standi to prefer the Letters Patent Appeal it may not be necessary to say anything more on this question. It may, however, be mentioned that the respondent has urged that the finding on the question of consideration and necessity as given by the learned District Judge is perverse and was arrived at without realizing the exact point which arose for consideration and, therefore, was not binding on the learned Single Judge. As this precise point does not seem to have been urged before the learned Single Judge it is unnecessary to pursue it.

With these observations, I agree with my learned brother that this appeal fails and should be dismissed with costs.

B.R.T.

FULL BENCH

Before Mehar Singh, Shamsher Bahadur and Prem Chand Pandit, JJ.

M/s SANT RAM DES RAJ,—*Petitioner.*

versus

KARAM CHAND,—*Respondent.*

Civil Revision No. 373 of 1960.

1962

June, 1st

East Punjab Urban Rent Restriction Act (III of 1949)—Section 13(3)(a)(i)—Landlord seeking eviction of the tenant establishing bona fide *requirement of premises for his own occupation—Whether entitled to evict tenant—Occupation of another premises in the same urban area which does not meet his requirement being inadequate for his needs—Effect of—"Requires" and 'another residential building'—Meaning of—Section 2(a)—"Building"—Whether means demised premises only.*

Held, that where a landlord establishes that he has made his application for eviction of his tenant in good faith and that he requires the premises for his own occupation and further that the premises already in his occupation do not meet his requirements and needs, he is

entitled to evict his tenant under section 13(3)(a)(i) of the East Punjab Urban Rent Restriction Act, 1949.

Held, that the word "requires" as used in section 13 (3)(a)(i)(a) of the Act involves something more than a mere wish and it has in it an element of need to an extent at least. When condition (a) in sub-paragraph (i) refers to the requirement of a residential building by the landlord for his occupation, it has an eye to his needs. If his needs in fact exist and are commensurate with his circumstances, such as the size of his family, his social status and social habits and style of living, and it is found, as has been found in these cases, that the landlord has sought eviction of the tenant in good faith, then it is a case in which he requires the residential building, from which he seeks eviction of the tenant, for his own occupation.

Held, that the meaning of the word 'another residential building' in condition (b) of sub-paragraph (i) of section 13(3)(a) of the Act is residential building commensurate with the requirements or needs of a landlord.

Held, that the definition of the word "building" in section 2(a) of the Act does not apply to residential premises in the occupation of a landlord, for the same are not let for any purpose. The definition is intended to apply to demised premises and not to premises in the occupation of a landlord.

Case referred by Hon'ble Mr. Justice Grover to a larger Bench on 9th December, 1960, for decision owing to the importance of the legal question involved in the case. The case was finally decided by a Full Bench consisting of Hon'ble Mr. Justice Mehar Singh, Hon'ble Mr. Justice Shamsher Bahadur and Hon'ble Mr. Justice P. C. Pandit, on 1st June, 1962.

Petition under Section 15(v) of Act III of 1949, as amended by Act 29 of 1956, for revision of the order of Shri Sant Ram Garg, Appellate Authority under the Rents Restriction Act, 1949 (District and Sessions Judge), Ambala, dated the 9th May, 1960, affirming that of Shri Sarup Chand Goal, Sub-Judge, 1st Class, Ambala, empowered as Rent Controller under the Punjab Act No. 3 of 1949, dated the 15th June, 1959, directing the respondent (M/s Sant Ram Des Raj) to deliver the possession of the tenancy premises

in question to the petitioner (Karam Chand) within two months from the date of the order.

H. L. SARIN, K. K. CUOCRIA AND SAT DEV, ADVOCATES, for the Petitioner.

ATMA RAM AND R. S. MARYA, ADVOCATES, for the Respondent.

JUDGMENT

MEHAR SINGH, J.—These three revision petitions, *Sant Ram-Des Raj* v. *Karam Chand*, Civil Revision No. 373 of 1960, *Ram Nath* v. *Lal Singh*, Civil Revision No. 190 of 1961, and *Bhagwati Parshad* v. *Jamni and Ram Singh*, Civil Revision No. 59 of 1961, have been taken together because a common question of law has arisen for consideration in these petitions on three separate references that have come before this Bench. Mehar Singh, J.

The first revision petition, Civil Revision No. 373 of 1960, concerns property No. 586 Ward No. 7 of Kalka town. It was the property of Abdul Rashid Butt under an oral tenancy with Sant Ram-Des Raj, petitioner-firm, at an annual rental of Rs. 450. Abdul Rashid Butt sold half defined part of it to Karam Chand respondent on April 2, 1957. The respondent is admittedly in possession of rented accommodation consisting of one room with a kitchen. It is, however, in somewhat dilapidated condition. Apart from him there are two other members of his family, his wife and mother. On January 21, 1958, he made an application under section 13 of the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act No. III of 1949), hereinafter to be referred as the Act, for eviction of the petitioner-firm from half of the property purchased by him on grounds of non-payment of rent and the requirement of the property for his own occupation. The petitioner-firm admitted ownership of the respondent in the half portion of the property but resisted the application on the ground that it is tenant under the respondent and Abdul Rashid Butt so

