REVISIONAL CIVIL

Before R. S. Narula, J.

GURANDITTA RAM,—*Petitioner.*

versus

MURARI LAL AND ANOTHER,—*Respondents.*

C. R. No. 524 of 1973

February 27, 1974

East Punjab Urban Rent Restriction Act (III of 1949)—Section 15—Code of Civil Procedure (Act V of 1908)—Order 18 Rule 3—Interlocutory order passed by the Rent Controller—Revision against—Whether lies under Section 15(5)—Such order—Whether appealable under Section 15(1)(b)—Power of the Rent Controller to coin out his own procedure—Limitations upon—Stated—Rent Controller—whether bound to follow procedure laid down in Order 18, Rule 3, Code of Civil Procedure.

Held, that Section 15(5) of the East Punjab Urban Rent Restriction Act, 1949 does not create any bar to the maintainability of petitions for revision against interlocutory order passed by Rent Controller. The fact that a petition for revision has been provided not only against "any order passed" but also against "any proceedings taken" shows that the scope of the provision is certainly not confined to a final order. Hence revision petition against an inter-locutory order passed by Rent Controller lies to the High Court, but howsoever wide the power of the High Court under sub-section (5) of section 15 may be, it is all the same necessary that it should be exercised sparingly and only in a fit case where the order is either not legal or not proper in the circumstances of the case.

Held, that an appeal is a creation of a statute and there is no inherent power in an Appellate Authority to entertain an appeal which is not expressly provided by law. The jurisdiction of an Appellate Authority under the Act is confined to only final orders passed by the Rent Controller and not to interlocutory orders. Hence an interlocutory order passed by a Rent Controller is not appealable under Section 15(1)(b) of the Act.

Held, that however wide may be the power vested in a Rent Controller to coin out his own procedure which is not inconsistent with any provision of the Act, such power has to be carefully hedged within certain limits. The limitations placed on the power are (i) the procedure adopted by him must be orderly and consistent with the rules of natural justice; (ii) the procedure followed by the Rent Controller should not contravene the positive provisions of the law;

and (iii) the procedure adopted by the Rent Controller must be consistent with elementary and fundamental principles of judicial inquiry.

Held that the basic principles underlying provisions of the Code of Civil Procedure like Order 18, Rule 3 are the bedrock of a proper judicial inquiry, and the Rent Controller is bound to observe the same in order to have an orderly and fair trial of the causes before him. The departure from that well-established procedure by the Rent Controller is neither legal nor proper.

Petition under Section 15(5) *of the East Punjab Urban Rent Restriction Act,* 1949 *for the revision of the order of Shri M. L. Singla, Rent Controller. Fazilka, dated 24th March,* 1973 *allowing the applicant an opportunity to rebut the statements of Guranditta and Des Raj RWs.*

Prem Nath Aggarwal, Advocate, *for the petitioner.*

Nand Lal Dhingra, Advocate, *for the respondents.*

JUDGMENT.

NARULA, J.—This is an alleged sub-tenant's petition under sub-section (5) of section 15 of the East Punjab Urban Rent Restriction Act (3 of 1949) (hereinafter called the Act) for revision of the order of Shri M. L. Singla, Rent Controller, Fazilka, dated March 24, 1973, permitting the landlord-respondent to produce evidence "in rubuttal" after the conclusion of the evidence of the tenant and the sub-tenant in spite of the fact that the burden of proof of all the issues framed in the application for ejectment is on the landlord-respondent and the *onus probandi* of no issue is on either the tenant or the sub-tenant.

(2) Mr. Nand Lal Dhingra, learned counsel for the landlord, has raised two preliminary objections to the maintainability of this petition. His first objection is that the jurisdiction of this Court under sub-section (5) of section 15 of the Act is confined to interference with the final orders passed under the Act, and it is not permissible to this Court to test or rectify the propriety or legality of an interlocutory order passed by a Rent Controller in the course of the proceedings under the Act. In support of this objection counsel has relied on an unreported judgment of I. D. Dua, J., in *Ruldu Ram and three others* v. *Shri Sarup Chand* (1). Ruldu Ram and

(1) C.R. No. 528 of 1963 decided on 13th January, 1964.

