

be paid it should be taken that that principles are for determination of the entire value of the land and not to leave out any interest of the owner in the same.

(15) Learned counsel then was at pains to point out that by reason of the maximum amount fixed under clauses (i), (ii) and (iii) the fair rent could never be fixed more than Rs. 166 per acre and that it could not be said to be payment of due compensation. All these arguments are only another facet of the same arguments based on Article 14, which is not permissible in this case by reason of Article 31-A, 31-B and 31-C. This argument is, therefore, unsustainable.

(16) The provisions of the Punjab Land Revenue Act, 1972, Punjab Tenancy Act, 1887 and the Punjab Alienation of Lands Act, 1990 were then referred by the learned counsel. His contention was that these Acts and some other Act give compensation for trees and buildings, but this Act has not provided separately for the trees and buildings. Again, this argument is on the realm of Article 14 which could not be involved by the petitioner. He then wanted to argue that on the basis of the equitable provisions as contained in section 51 of the Transfer of Property Act, he would be entitled to claim compensation. We are unable to agree with this contention because all these contentions go to the root question whether the amount determined on the principles enunciated under section 10 could be questioned or not. The only way he can question the adequacy of compensation is by invoking the provisions of Article 14 of the Constitution on the ground that the Act is so unreasonable or arbitrary as to violate that provision. Since Article 14 is not available to him, these arguments are also not available to him.

(17) In the result, we hold that section 10 is immune from attack on any of the grounds raised by the learned counsel for the petitioner, and that, therefore, the writ petition is liable to be dismissed.

(18) The writ petition is accordingly dismissed. However, there will be no order as to costs.

S.C.K.

Before S. S. Sodhi, J.

CHAN PARKASH,—*Petitioner.*

versus

TARA SINGH AND ANOTHER,—*Respondents.*

Civil Revision No. 1570 of 1987

May 19, 1988.

Displaced persons (Compensation and Rehabilitation) Act (XLIV of 1954)—Section 29—Haryana Urban (Control of Rent and Eviction

Chan Parkash v. Tara Singh and another (S. S. Sodhi, J.)

Act (XI of 1973)—Section 13—Tenant—Meaning of Allottee of evacuee property—Status of Eviction of such allottee—Jurisdiction of the authorities under the Rent Act.

Held, that an allottee or a licensee under the Custodian by virtue of Section 29 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 became a tenant under the purchaser of the evacuee property. He could not be dispossessed or evicted because of the protection granted to him under Section 29 of the said Act and the provisions of the East Punjab Urban Rent Restriction Act. His position is that of a statutory tenant. Therefore, he could be ejected under the provisions of the Haryana Urban (Control of Rent and Eviction) Act, 1973. (Paras 5 and 6)

Petition for revision under section 15(6) of Haryana Urban (Control of Rent and Eviction) Act, 1973 against the order of the Court of Shri P. C. Nariala, Appellate Authority (Additional District Judge), Ambala dated 19th March, 1987 reversing that of Shri Subhash Goyal, Sub Judge II Class, Ambala dated 20th May, 1986 accepting the appeal and setting aside the ejection order passed by the learned Rent Controller and also leaving the parties to bear their own costs.

K. G. Chaudhary, Advocate, for the Petitioner.

S. K. S. Bedi, Advocate, for the Respondent.

JUDGMENT

S. S. Sodhi, J.

(1) The point in issue in revision here is—whether there exists the relationship of landlord and tenant between the parties so as to render the respondent—Tara Singh liable thereby to ejection at the instance of the petitioner Chan Parkash under the provisions of the Haryana Urban (Control of Rent and Eviction) Act, 1973 (hereinafter referred to as 'the Act').

(2) The property, in respect of which the parties are litigating is House-4940 in Mohalla Palledaran, Saddar Bazar, Ambala Cantt. This was an evacuee property which had been allotted by the Custodian to Tara Singh on payment of Rs. 4 per month. It stands established from the material on record that,—*vide sanad* exhibit P/1, this property stands duly conveyed in favour of the petitioner Chan Parkash since October, 1983. Chan Parkash is thus the owner while Tara Singh has continued in possession ever since.

(3) Both the rent controller as also the appellate authority have returned concurrent findings to the effect that the petitioner Chan Parkash *bona fide* required the premises for his own use and occupation. The correctness of this finding has not been questioned in revision. While the rent controller ordered the ejection of Tara Singh, on this ground, namely for personal necessity, the appellate authority denied it holding that Tara Singh being an allottee under the Custodian, the relationship of landlord and tenant did not exist between the parties and therefore, Tara Singh could not be ejected under the provisions of the Act. Relied upon in this behalf being the judgment of D. K. Mahajan, J. in *Gurcharan Singh vs. Devki Nandan and another* (1), where it was observed, "There is no dispute that the possession of an allottee is merely that of a licensee and he does not enjoy any rights over and above those that are enjoyed by a mere licensee." This was later followed by two other authorities which were also noticed by the appellate authority, namely; *Harnam Singh and another vs. Smt. Kaushalya Devi and another* (2), and *Smt. Shakuntla of Jagadhri vs. B. D. Bansal* (3).

