

Kaushalya Devi and others v. Karam Chand Munjal (S. S. Sodhi.)

would become due not on the expiry of the last day of that month but on the last day of the month next following that month. To illustrate, if the landlord files an application for the eviction of the tenant on the ground of non-payment of arrears of rent on 1st March of a particular year the rent 'due'—would be not of the month of February of that particular year but only of the month of January and, therefore, the rent payable on the first date of hearing of the application would be upto the end of only January of that year and not of the next month. This is the only true and simple interpretation of section 13(2) (i) of the Act. To put any other interpretation would be doing violence to the language of the statute and rather would mean addition of words in the relevant clause.

(6) Once it is held that the rent of May 1975 had not become due, the interest has to be calculated on the amount of Rs. 480 only and not on the amount of Rs. 510 and, therefore, the tenant made an excess payment of Rs. 24.25 to the landlord and, therefore, he is not liable to be evicted.

In view of what has been noticed above, the revision petition is allowed, the orders of the authorities below are set aside and the application of the landlord for eviction of the petitioner-tenant is dismissed with no order as to costs.

S.C.K.

Before S. S. Sodhi, J.

KAUSHALYA DEVI AND OTHERS,—*Petitioners.*

versus

KARAM CHAND MUNJAL,—*Respondent.*

Civil Revision No. 894 of 1988.

July 11, 1988.

East Punjab Urban Rent Restriction Act (III of 1949)—S. 13—Eviction—Landlord's plea that premises required for setting up son's medical clinic—Son taking up ad hoc appointment during the pendency of proceedings in a government hospital—Landlord's right to eviction—Whether survives—Tenant—Whether liable to be evicted.

Held, that the nature of the appointment held by the son of the landlord, being purely *ad hoc* appointment for six months can by no

means be taken to spell out an intention contrary to that put-forth by the landlord in seeking the ejection of his tenant, namely; that he requires the premises to enable his son to set up his medical practice there. This being so, it will indeed be imputing absurdity to law if it is construed to imply that by the son taking up employment during the pendency of these proceedings, the relief sought by the landlord was put in jeopardy. Surely, the son was not expected to sit idle with infinite patience, for several years till he got possession of the premises.

(Paras 2, 3 and 4).

Petition under section 15(5) East Punjab Rent Restriction Act for revision of the order of the Court of Shri A. C. Aggarwal, Addl. District Judge, Ferozepore (Exercising the powers of the Appellate Authority under the East Punjab Urban Rent Restriction Act, 1949 affirming that of Shri S. M. Singh Mahil, Rent Controller, Fazilka, dated 19th August, 1986 succeeding the petition and passing an order for ejection of the respondents from house No. 1918 M.C.A. consisting of three rooms, one kitchen, one bath room, open courtyard and stairs, situated in street No. 14 Abohar bounded as :—

| | | |
|-------|-----|---------------------------|
| East | ... | House of Hans Raj ; |
| West | ... | Street No. 14 ; |
| North | ... | House of Chander Sekhar ; |
| South | ... | House of Ranjan Singh |

shown red in the site plan attached, in favour of the petitioner and against the respondents and granting to the respondents two months time to hand over the vacant possession of the house in dispute to the petitioner and leaving the parties to bear their own costs.

(Appellate Authority, Ferozepore, dated 18th January, 1988 granting two months time to the appellants to vacate the demised premises and to hand over its possession to the respondent (Landlord)

O. P. Goyal, Advocate, for the Petitioners.

P. N. Makani, Advocate, for the Respondents.

JUDGMENT

S. S. Sodhi, J.

(1) The matter here concerns the ejection of the tenant on the ground that the premises are required by the landlord for the clinic and residence of his elder son who intends to set up medical

Pushp mala Jain v. Bank of Baroda and others (D. V. Sehgal.)

Practice there. The challenge in revision now being founded upon the plea that this ground for ejection no longer survives as the said son of the landlord had since taken up employment as Doctor at a government hospital in Hisar.

(2) The elder son of the landlord Arun Kumar Munjal, is indeed working at the General Hospital, Hisar, since January 5, 1988, but, as explained by the landlord in his affidavit filed in this Court, this was merely an *ad hoc* appointment for six months terminable at 24 hours notice on a candidate selected by the Haryana Public Service Commission, reporting to duty.

(3) Such being the nature of the appointment held by the said son of the landlord, it can by no means be taken to spell out an intention contrary to that put-forth by the landlord in seeking the ejection of his tenant, namely; that he requires the premises to enable his son to set up his medical practice there.

(4) On a practical plane too, it will be seen that the application for eviction was filed as far back as 1984 and the landlord has yet to obtain possession of the premises and over four years have since gone by. Such delays, in such cases, are unfortunately so common now. This being so, it will indeed be imputing absurdity to law if it is construed to imply that by the son taking up employment during the pendency of these proceedings, the relief sought by the landlord was put in jeopardy thereby. Surely, the son was not expected to sit idle with infinite patience, for several years till he got possession of the premises.

(5) There is thus no merit in this revision petition which is accordingly hereby dismissed.

S.C.K.

Before D. V. Sehgal, J.

PUSHPMALA JAIN,—*Petitioner.*

versus

BANK OF BARODA AND OTHERS,—*Respondents.*

Civil Revision No. 2002 of 1987.

October 26, 1988.

Code of Civil Procedure (V of 1908)—Ss. 47, 60(1) (ccc), 0.38, Rls. 5 and 11—Limitation Act (XXXVI of 1963)—Art. 137—Decree affirmed in appeal—Execution thereof—Period of limitation for filing objections under S. 47 of the Code—Whether runs from the date of the decree.