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that the respondent alone cannot maintain the application, that the premises are non-residential building under the use of it as a godown and for storing goods in connection with its business, and that the respondent does not *bona fide* require the premises for his own occupation. The petitioner-firm tendered arrears of rent by deposit before the Rent Controller, but as it raised objection to the claim of the respondent to the same, so it said that the amount be not paid. The Rent Controller found that the petitioner-firm is a tenant under the respondent, that the premises are residential building, that as rent is payable annually and was not due until March 31, 1958, the question of the invalidity of the tender made by the petitioner-firm did not arise, and that the respondent *bona fide* requires the premises for his own occupation, there being no suggestion that he is obtaining eviction of the petitioner-firm with a view to higher rent. The Rent Controller on June 15, 1959, made an order against the petitioner-firm directing it to deliver possession of the premises to the respondent within the time specified in the order.

On appeal the Appellate Authority maintained the findings of the Rent Controller except that it came to the conclusion that the rent not having been apportioned between the respondent and his vendor, there was no question of invalidity of tender and that the premises are used for business by the petitioner-firm, though not solely for that purpose, and for that reason it is residential building within section 2(g) of the Act. The Appellate Authority upheld the finding of the Rent Controller that the petitioner-*bona fide* requires the premises for his own occupation. The appeal was dismissed on May 9, 1960.

This revision petition by the petitioner-firm against the order of the Appellate Authority came first before a learned Single Judge and it appears that it was for all practical purposes conceded at that stage that the premises are residential building and it was upon this consideration that the learned Judge made a reference of the petition to a

larger Bench on the question whether inadequacy or insufficiency of the accommodation with the landlord is or is not a ground admissible to him under section 13(3)(a)(i) of the Act, and particularly in view of the Division Bench decision *Ramkishan Das* v. *Gordhan Das* (1), in which the learned Judges have held that such a ground does not avail a landlord under section 13(3)(a)(ii) of the Act, before its amendment, in regard to a non-residential building.

The authorities below have concurred in their conclusion that the premises are residential building and, as stated, this was not apparently challenged before the learned Single Judge. However, an attempt has been made to question this finding here. The almost established facts are that the property when it was under the possession of Abdul Rashid Butt was being used by him for repairs of motor-vehicles of Kalka-Simla Hills Transport Company, of which he was one of the owners, and for the residence of the employees of the Company. Subsequently, probably at the time of the partition of the country, Abdul Rashid Butt was dispossessed of the premises by one Ishar Das, who instead of restoring possession of the same to him placed the petitioner-firm in possession of it. Thereafter Abdul Rashid Butt and the petitioner-firm agreed upon a tenancy of the premises on an annual rental of Rs. 450. The petitioner-firm has been tethering cattle in it and keeping fodder in the premises as also marketing grains and having a godown for coal therein. The Rent Controller had discussed at some length that the claim of the petitioner-firm that it uses the premises as godown and for marketing grains is not correct. There appears to be substance in this. In an earlier application for licence as coal-dealer, the petitioner-firm gave its place of business and that according to the requirement in the form, but not in the applications during the time it has been in possession of the premises, though such a mention has been made in an application filed after

(1) (1960) 62 P.L.R, 670.

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the respondent's application to obtain its eviction. And there is no grain market near the premises so that the allegation in this respect has been rightly found not to be correct. In any case, in view of the evidence, it is clear that the premises have not been solely used for business or trade and the conclusion of the authorities below is correct that the same are residential building. Section 2(g) of the Act says that 'residential building' means any building which is not a non-residential building; and clause (d) of this section says that 'non-residential building' means a building being used solely for the purpose of business or trade. It is thus clear that the conclusion of the authorities below that the premises in question are residential building is correct. This leaves for consideration only the other question.

In the second revision petition, Civil Revision No. 190 of 1961, the landlord, Lal Singh, claims eviction of the tenant, Ram Nath, from the demised house on the grounds of non-payment of rent, tenant having become a source of nuisance and the requirement of the same for his own occupation. The first ground ended with the payment as required under the statute at the first hearing by the tenant. In regard to the second ground the finding of the Rent Controller has been against the landlord and it does not appear to have been agitated before the Appellate Authority nor has it been a matter of argument at the hearing of this revision petition. On the third ground the tenant took the plea that the landlord is in possession of another residential building, and, therefore, is not entitled to an order of eviction against him. The Appellate Authority explains that the landlord owns two adjoining houses, one is in the occupation of the tenant and this includes portion marked 'X' in the plan Exhibit R. 3 on the first floor. This is a large room. It opens in both houses. It is from this that the landlord seeks eviction of the tenant. The landlord until August, 1960, was a school teacher at Ludhiana. He retained with him two rather small and dark rooms on the ground floor access to one of which is through kitchen in the possession of another