three others had filed that petition against the order of the Appellate Authority remanding the case to the Rent Controller for deciding a particular issue. The objection raised in this Court to the maintainability of that revision petition was that the appeal of the other side had not yet been finally disposed of, that a revision petition under section 15(5) would be competent against the final appellate order, that in the course of the hearing of such a revision petition the order of remand could also be challenged if the petitioners (in that case) so wanted and that the High Court should not interfere with the order passed by the appellate authority in the course of the hearing of the appeal. While dealing with that objection, Dua, J., held that section 15(5) though widely worded and though creating no bar to revisions against interlocutory orders, should normally be confined to final orders. The learned Judge did not, in my opinion, even impliedly hold that petitions for revision under section 15(5) of the Act against interlocutory orders are either not authorised by that provision or the same were barred by any law. On the other hand the learned Judge made it clear that section 15(5) does not create any bar to the maintainability of petitions for revision against interlocutory orders. It was only by way of caution that it was observed that normally such revision petitions should be filed against only final orders. The learned Judge did not refuse to hear the petition because of want of jurisdiction in this Court to do so, but held that since the exercise of revisional power was discretionary in this Court, the Judge was disinclined to express any opinion on the impugned order at that stage leaving it open to the aggrieved party to urge the same matter if it became necessary for him to come to this Court against the final order in which all the interlocutory orders would be open to revision and consideration. Dua, J.'s judgment in the *case of Ruldu Ram and others* (supra) is, therefore, no authority for the proposition that the jurisdiction of this Court under section 15(5) of the Act is confined to final orders passed under the Act and does not extend to non-appealable interlocutory orders passed by the Rent Controller or by the Appellate Authority. Mr. Dhingra has also referred to the penultimate paragraph of my judgment in *Chaman Lal Narang* v. *Ashwani Kumar and others* (2) wherein I have referred to the observations of Dua, J., in the *case of Ruldu Ram and others.* I do not think that my observations in that judgment can in any manner advance or support the respondent's objection. I also attach some

(2) C.R. No. 683 of 1973 decided on 16th January, 1974.

significance to the expression "proceedings taken" used in sub-section (5) of section 15 in addition to the earlier alternative of "order passed". The fact that a petition for revision has been provided not only against "any order passed", but also against "any proceedings taken" shows that the scope of the provision is certainly not confined to a final order. There is, therefore, no merit in the first preliminary objection of Mr. Dhingra, and I have no hesitation at all in repelling the same. At the same time I must observe that howsoever wide the power of the High Court under sub-section (5) of section 15 may be, it is all the same necessary that it should be exercised sparingly and only in a fit case where the order is either not legal or not proper in the circumstances of the case.

(3) The second objection of Mr. Dhingra is that the order of the trial Court is appealable and, therefore, no petition for revision of the same is competent unless the petitioner first exhausts his remedy by way of appeal. In support of this proposition Mr. Dhingra has invited my attention to the judgment of A. N. Grover, J. in *L. Mulkh Raj* v. *The Municipal Committee, Dharamsala* (3). That petition had been filed in this Court against the order of the Rent Controller in a proceeding for fixation of fair rent wherein he had held that there was no relationship of landlord and tenant between the parties to that litigation, and had, therefore, dismissed the petition, but at the same time he had also assessed the fair rent of the premises. The tenant came to this Court without first preferring any appeal against the order of Rent Controller to the Appellate Authority under clause (b) of sub-section (1) of section 15 of the Act. The appeal had not been filed because it had become barred by time. Grover, J. before whom the revision petition came up for hearing accepted the preliminary objection raised before him on behalf of the Municipal Committee, Dharamsala, to the effect that a Court of revision should not interfere with an order if an alternative remedy by way of appeal against that order was available. In the course of the order, the learned Judge observed that this Court has very wide powers of revision under section 15, but it would be neither expedient nor proper to interfere unless a cogent reason is given for not preferring an appeal in order to have the decision of the Appellate Authority as provided by section 15. The decision of this Court in *L. Mulkh Raj's case* (3) (supra) does not appear to support the respondent's objection at all. The order

(3) C.R. No. 440 of 1957 decided on 21st November, 1958.