(4) The view that an allottee was a mere licensee and not a tenant can no longer stand in view of the judgment of the Division Bench of this Court in *Gobind Ram vs. Takhat Mal Kanungo and another* (4), where the argument that Section 29 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, created a special jurisdiction for persons mentioned therein, namely; allottees of evacuee property lawfully in possession thereof, by deeming them to be tenants, was repelled with the observation, "The mere fact that some special protection against eviction was provided in respect of certain tenants by Section 29 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, does not in any sense, imply that such tenants were not within the jurisdiction of the already existing Tribunals." It was further observed, "When Parliament said emphatically, such persons in lawful occupation of transferred property were to be deemed tenants; the intention was that they would be subject to the same jurisdiction as other tenants occupying premises in urban areas."

(1) 1970 P.L.R. 651.

(2) 1980(2) R.L.R. 189.

(3) 1984 H.R.R. 14.

(4) 1962 P.L.R. 969.

Chan Parkash v. Tara Singh and another (S. S. Sodhi, J.)

(5) A similar view was expressed in a later judgment by Gurdev Singh, J. in *Kesar Dass and others vs. Jaisa Ram and others* (5), where it was held, "—that an allottee or licensee under the Custodian by virtue of Section 29 of the Displaced Persons (Compensation and Rehabilitation) Act became a tenant under the purchaser of the evacuee property. He could not be dispossessed or evicted because of the protection granted to him under Section 29 of the said Act and the provisions of the East Punjab Urban Rent Restriction Act. His position is that of a statutory tenant. It is pertinent to note that neither the judgment of the Division Bench in *Gobind Ram's* case (supra), nor that of Gurdev Singh, J. in *Kesar Dass's* case (supra) was brought to the notice of the Hon'ble Judges who decided the three cases relied upon and followed by the appellate authority, namely; *Gurcharan Singh vs. Devki Nandan and others* (6); *Harnam Singh and another vs. Smt. Kaushalya Devi and another* (7) and *Smt. Shakauntla of Jagadhri vs. B. D. Bansal* (8).

(6) Reference here must also be made to the judgment of S. S. Kang, J. in *Faqir Singh vs. Kasturi Lal* (9) where, after noticing all the authorities herein before mentioned it was held that allottees of evacuee property, on the cancellation of their allotment became tenants, by operation of law, of the transferees of such evacuee property and could, therefore, be ejected under the East Punjab, Urban Rent Restriction Act, 1949.

(7) Faced with this situation, counsel for the respondent sought to contend that Tara Singh must be deemed to be an unauthorised occupant as he had not been paying rent for the premises to Chan Parkash nor had he paid arrears of rent within the period of 60 days as mentioned in Section 29 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and was thus not a tenant under Chan Parkash. It will be seen that it is for the first time in revision here that such a plea has been raised and it cannot therefore, be countenanced at this late stage, to deny relief to the petitioner merely on any such ground.

(8) There can thus be no escape from the conclusion that Tara Singh was a tenant under the petitioner Chan Parkash and liable

(5) 1967 P.L.R. 499.

(6) 1970 P.L.R. 651.

(7) 1980(2) R.C.R. 159.

(8) 1984 H.R.R. 14.

(9) 1981 R.C.R. 537

as such to ejection under the Act. The order of the appellate authority is accordingly hereby set aside and Tara Singh is ordered to be ejected forthwith from the premises in question. This revision is thus accepted with costs. Counsel fee Rs. 300.

S.C.K.

Before V. Ramaswami, C.J. and G. R. Majithia, J.

RAM SARUP SEHGAL,—Appellant.

versus

STATE OF HARYANA AND ANOTHER,—Respondents.

Letters Patent Appeal No. 100 of 1988

May 24, 1988.

Payment of Gratuity Act (XXXIX of 1972)—Section 1(4)—Gratuity—Payment of—Act not applicable to establishment—Employee retired from service—Subsequent enforcement of Act—Claim of such employee—Competency of such claim.

Held, that the Payment of Gratuity Act, 1972 is applicable only to those persons who retired after the commencement of the Act in respect of establishment, and not in respect of those who had retired before the enforcement of the Act. (Para 6).

Letters Patent Appeal under Clause X of the Letter Patent against the order dated 18th January, 1988 passed by Hon'ble Mr. Justice J. V. Gupta, in Civil Writ Petition No. 1443 of 1986.

U. S. Sahni, Advocate, for the Appellant.

JUDGMENT

This is an appeal against order of the learned Single Judge who dismissed Civil Writ Petition No. 1443/1986.

(2) The appellant retired from the service of Municipal Committee, Ladwa, in the State of Haryana on 8th December, 1971. The Payment of Gratuity Act, 1972, was brought into force by the Central Government by a notification u/s 1(4) of the Act with effect from 16th September, 1972.