tenant, two small rooms on the first floor with a godown and a *barsati* on the second floor. He had this accommodation for occasional use on his visits to Ferozepore. His family consists of himself, his wife and a grown-up daughter who is a student in graduate class. Of the two rooms on the ground floor one is used as godown or for storage and the other for the Darbar Sahib. The *barsati*, of course, can hardly be used for living purposes as its user is temporary in view of the exigencies of weather. The two rooms on the first floor are rather small in size. The authorities below have concurred in coming to the conclusion that the accommodation does not meet the ordinary needs of the landlord and is insufficient. The Rent Controller was of the view that the landlord, since he was not obtaining eviction of the tenant from the premises in question with the object of obtaining higher rent, has made the application for eviction of the tenant in good faith, and that he was not compelled to live in discomfort simply because when he had not previously needed the premises, he had let the same to the tenant. But in spite of this, he dismissed the application of the landlord on the ground that he was in occupation of another residential building, and therefore, in view of the decision in *Ramkishan Das* v. *Gordhan Das* (1), he was not entitled to evict the tenant. The Appellate Authority considers that this case does not apply to the facts of the present petition because it concerns a non-residential building. He is further of the opinion that in fact the landlord is not occupying a residential building in the circumstances of the case because after his retirement he has of necessity come to stay in the part of the building of which he had retained possession for temporary use on his visits to Ferozepur, until his accommodation becomes adequate to his needs by obtaining eviction of the tenant. He further points out that where a person occupies a portion in a house which is primarily intended for use as a single unit for purposes of residence, it cannot be said that such a person occupies a residential building if he has retained a room or two

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with him for purpose of storing his household effects and even for occasional stay; occupation, according to his view of part of premises for occasional use cannot be described as occupation for residential purposes. On this view the Appellate Authority has accepted the appeal of the landlord making a direction for eviction of the tenant from the premises marked 'X' in the plan Exhibit R-3 on the first floor of the house in question.

It is the tenant, who has filed revision petition against the order of the Appellate Authority made on March 4, 1961. In this case the question for consideration directly is whether the accommodation already with the landlord is 'another residential building' in the same urban area within the meaning and scope of section 13(3)(a)(i)(b) of the Act, and, therefore, he is not entitled to succeed in his eviction application against the tenant.

The third revision petition, Civil Revision No. 59 of 1961, is by Bhagwati Parshad, petitioner, who claims eviction of the respondents, Jamni and Ram Singh, from premises on the ground that he requires the same for the residence of his married son, Sohan Lal, and this claim is made under section 13(3)(a)(iv) of the Act. The defence of the respondents has been that the claim of the petitioner is *mala fide*. The authorities below have concurred in the conclusion that the claim of the petitioner has not been made *bona fide*. But the Appellate Authority has also in support of its decision added another reason based on *Ramkishan Das* v. *Gordhan Das* (1), because the petitioner is already in occupation of another residential building in the same area and his son Sohan Lal lives with him. This revision petition has also been referred to a larger Bench probably in view of the second ground taken by the Appellate Authority in support of its conclusion in the application of the petitioner to obtain eviction of the respondent. The authorities below have concurred in dismissing the application of the petitioner. On the facts it appears that this question

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does not arise for consideration in this case. There are about 15 members of the family of the petitioner. His son Sohan Lal has his wife and five children. The petitioner occupies house bearing No. 3236 and half portion of another house No. 3226. He has two other houses under tenants. In one of those other houses, which is electrified, of the petitioner one Mukandi Lal, was a tenant who has ceased to be in possession of it on account of transfer. At the time the case was pending below, Sardari Lal had been in possession of that house for the previous $2\frac{1}{2}$ years. It is not petitioner's case that Sardari Lal is his tenant. His assertion that Mukandi Lal introduced Sardari Lal as sub-tenant has rightly been rejected by the authorities below because one witness of his says that rent is paid by Sardari Lal to him. Besides, if this was so, the petitioner could have obtained eviction of Sardari Lal and Mukandi Lal on the ground of sub-letting. At that time his son Sohan Lal was obviously married having five children, and he seems to have had already at least three by the time Sardari Lal came to occupy the house under him. So if the petitioner genuinely required a house for the residence of his son Sohan Lal and his family, he had an opportunity to obtain vacant possession of the house with Sardari Lal. He, however, took no steps in that direction. There is no evidence to show that immediately before the application of the petitioner for eviction of the respondents any peculiar circumstances came into existence whereby residence of Sohan Lal and his family separately became necessary. The respondents took the plea, and the one that has been accepted by the authorities below, that one Kalawati is a relation of the petitioner and in a criminal case between Kalawati and Barkat, the petitioner asked Ram Singh respondent to support Kalawati by appearing as a witness for her. This Ram Singh respondent refused to do. Thereupon the petitioner thought of harassing the respondents by making an application for their eviction from the house. There is evidence in support of the conclusion of the authorities below. It is on these consideration that a concurrent finding

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that the application of the petitioner for eviction of the respondents has not been made *bona fide* has been arrived at by the authorities below and it is mainly on this ground that that application has been dismissed. This finding of the authorities below, on the evidence, is not open to exception, and on this ground alone this revision petition of Bhagwati Parshad fails. The second ground that has been referred to by the Appellate Authority in its judgment does not, in the circumstances, really come in for consideration. No more need be said about this petition.