of the Rent Controller in that case was not an interlocutory one, but a final one. It was admittedly an appealable order and, therefore, this Court expressed the view that the order should not be interfered with in revision. It was neither contended nor held that the petition for revision did not lie under section 15(5) of the Act. Despite the view taken about the non-advisability and inexpediency of entertaining the revision petition, Grover, J. still went into the controversy and held that there was no ground to interfere with the order of the Rent Controller even on merits in view of an earlier binding Division Bench judgment of this Court on the point which was sought to be agitated before him. In the instant case, the order passed by the Rent Controller did not dispose of the petition for eviction. It was admittedly an interlocutory order. No appeal against that order lies to the Appellate Authority under clauses (a) and (b) of sub-section (1) of section 15 of the Act. It was held by this Court (Shamsher Bahadur, J.) in *Gursharan Singh* v. *Madan Lal* (4), that an order of a Rent Controller refusing to stay proceedings under section 10 of the Code of Civil Procedure is not appealable as it is not under sections 4, 10, 12 or 13 of the Act, and that the revision petition to this Court under section 15(5) of the Act against such an order was competent. An order passed by the Rent Controller impleading a party was held to be not appealable under section 15 in *Janki Dass* v. *Hazara Singh* (5) by Gosain, J. Similarly in *Ved Parkash Kapur* v. *Harish Chander Rastogi and another* (6), an order refusing to implead a stranger as a party was held to be not appealable as it did not affect the rights and liabilities of the parties. An order allowing the substitution of legal representatives was held to be not appealable in *Niadra* v. *Nanneh* (7).

(4) An appeal is creation of a statute and there is no inherent power in an Appellate Authority to entertain an appeal which is not expressly provided by law.

(5) Clause (a) of sub-section (1) of section 15 of the Act authorises the State Government to confer by notification the powers of

(4) 1968 P.L.R. 955.
(5) C.R. No. 371 of 1957 decided on 30th July, 1958.
(6) 1967 P.L.R. (Delhi Section) 165.
(7) 1960 P.L.R. 451.

an Appellate Authority on such officers or authorities as the Government thinks fit in such area in such classes of cases as may be specified in the order. Appellate powers were conferred on all the District Judges in the State of Punjab by notification No. 1562-Cr.-47/9228, dated April 1, 1947. That notification reads:—

> "In exercise of the powers conferred by clause (a) of sub-section (1) of section 15 of the Punjab Urban Rent Restriction Act, 1947, the Governor of the Punjab is pleased to confer on all District and Sessions Judges in the Punjab in respect of the urban areas in their respective existing jurisdiction, the powers of Appellate Authorities for the purposes of the said Act, with regard to orders made by Rent Controllers under sections 4, 10, 12 and 13 of the said Act."

The above-quoted notification has been held in *Lakhi Ram* v. *Sagar Chand and another* (8) to be still in force even under the Act by operation of section 22 of the Punjab General Clauses Act. This notification shows that the only powers which have been vested in the Appellate Authorities under section 15(1)(a) of the Act are with regard to orders made by the Rent Controllers under sections 4, 10, 12 and 13 of the Act. No authority has been appointed by the State Government under that provision for entertaining or hearing any appeal against any order of a Rent Controller which is not passed under any of the aforesaid provisions. The order under revision before me was neither passed under section 4 nor under sections 10, 12 or 13 of the Act, and there is, therefore, no tribunal available to entertain or hear an appeal against that order even if the provisions of clause (b) of sub-section (1) of section 15 can somehow be construed to provide for an appeal against an interlocutory order passed by the Rent Controller. I am of the opinion that even independently of the restricted scope of the jurisdiction of the Appellate Authorities under the Act as circumscribed by the notification issued under section 15(1)(a), the jurisdiction of an Appellate Authority under the Act is confined to only final orders passed by the Rent Controller and not to interlocutory orders. Any other view of the matter would mean that an order of the Rent Controller refusing an adjournment, or an order placing the burden of an issue on a particular party etc. would also be appealable. Even counsel for the respondent is not prepared to go to that length.

(8) 1963 P.L.R. 691.

(6) Mr. Dhingra next contended that the order under revision has in fact been passed under section 16 of the Act though it purports to have been passed under Order 18 Rules 1, 2 and 3 of the Code of Civil Procedure. Section 16 reads :—

> "For the purposes of this Act, an Appellate Authority or a Controller appointed under the Act shall have the same powers of summoning and enforcing the attendance of witnesses and compelling the production of evidence as are vested in a Court under the Code of Civil Procedure, 1908."

