling goods all over the country. Could it possibly be denied that such an association of persons were not carrying on a business ? Though their objects might be more extended and numerous, I cannot see that in principle such an association could be distinguished from that in question in the present case."

In the present case the tenant society maintains and carries on the school, in which connection it must necessarily engage teachers and some ministerial staff to manage the school, and for that purpose it must have funds which would be disbursed in maintaining and running the school. There is no evidence but probably part of such expense may be realised by some nominal fees which the society may be charging from its pupils. So the activity which the tenant-society carries on in running and maintaining the school, by engaging teachers, as also some of the ministerial staff, to carry on the school, and by carrying on teaching activity, it is doing a business, though it may not be making a profit. In view of the decision in the case cited its activity would also come within the scope of the word 'trade'. However, the word business is obviously of much wider connotation and so the activity definitely falls within the scope of that word as used in section 2(d) of the Act. The learned counsel for the landlord contends that the expression "business or trade" in section 2(d) has reference to such activity as is carried on in a shop,

and hence carried on with a profit motive. If this was so, nothing stops the Legislature from limiting a definition in section 2(d) in the Act to a shop, but that is not so. The definition of a "non-residential building" applies to a building, whether shop or otherwise, which is used solely for the purpose of trade or business. So that the definition is not confined to a shop only nor does it necessarily imply that the activity, that is 'business or trade', must have with it profit motive. So this argument on the side of the landlord cannot succeed and as the activity of the tenant-society is 'business' within the meaning and scope of that word as used in section 2(d), the demised premises are 'non-residential building', with the result that the landlord cannot have ejectment of the tenant-society on the ground which is subject-matter of argument at this stage.

The revision application fails and is dismissed but in view of the circumstances of the case there is no order with regard to costs.

B.R.T.

APPELLATE CIVIL

Before Daya Krishan Mahajan, J.

THE PUNJAB STATE,—*Appellant*

versus

JHANDU LAL AND OTHERS,—*Respondents*

Execution First Appeal No. 86 of 1966

January 13, 1967.

Land Acquisition Act (1 of 1894)—Ss. 28, 31 and 34—Amount of compensation deposited in Government Treasury after the award of Collector because of the refusal of claimant to accept the same—Interest on the amount—Whether payable—Claimant obtaining interim order restraining Government or institution from making any constructions on the land—Whether has the effect of cessation of interest.

Held, that the deposit, in order that the interest may cease to run, has to be in terms of section 31(2) of the Land Acquisition Act, that is, it has to be made to the Court to which the reference lay, if made under section 18 of the Act. The deposit in the Government Treasury is not provided for in section