Of the three revision petitions, in the first two this question remains for consideration—

> "Whether a landlord seeking eviction of the tenant under him under section 13(3)(a)(i) of the Act having established that his application has been made in good faith and that he requires the premises for his own occupation, is still not entitled to eviction of the tenant because he has other premises in his occupation in the same urban area which do not meet his requirement and are not adequate for his needs".

The references have been necessitated because of the decision in *Ramkishan Das* v. *Gordhan Das* (1), in which the learned Judges have held that under section 13(3)(a)(ii) of the Act a landlord when seeking eviction of the tenant is to prove not only that he *bona fide* requires the premises for his own use, but that he was not occupying any other such building in the urban area concerned. The learned Judges being of the opinion that building includes a part of building as defined in section 2(a) of the Act. That case concerns eviction from a shop, in other words a non-residential building, and it was considered in relation to the provisions of the Act as before its amendment by Punjab Act 29 of 1957. Apparently the ratio of the decision does not apply to a residential building. But Capoor J. in his referring order has pointed out

that in view of the similarity of the provision in regard to the grounds of eviction both in the case of a non-residential building and residential building in spite of the amending Act, the question raised in the case might be material in the decision of cases relating to residential buildings. When the case was heared by the Division Bench, *Baij Nath* v. *Badhawa Singh* (2), decided by Harnam Singh J. and two cases decided by Gosain J. following that case one Civil Revision No. 648 of 1957 and the other reported as *Murari Lal* v. *Piara Singh* (3), were considered by the learned Judges and the ratio in these cases which is in favour of the landlords in the present petitions was not accepted. These three cases relate to residential building. So though the decision in *Ramkishan Das* v. *Gordhan Das* (1), does not directly concern the case of a residential building but because of the two facts stated above it was probably considered that it might be taken as governing a case in which eviction is sought from a residential building by a landlord who is in occupation of some residential accommodation though not commensurate with his requirements and needs.

The relevant provisions of section 13 of the Act that come in for consideration in these cases are—

> "13(3) (a)—A landlord may apply to the Collector for an order directing the tenant to put the landlord in possession—
>
> (i) in the case of a residential building, if—
>
> (a) he requires it for his own occupation;
>
> (b) he is not occupying another residential building, in the urban area concerned; and
>
> (c) he has not vacated such a building without sufficient cause after the commencement of this Act, in the said urban area;
>
> (d) * * * * *

(2) 1956 P.L.R. 236.
(3) 1960 P.L.R. 371.

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(ii) in the case of rented land, if

(a) he required it for his own use;

(b) he is not occupying in the urban area concerned for the purpose of his business any other such rented land;

(c) he has not vacated such rented land without sufficient cause after the commencement of this Act, in the urban area concerned;

(iii) * * * * *

(iv) in the case of any residential building, if he requires it for use as an office, or consulting room by his son who intends to start practice as a lawyer or as a 'registered practitioner' within the meaning of that expression as used in the Punjab Medical Registration Act, 1916, or for the residence of his son who is married, if

(a) his son as aforesaid is not occupying in the urban area concerned any other building for use as office, consulting room or residence, as the case may be; and

(b) his son as aforesaid has not vacated such a building without sufficient cause after the commencement of this Act, in the urban area concerned.

Provided * * * *

Provided further that where the landlord has obtained possession of a residential building or rented land under the provisions of sub-paragraph (i) or sub-paragraph (ii) he shall not be entitled

to apply again under the said sub-paragraphs for the possession of any other building of the same class or rented land:

Provided further that where a landlord has obtained possession of any building under the provisions of sub-paragraph (iv) he shall not be entitled to apply again under the said paragraph for the possession of any other building for the use of, or as the case may be, for the residence of the same son.

(b) The Controller shall, if he is satisfied that the claim of the landlord is *bona fide* make an order directing the tenant to put the landlord in possession of the building or rented land on such date as may be specified by the Controller and if the Controller is not so satisfied, he shall make an order rejecting the application:—"

There follows a provisio to this paragraph but that is not material here.