This argument has been advanced to support the proposition that the order is appealable because it has been passed under a provision of the Act and not on the principles of any provision of the Code of Civil Procedure. There is no merit in this argument for two reasons. Firstly, the order under revision cannot be said to have been passed under section 16. That provision confers on the Rent Controller the same powers of summoning and enforcing the attendance of witnesses and compelling the production of evidence as are vested in a Court under the Code of Civil Procedure. Powers of summoning and enforcing the attendance of witnesses are the routine powers referred to in Order 16 of the Code of Civil Procedure and do not include the powers to decide whether a party is or is not entitled to give evidence on a particular point at a particular stage. Secondly, even an order which falls within the purview of section 16 of the Act would not be appealable as the provision in the 1947 Act corresponding to section 16 of the present Act is not mentioned in the notification issued by the State Government under sub-section (1) of section 15 of the 1947 Act. Both the preliminary objections of Mr. Dhingra, therefore, fall.

(7) I may now give the brief and relevant facts of this case in order to pronounce upon the legality and propriety of the order under revision. Des Raj executed a rent deed in favour of Murari Lal in respect of the shop in dispute undertaking to pay Rs. 700/- per annum as its rent. The contention of the petitioner is that the rent-deed was a sham transaction, that in fact Des Raj neither ever intended to take the shop on rent nor ever took possession of it, and Murari Lal had persuaded him to execute the rent-deed in order to put pressure, if necessary, on the petitioner to vacate the shop on the allegation of sub-letting by Des Raj to the petitioner though in fact the shop was being let out to the petitioner himself.

The landlord filed an application for eviction of Des Raj, respondent on the allegation that he had sublet the shop to Guranditta Ram, Petitioner, without his written consent. In support of the petitioner's defence referred to above, he relied on an entry in his (petitioner's) *bahi* wherein the landlord had acknowledged the receipt of Rs. 500/- as part of the rent for the second year of the tenancy. In his statement before framing the issues, the landlord admitted the genuineness and correctness of the entry Exhibit R1/2 in the petitioner's *bahi*. From the pleadings of the parties and after recording the above-mentioned statement of the landlord the Rent Controller framed the following four issues:—

"(1) Whether there exists any relationship of landlord and tenant between the parties ?

(2) Whether the respondents are liable to ejectment on the grounds mentioned in paragraph No. 3 of the application ?

(3) Whether a valid notice was given according to law to the respondent, if not, to what effect ?

(4) Relief."

It will be noticed from a perusal of the above-noted issues that the burden of proof of all of them is on the landlord. Murari Lal respondent (landlord) closed his evidence on October 25, 1971. In the course of the petitioner's statement as R.W. 8 in February, 1973, he is alleged to have stated that he did not maintain any books of accounts for any period other than the financial year 1962-63 (to which the *bahi* Exhibit R1/2 related), and that he had neither any account of any period prior to April 1, 1962, nor any account book for any period subsequent to March 31, 1963. The statement of Des Raj respondent (the alleged tenant) was then recorded and finally on March 1, 1973, the alleged tenant as well as the alleged sub-tenant (respondent No. 2 and the petitioner respectively) closed their evidence. It was at that stage that an application was made by Murari Lal, landlord respondent, for permission to lead evidence "in rebuttal" under Order 18 Rule 2 and 3 read with section 151 of the Code of Civil Procedure. The application was opposed by the petitioner, but was allowed by the Rent Controller by his order under revision. After referring to the relevant facts of the case, the learned Rent Controller observed that the respondents (the alleged tenant and the alleged sub-tenant) had deposed to certain facts which were not set out by them in

their pleadings, and the landlord did not know that the respondents would depose to those facts, and since an argument was advanced before the Rent Controller on behalf of the landlord that it could not be expected that the petitioner who was a business-man would not be maintaining accounts, and in fact the petitioner had denied having maintained accounts with a view to keep off his account books from the Court in which there would be no entry for payment of rent to the landlord, he was entitled to an opportunity in the interest of justice to lead evidence in rebuttal of the statement of Guranditta Ram, petitioner and Des Raj, respondent No. 2. The application was specifically made under Order 18 Rules 2 and 3 of the Code. The right to begin is conferred by rule 1 of Order 18 on the plaintiff unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin. Rule 2 of Order 18 provides that evidence has to be produced in support of the issues which a party who has the right to begin is bound to prove. The other party has then to produce his evidence. Rule 3 of Order 18 is in the following terms :—

> "Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party; and, in the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case."

A perusal of the above provision shows that in a regular trial of an original cause before a Civil Court, the plaintiff is not entitled to lead any evidence in rebuttal after the close of the defendant's case if the burden of no issue is on the defendant. There is, therefore, no doubt that if the provisions of Order 18 are applicable to the trial of a petition under section 13 of the Act or even if the principles underlying those provisions are applicable to the rent control proceedings, the order under revision was wholly without jurisdiction.

Mr. P. N. Aggarwal, the learned counsel for the petitioner, has referred to the judgment of Mehar Singh, C.J., in *Shanti Parshad* v. *Bawa Niranjan Singh* (9) wherein it was held that the discretion vested in a Rent Controller to implead or not to implead an outsider as a respondent to an application for eviction has to be exercised in a judicial manner, and while the provisions of the Code of Civil Procedure may not apply strictly, the principles underlying sub-rule (2) of rule 10 of Order 1 furnish a proper guidance to be taken into consideration by a Tribunal like the Rent Controller while exercising discretion on an application of the type that was under consideration before the learned Chief Justice. For the same proposition of law, Mr. Aggarwal next referred to the judgment of Harbans Singh, J. (as my Lord the Chief Justice then was) in *Gurbax Rai* v. *Shrimati Rukmani Devi and another* (10). The learned Judge observed in the course of that judgment that though the strict provisions of the Code of Civil Procedure are not made applicable to proceedings under the Rent Restriction Act, yet it is true that the Rent Controller can act on the principles laid down therein. The judgment of P. C. Pandit, J., in *Bishan Dass and others* v. *Kehar Singh and another* (11), also appears to me to support Mr. P. N. Aggarwal's contention. It was held by the learned Judge that though the provisions of Order 41, Rule 27 of the Code of Civil Procedure may perhaps not strictly apply to cases under the Act while granting a prayer for allowing additional evidence, yet the principles which guide the Courts in accepting an application of that nature have to be borne in mind by the Appellate Authority. The learned Judge conceded to the Appellate Authority wide powers, but held that when the parties have finished their evidence and thereafter the case has been decided by the Rent Controller, and subsequently when the appeal against the same comes up before the Appellate Authority and an application for additional evidence is made, one would expect the Appellate Authority while granting that prayer to give reasons as to why he is doing so, and a valid ground has to be made for allowing a person to lead additional evidence. I am in respectful agreement with the law laid down by Pandit, J., in the *case of Bishan Dass and other* (11) supra). That indeed furnishes an authority for the proposition that even though the provisions of the Code may not be applicable to rent control

(9) C.R. No. 936 of 1967 decided on 16th April, 1968.

(10) C.R. No. 787 of 1962 decided on 20th March, 1963.

(11) 1972 Rent Control Journal, Short Notes of Cases No. 34 at page 29.

proceedings, the salutary principles underlying them have to be observed by the authorities under the Act.

(8) On the other hand, Mr. Dhingra has laid emphasis on the proposition that the Act has consistantly been held to be a complete code in itself. For this proposition he has relied on the judgment of D. K. Mahajan, J., in *Goverdhan Dass* v. *Sodhi Dyal Singh, etc.* (12). In *Goverdhan Dass's case* it was held that the provisions or Order 23, Rule 1, of the Code have not been made applicable to rent control proceedings, and, therefore, the Appellate Authority had no jurisdiction to allow the withdrawal of the petition with liberty to file a fresh one. Mr. Dhingra also referred in that connection to the judgment of Bhandari, C.J., in *Mathra Das* v. *Om Parkash and others* (13), and argued that the strict provisions of Order 18, Rule 3, of the Code of Civil Procedure not being applicable to rent control proceedings, the Rent Controller had inherent power "to act *ex debito justitiae*, to do that real and substantial justice for the administration of which it alone exists and to do all things that are reasonably necessary for securing the ends of justice within the scope of its jurisdiction". He further argued on the basis of the observations of Bhandari, C.J., in *Mathra Das's case* (13) that the Rent Controller must proceed on the assumption that every procedure is permissible to him unless it is shown to be prohibited by law. Particular reference was made to the following observations of the learned Chief Justice in *Mathra Das's case*:—

> "In the absence of a restraining provision a Rent Controller or a District Judge acting under the provisions of the Rent Restriction Act is at liberty to follow any procedure that he may choose to evolve for himself so long as the said procedure is orderly and consistent with the rules of natural justice and so long as it does not contravene the positive provisions of the law. The elementary and fundamental principles of a judicial enquiry should be observed but the more technical forms discarded."