These definitions as given in section 2 of the Act also come in for consideration—

"Section 2(a)—"building" means any building or part of a building let for any purpose whether being actually used for that purpose or not, including any land, godowns, out-houses, or furniture let therewith, but does not include a room in a hotel, hostel or boarding-house;

(b) * * * * *

(c) * * * * *

(d) "non-residential building" means a building being used solely for the purpose of business or trade:

Provided that residence in a building only for the purpose of guarding it shall not

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be deemed to convert a "non-residential building" to a "residential building";

(e) * * * * *

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

(g) "residential building" means any building which is not a non-residential building:—"

In Civil Revision No. 373 of 1960 Karam Chand, respondent is himself in possession of one room and a kitchen taken by him on rent from another person. So he may be described as tenant-landlord. In Civil Revision No. 190 of 1961 Lal Singh, respondent is in possession of accommodation to which reference has already been made and he is the owner of it. He may, therefore, be described as owner-landlord. The other finding is that in either case the respondent as landlord *bona fide* requires the premises for his occupation and the premises already in his possession do not meet his needs. In Civil Revision No. 190 of 1961, the Appellate Authority is of the opinion, as already pointed out, that in the circumstances of that case, because the respondent has been obliged as a necessity to occupy the portion of premises in his possession, for otherwise he would have been in the street, he does not really occupy 'another residential building' within the meaning and scope of section 13(3)(a)(i)(b) of the Act. It is in view of these circumstances that the question as posed above is for consideration in these cases.

The argument of the learned counsel for the tenants in both the cases is that under section 2(a) of the Act 'part of a building' is a 'building' and, therefore, the part of a building howsoever insufficient and inadequate to meet the requirements of the landlord in these cases is 'building',

and consequently 'another residential building' within section 13(3)(a)(i)(b) of the Act. Because the landlord is in occupation of another residential building so he does not fulfil condition (b) of sub-paragraph (i) of paragraph (a) in section 13(3) of the Act. He must, therefore, fail in his petition for eviction of the tenant. It is said that if the Legislature had intended under section 13(3)(a)(i)(b) of the Act that insufficiency or inadequacy of the residential building in the occupation of the landlord as to be consideration which would entitle the landlord to obtain the eviction of the tenant under him from residential building, it would have used the word 'such', as it has done in section 13(3)(a)(ii)(b), with the words 'another residential building' in sub-paragraph (i) of the same or it would have used in the same words like 'any other building of the same class' as in second proviso to sub-paragraph (iv) or it would have used the words 'other suitable accommodation' as in section 13(1)(e) of the Delhi and Ajmer Rent Control Act, 1952 (38 of 1952), but it has not used any such qualifying word or words with the expression 'another residential building' in condition (b) of sub-paragraph (i). The other argument on behalf of the tenants is that if the words 'another residential building' in condition (b) of sub-paragraph (i) are not to cover the cases of the landlords as the respondents in these cases, the result would be that this condition will become redundant and nugatory, which consequence could never have been intended by the Legislature. The reply by the learned counsel for the respondents, the landlords, is that the definition of the word 'building' in section 2(a) of the Act, as it relates to 'any building or part of a building let for any purpose' only concerns building which has been let, in other words, demised premises. A building in the occupation of a landlord is not building let for any purpose and, therefore, does not come within the definition of the word 'building', as in section 2(a) of the Act. This finds support, with reference to same definition of this word in the Madras Buildings (Lease and Rent Control) Act, 1949 (Madras

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Act 25 of 1949), from the decision in *R. K. Veerrappa Naidu and another* v. *N. Gopalan* (4), in which the learned Judges have held that the word 'building' in section 2(1) of Madras Act 25 of 1949 should be read subject to the qualifications expressed therein, that is, 'unless there is anything in the subject or context', and the learned Judges go on to say that a part of a building in occupation of a landlord will not be a building as defined by that Act, though the part in the occupation of the tenant will be one. They observe that a part of a building will be deemed to be a 'building' for the purposes of the Act only if it is let or intended to be let and as a portion in the occupation of the landlord cannot be said either to be let or intended to be let such portion will not constitute a building under the Act and could only be termed as part of a building. So in the case of either respondent the premises in his occupation are not 'building' within section 2(a) of the Act, and it follows that the same are not 'any other residential building' within section 13(3)(a)(i)(b) of the Act. It has been pointed out on behalf of the tenants that in any case Karam Chand respondent in Civil Revision No. 373 of 1960 being himself a tenant of the premises in his occupation, those premises, in spite of the same being in the occupation of the landlord, come within definition of the word 'building' in section 2(a), and while this argument might hold good as to an owner-landlord, it cannot succeed as to a tenant-landlord. This draws discrimination between a landlord and a landlord and there is nothing in the Act which justifies any such discrimination. The learned counsel for the owner landlord in Civil Revision No. 190 of 1961 points out that the preamble of the Act shows that it relates to 'certain' premises' and the intention of the Legislature was in making this distinction not to permit a tenant to have it both ways, that is to say, protection to himself against eviction from the premises in his occupation as tenant and at the same time the right to evict his own tenant. It is true that the Act concerns

(4) (1961) 1 Mad. L.J, 223,

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'certain premises situated within the limits of urban areas' but then the premises to which it concerns are premises which are dealt with in the Act itself and in so many words. This contention on behalf of the tenants in regard to the tenant-landlord and on behalf of the owner-landlord in this respect is thus untenable. It is also contended on behalf of Karam Chand respondent, who is the tenant-landlord that condition (b) in sub-paragraph (i) cannot apply to him on another consideration and that is because he is not in occupation of the tenanted premises in his possession in his own right, but occupies the same at the sufference of his own landlord. In this respect reliance is placed on *Ram Singh* v. *Sita Ram* (5), in which the learned Judge has held that the word 'occupation' as used by Section 13(3)(a) of the Act must mean 'occupation' in exercise of a right and not dependent on another person's mere sweet will or sufferance, even though that other person be his close relation. What the learned Judge has observed is unexceptional, but in that case it was the question of the son living either with his father or mother and he had no right to remain in possession of the premises except at the sweet will of either his father or mother. This is not the case with Karam Chand respondent because he is in occupation of the tenanted premises with him under his rights of tenancy, which rights are protected by the provisions of the Act and his eviction can only be subject to the limited conditions as provided in the Act. It is only when those conditions exist that he may be evicted, but not otherwise. So it is not true that he occupies the tenanted premises with him at the sweet will of his landlord. He has statutory protection of his rights and is in possession of those premises in exercise of his right under the tenancy with him. This argument does not avail this respondent. But the fact remains that the definition of the word 'building' in section 2(a) of the Act does not apply to residential premises in the occupation of a landlord, for the same are not let for any

(5) 1959 P.L.R. 132.

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purpose. The definition is intended to apply to demised premises and not to premises in the occupation of a landlord. It is then urged on behalf of the landlords that reference to the word 'such' in condition (b) of sub-paragraph (ii) is not helpful to the tenants because that sub-paragraph relates to rented land and the definition of this expression shows that it refers to land separately let for the purpose of being used principally for business or trade. There are variety of businesses and trades and when land is let for a particular business or trade and the landlord who claims eviction of the tenant is already in possession of such land as is being used by him for the same business or trade, he is not permitted to seek eviction of his tenant. So the word 'such' in that condition refers to the land under use for particular business or trade and it was necessary to use that word because if the definite thing is that the landlord is in occupation of land for same or similar business or trade, then it could only be particularised by use of that word. Residential buildings having regard to the needs and requirements of a landlord cannot be particularised in this manner before-hand, for the nature of building will vary and the needs and the requirements of a landlord will vary from case to case. This answer on behalf of the landlords on this aspect of the argument by the tenants, to my mind, fully meets this argument of the tenants. Same is the position in regard to the argument based on the words 'any other building of the same class' in the second proviso to section 13(3)(a)(iv), because there also the class of building becomes definite and categorical as soon as the landlord has already obtained possession of a residential building of that class in an earlier eviction application. In so far as the provisions of section 13(1)(e) of the Delhi and Ajmer Rent Control Act, 1952, are concerned, the language used therein is different and those provisions are not helpful in the interpretation of sub-paragraph (i) of section 13(3)(a) of the Act. The Legislature has not chosen to word this provision as similar provision is worded in the Delhi

and Ajmer Rent Control Act of 1952 and from this, the provisions of the Act cannot be interpreted in this way that as the Legislature has not used similar language that has been used in the Delhi and Ajmer Rent Control Act of 1952 so the needs and requirements of the landlord are not to be considered. This argument on behalf of the tenants cannot be accepted either.

The last argument on behalf of the tenants is that if the words 'another residential building' in condition (b) of sub-paragraph (i) of section 13(3)(a) of the Act are not interpreted in the manner in which it is suggested on their behalf, that renders condition (b) nugatory, but this is not so, for if the landlord is in occupation of another residential building that meets his needs and requirements, the condition is fully and completely operative, as it is intended to be operative in such circumstances.

It is settled that the word 'requires' as used in section 13(3)(a)(i)(a) of the Act involves something more than a mere wish and it has in it an element of need to an extent at least. When condition (a) in sub-paragraph (i) refers to the requirement of a residential building by the landlord for his occupation, it has an eye to his needs. If his needs in fact exist and are commensurate with his circumstances, such as the size of his family, his social status and social habits and style of living, and it is found, as has been found in these cases, that the landlord has sought eviction of the tenant in good faith, then it is a case in which he requires the residential building, from which he seeks eviction of the tenant, for his own occupation. He has then completely fulfilled condition (a) of sub-paragraph (i). To interpret condition (b) in the manner suggested by the tenants that such *bona fide* claim of the landlord be ignored because he is in occupation of residential building which is utterly unsuited to his needs and requirements and does not meet the same, would mean rendering condition (a) completely redundant. If the operation of condition (b) is such, the Legislature need not have enacted condition (a) at all. This suggested interpretation of condition (b) of sub-paragraph