There is absolutely no quarrel with the proposition of law laid down by Bhandari, C.J., in the above-mentioned case. In fact I am myself in respectful agreement with the same. I am unable to find any inconsistency between the view expressed by Bhandari, C.J., in

(12) 1969 R.C.R. 938.
(13) 1957 P.L.R. 45.

Mathra Das's case on the one hand and by Mehar Singh, C.J., in *Shanti Parshad's case* (9) or by Harbans Singh, J., in *Gurbax Rai's case* (10) or by Pandit, J., in the case of *Bishan Dass and others* (11) (supra) on the other. Howsoever, wide may appear to be the power vested in a Rent Controller to coin out his own procedure which is not inconsistent with any provision of the Act, such power has to be carefully hedged (as was done by Bhandari, C.J.) within certain limits. The limitations placed on that power are :—

(i) the procedure adopted by him must be orderly and consistent with the rules of natural justice ;

(ii) the procedure followed by the Rent Controller should not contravene the positive provisions of the law; and

(iii) the procedure adopted by the Rent Controller must be consistent with elementary and fundamental principles of a judicial inquiry.

The basic principles underlying provisions of the Code of Civil Procedure like Order 18, Rule 3, are, in my opinion, the bedrock of a proper judicial inquiry, and the Rent Controller is bound to observe the same in order to have an orderly and fair trial of the causes before him. The departure from that well-established procedure by the Rent Controller was in my opinion neither legal nor proper.

(9) Questions appears to have been asked from Guranditta Ram, petitioner, about his maintaining or not maintaining accounnts for the previous and subsequent periods in order to shake his credit. Even if he answered the questions falsely, no evidence would normally be admissible merely in order to show that he had perjured himself. There would be no end to the trial of a petition for eviction if the Rent Controller goes on allowing evidence being led merely in order to show that a witness (may he be a party to the cause) has answered some material and relevant questions falsely. It is for the Rent Controller to raise any inference from the admitted or proved facts and to appraise the evidence of the parties and of their witnesses in such a manner as he may think proper, but it is not open to him, except in compelling circumstances, to completely discard the basic principles underlying the provisions of rule 3 of Order 18 of the Code. The judgment of the learned Chief Justice of the Madras High Court in *K. N. Raman Nair* v. *N. Govindaswami Naidu* (14) is not of much avail to the landlord-respondents whose learned counsel has placed

(14) (1963) II M.L.J. 19.

reliance on it. It was held in that case that the Rent Controller had sufficient jurisdiction to reopen the case and receive the additional evidence led by the landlord even after the arguments had been conducted and the case had been closed. Allowing additional evidence (at any stage of the case) which is relevant to the issues before the Rent Controller is a matter which is entirely different from allowing evidence in rebuttal which is not relevant to the issues in the case, but is relevant only for the purpose of showing that a party has told lies in the witness box on a material question.

(10) For the foregoing reasons I allow this petition and set aside the order of the Rent Controller allowing the landlord-respondent to produce evidence in rebuttal at this stage. The parties have been directed to appear before the Rent Controller on April 18, 1974, for further proceedings. The costs of these proceedings shall abide the result of the eviction application.

K. S. K.

REVISIONAL CIVIL

Before D. K. Mahajan and R. S. Narula, JJ.

REMINGTON RAND OF INDIA, LIMITED, CHANDIGARH—*Petitioner.*

versus

SHRIMATI LILA WATI BANSAL—*Respondent.*

C. R. No. 582 of 1971.

March 1, 1974.

Evidence Act (I of 1872)—Sections 91 and 145—Indian Registration Act (XVI of 1908)—Section 49—Previous statement of a witness in an unregistered document—Whether and when can be used under section 145, Evidence Act.

Held, that keeping in view the purpose of the provisions, there is no conflict between sections 91 and 145 of the Evidence Act, 1872 and section 49 of the Registration Act, 1908. Section 145 of the Evidence Act is meant for a totally different purpose from that of the other two provisions. The first part of the section permits oral question being put in cross-examination which are relevant to the