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(i) proceeds on this, that this condition be read in isolation, and it can only be read in isolation if condition (a) is ignored, whereas the unquestionably correct position is that all the conditions mentioned in sub-paragraph (i) have to be read together and it is the cumulative effect of the same that is to be seen. So condition (a) has to be read along with condition (b) in this sub-paragraph. This is one consideration which militates against the interpretation of the words 'another residential building' in condition (b) as suggested on behalf of the tenants. Another reason is that in condition (b) the word used is 'another' and not 'any' or 'any other' with the words 'residential building', which clearly means that 'another residential building' referred to in this condition is that another residential building which meets the requirements and needs of the landlord as established by him under condition (a). If he is in possession of another residential building of this type, condition (b) becomes operative, and the landlord must fail in his claim. If the intention of the Legislature was that no matter what type of residential building is in possession of landlord and no matter how inadequate it is for his requirements and needs, once he is shown to be in possession of some residential accommodation, he is not to have eviction of his tenant from a residential building, then the Legislature would have made the matter more clear by using the word 'any' or the words 'any other' with the words 'residential building' rather than the word 'another'. So that this consideration supports the claim of the landlords and negatives the interpretation of condition (b) in sub-paragraph (i) as suggested on behalf of the tenants. The object of paragraph (a) of section 13(3) of the Act is to give protection to a tenant against arbitrary and whimsical eviction by a landlord and at the same time to ensure that the landlord has his requirements fulfilled by asking for his own occupation a residential building under his tenant. To give effect to the argument of the tenants on the suggested interpretation of condition (b) in sub-paragraph (i) would be to negative the second part of this object of the Legislature. It would mean an almost absolute

protection to a tenant without regard to the needs or requirements of his landlord but in condition (a) the Legislature particularly adverts to such needs and requirements of a landlord. So that on these considerations the meaning of the words 'another residential building' in condition (b) of sub-paragraph (i) of section 13(3)(a) is residential building commensurate with the requirements or needs of a landlord. No doubt the words 'residential building' appear in sub-paragraph (i) more than once and the normal rule of interpretation is that the same words in a provision should carry ordinarily the same meaning, but in the present case the statute expressly provides in section 2 that the definitions given therein are to apply "unless there is anything repugnant in the subject or context" and the definition of the word "building" in clause (a) of this section has to be read subject to this qualification. If the definition of that word as in section 2(a) of the Act is also applied to the word 'building' as used in condition (b) of sub-paragraph (i) of Section 13(3)(a), not only does that render condition (a) in that sub-paragraph redundant and superfluous, but the interpretation would defeat the object of the Legislature. In regard to somewhat exactly similar provisions in the Madhya Bharat Rent Act the learned Judges in *Motilal* v. *Badrilal* (6), have taken the same view as above and, if I may say so with respect, I agree with the approach of the learned Judges to this question. Now for the cases in this Court. In *Baij Nath* v. *Badhawa Singh*, *Murari Lal* v. *Piara Singh* and Civil Revision No. 648 of 1957 two learned Judges of this Court have, sitting in Single Bench, taken the same view as has been taken above in the circumstances that have been established by the landlords in the two cases that are now under consideration in so far as question of eviction from a residential building is concerned. No decision to the contrary has been cited which concerns eviction from a residential building. But reference has been made on behalf of the tenants to *Ramkishan Das* v. *Gordhan Das* (1) which case, as already pointed out, has in fact led to these references to this Bench. However, that

(6) I.L.R. 1954 M.B.I.

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is a case of eviction from a shop and it was considered by the learned Judges in regard to section 13(3)(a)(ii) of the Act before amendment of that provision by Punjab Act No. 29 of 1956. Condition (b) in sub-paragraph (ii) of section 13(3)(a) of the Act is, as already shown above, somewhat differently worded than condition (b) in sub-paragraph (i) of the same. So that that case proceeds on a different basis and does not concern eviction from a residential building and is not helpful to the tenants.

The answer, therefore, to the question posed in Civil Revision No. 373 of 1960 and Civil Revision No. 190 of 1961 is that where a landlord establishes that he has made his application for eviction of his tenant in good faith and that he requires the premises for his own occupation and further that the premises already in his occupation do not meet his requirements and needs, he is entitled to evict his tenant under section 13(3)(a)(i) of the Act.

The consequence is that all the three revision petitions fail and are dismissed but, in the circumstances of the cases, the parties are left to their own costs.

Shamsher Bahadur, J.

SHAMSHER BAHADUR J.—Though Civil Revision No. 59 of 1961 (*Bhagwati Parshad* v. *Jamni*) can, and, therefore, has to, be decided on its own facts, the common question of law in this and the other two petitions for revision referred to this Full Bench relates to the true construction of section 13(3)(a) of the East Punjab Urban Rent Restriction Act, 1949, laying down pre-requisite conditions for a landlord's petition for ejectment of a tenant from "a residential building". "Building" as defined in clause (a) of section 2 of the Act refers to a building or part of a building "let for any purpose". The word "building", therefore, seems to have reference wherever it occurs in the Act to demised premises. Clause (d) of section 2 says that "non-residential building" means a building being used solely for the purpose of business or trade, while in clause (g) "residential building"

means "any building which is not a non-residential building". In effect, therefore, a residential building, under the interpretation clauses of the Act, strictly means a demised building which is not solely used for the purpose of business or trade. These definition clauses are to have the technical meanings ascribed to them in section 2 unless "there is anything repugnant in the subject or context" in the Act itself.

Now, a landlord under sub-section (3) of section 13 may apply to the Controller for ejectment of a tenant from a residential building on fulfilment of three conditions laid down in sub-clauses (a), (b) and (c) of sub-paragraphs (i), these being that the landlord requires the residential building for his own occupation, he is not occupying "another residential building in the urban area concerned", and finally, that he has not vacated such a building without sufficient cause after the commencement of the Act in the said urban area. We have to concern ourselves in this reference only with the first two conditions as to what their cumulative effect is. To avoid repugnancy and inconsistency these two conditions which indeed are interlinked, should not be read independently of each other but in conjunction. An investigation into the question whether a landlord requires a residential building for his own occupation must of necessity involve an inquiry into the total aggregate accommodation in his occupation. The appropriate authority in answering the question whether a landlord requires the residential building for his own occupation would naturally have to take into reckoning what he already has in his occupation. Viewed in this perspective the construction of sub-clause (b) must receive both light and colour from what has ben said in sub-clause (a). The residential building in occupation of the landlord which would in the circumstances disentitle him altogether to ask for the eviction of the tenant must in the context and collocation refer to the actual living accommodation and not just accommodation in the abstract.

The concept of a residential building in sub-clause (b) is further made explicit by the use of

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the qualifying word "another" prefixed to it. The word "another" is not synonymous with "any". If it was intended by the Legislature that any residential building in occupation of a landlord would disqualify him from asking for ejectment of the tenant, it would have been appropriate to prefix it by the word "any" and not "another". It, therefore, follows that the meaning and content of the "residential building" in sub-clause (b) is inextricably connected with the requirement of the landlord and it is the quantitative aspect of accommodation in the other residential building which has to be given consideration and weight in reaching a conclusion about the sufficiency of his requirement in sub-clause (a).

This construction does not lead to any re-writing of the provisions of the Act or reading into them anything more than is there. To say that adequacy of accommodation is not a justiciable matter at all when the landlord has another residential building in the urban area concerned would be a complete distortion of reality. A landlord may be having some other accommodation with him which is or has become wholly incommensurate with his present needs and requirements and if the contention of the tenant's counsel is to prevail he would be condemned for ever to that accommodation and would be precluded for all time to come to ask for any further accommodation by ejectment of his tenant. To give such an unchanging and unchangeable complexion to the requirement of a landlord would at once be in disregard of realities and destructive of the scope and amplitude of sub-clause (a). How could the requirement of a landlord be determined without reference and inquiry into the sufficiency or otherwise of the other accommodation, if he has any ? There is thus no warrant, in my opinion, to place such a narrow construction on sub-clause (b). It has been canvassed that the word "building" should be taken in its true literal sense as defined in clause (a) of section 2 and would thus only affect a landlord who has another residential building, that is to say, building which he has taken on rent as a tenant.

An owner landlord, on the other hand, having other residential building of his own would be in a position of comparative advantage. A construction which countenances a discrimination between an "owner-landlord" and a tenant-landlord should be avoided unless there is compelling context to the contrary. A building no doubt under the Act means one which has been let and *prima facie* this distinction appears to be borne out as the meaning of the word "building" given to it under the Act has to be attached to the concept of "residential building" in sub-clause (b). It is, however, to be kept in mind that if there is repugnancy in the subject or context of the Act, such a technical meaning need not be given. It does not appear to be the intention of the Legislature that an owner-landlord would be placed in a position of comparative advantage over a tenant-landlord though such a distinction, according to the argument, might well have been intended. As stated by Craies on Statute Law, (fifth edition) at page 200; "If, therefore, an interpretation clause gives an extended meaning to a word, it does not follow as a matter of course that, if that word is used more than once in the Act, it is on each occasion used in the extended meaning, and it may be always a matter for argument whether or not the interpretation clause is to apply to the word as used in the particular clause of the Act, which is under consideration". The word "building", therefore, can be read in a sense different from the one which has been given to it under clause (a) of section 2. Thus, a landlord having other accommodation either rented or of his own would have to prove his requirement under sub-clause (a) and it will have to be kept in view whether the accommodation from which ejectment is sought is justified after taking into account what he already has in his occupation. The construction which in my opinion should be put on the words "another residential building" would be in harmony whether the petitioner is an owner-landlord or a tenant-landlord. My conclusion, therefore, is that the strict and literal construction of sub-clause (b) would render sub-clause (a) otiose and the two

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provisions therefore, should be read together. In agreement with my learned brother Mehar Singh J., I would answer the question formulated by him as he has done. Civil Revision No. 59 of 1961 is concluded on the findings of the lower appellate Court and as observed by Mehar Singh J. it would be dismissed on its own facts.

I concur with the order that the three petitions be dismissed but the parties should bear their own costs.

Pandit, J.

PREM CHAND PANDIT, J.—I agree.

B.R.T.

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