

or the like. What is necessary is that there must be a nexus between the basis of classification and the object of the Act under consideration. It is also well-established by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.”

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The State of  
Punjab and  
others  
Tek Chand, J.

In view of the above discussion, Article 14 cannot be pressed into service on behalf of the petitioner with a view to strike down the Pepsu Act.

The result, therefore, is that the petition fails and is dismissed. In the circumstances of this case, resulting in great hardship to the petitioner, the parties are left to bear their own costs.

P. D. SHARMA, J.—I agree.

Sharma, J.

B.R.T.

REVISIONAL CIVIL

Before D. Falshaw, C.J.

SHAKUNTLA BAWA,—Petitioner.

*versus*

RAM PARKASH AND OTHERS,—Respondents.

Civil Revision No. 309 of 1962

*East Punjab Urban Rent Restriction Act (III of 1949)—Section 13(2)(v)—“Occupation” Meaning of—Tenant not residing in the house but visiting occasionally—Furniture present in the house and tenant willing to pay rent—Whether constitute occupation.*

1962  
Nov., 30th

Held, that “occupation” means occupation in the sense of actual user as is clear from the words of section 13(2)(v)

of East Punjab Urban Rent Restriction Act since it specifically exempts houses situate in the hill-stations which normally remain unoccupied by owners or tenants from October to April, although their furniture remains there.

*Held*, that the mere presence of furniture of the tenant in the rented house and his willingness to pay the rent do not constitute occupation if the tenant does not reside in the house and visits it occasionally.

*Petition under section 15(5) of Punjab Act No. III of 1949—East Punjab Urban Rent Restriction Act, for revision of the order of Shri S. C. Mittal, Appellate Authority, (District Judge), Hissar, dated the 18th April, 1962, reversing that of Shri Jagdish Chandra, Rent Controller, Hissar, dated the 4th December, 1961, directing the tenant to put the landlord in possession of the house on or before 18th June, 1962.*

M. R. CHHIBBER, ADVOCATE, for the Petitioner.

J. N. KAUSHAL, ADVOCATE, for the Respondents.

### JUDGMENT

Hon'ble the Chief Justice. FALSHAW, C.J.—This is a revision petition filed by a tenant whose ejection has been ordered by the Appellate Authority after the Rent Controller had dismissed the landlord's application.

The landlord's petition was filed on the 3rd of May, 1961, for the ejection of the tenant Shrimati Shakuntla Devi, on the ground contained in section 13(2) (v) of the East Punjab Urban Rent Restriction Act, 1949, which reads—

“that where the building is situated in a place other than a hill-station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause.”

The tenant in this case is a widow and it is not in dispute that she and her husband occupied the house in suit at Hissar, during the lifetime of

her husband who was stationed at that place as an E. A. C. Otherwise, she has no connection with Hissar. The landlord alleged that after the death of her husband, the tenant had ceased to reside in the premises and gone to live at Delhi, where her husband's brother was living and also her married daughter and where her two unmarried daughters were receiving education. It was alleged that she had in fact ceased to reside in the house in May, 1960.

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and others

Hon'ble  
the Chief Justice.

The facts which appear to be established by the evidence are that the tenant had undoubtedly gone to Delhi and was staying there, the only evidence of her occupation of the house being that she occasionally came to Hissar and stayed for a day or two, mostly after the institution of this case and for the purpose of attending Court, and that even when she came to Hissar, although she may have stayed in the house after a fashion, she never slept there, but always used to sleep at the house of the Superintendent of Jail, who was apparently a friend of her or her late husband's. There had been a previous petition by the land lord for her ejection on the ground of subletting, but she was saved from ejection in that case because the alleged sub-tenant, a serving officer, was transferred elsewhere from Hissar. It was proved from the evidence of a clerk in the Electricity Department that there had been no consumption of electric current whatever in the premises in suit from the period from June, 1960 to September, 1961. It was, however, proved that she still had some furniture lying in the house although all her valuables were being kept by Thakur Abhey Singh, a neighbour.

I find it difficult to understand what sort of occupation of a house there can be when not even a light is switched on over a period of several

Shakuntla Bawa months, and in arriving at his conclusion that the  
 v. landlord's petition should be dismissed, the Learn-  
 Ram Parkash ed Rent Controller has chiefly relied on two cases,  
 and others *Messrs Abdul Rahim & Bros. and another v. R. K.*  
 Hon'ble *Selvan Bros. & others* (1), and *Langford Property*  
 the Chief Justice. *Co., Ltd. v. Athanassoglou & another* (2).

The first of these cases refers to business premises taken on lease by the tenant for the purpose of carrying on the business of selling liquor, and when prohibition was introduced into the State of Madras, the tenant became unable to carry on his business though he continued to keep his furniture in the premises. In these peculiar circumstances, Rajagopala Ayyangar, J. held that the Act did not require that the tenant in occupation of a non-residential building should carry on actual business in the premises in order to prevent eviction and where, due to the enforcement of prohibition law, the tenant who was a dealer in liquor was not able to carry on his business in the premises, but kept his furniture and paid the rent, he was not liable to be evicted in the ground that he had ceased to occupy the premises. It is clear that on the facts of that case, the stoppage of the tenant's business by the enforcement of prohibition was regarded as a reasonable cause within the meaning of the relevant provisions of law, which are identical with the provisions in the Punjab Act with which we are dealing. I do not consider that this case helps the tenant at all.

I am also of the opinion that the English case does not help the tenant in the present case. The facts were that the tenant had a home in the country, but also had a flat in London, which he used to visit about twice a week and which was also occupied by friends from time to time with

(1) (1956) I. Mad. L.J. 237.

(2) (1948) All. E.R. 722.

his permission in his absence. On these facts, the Court of appeal reversed the decision of the trial Court and held that there was no evidence that the tenant was not in personal occupation and did not enjoy the protection of the Rent Restriction Act. It was observed that there was nothing in the law which prevented a man from having more than one home.

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—  
Hon'ble  
the Chief Justice.

In my opinion, it is proved, as was held by the learned Appellate Authority, that for all practical purposes the tenant in this case had ceased to reside in the house in dispute and had gone to reside at Delhi, only visiting Hissar, very occasionally for short periods and even then not using the house in the sense of sleeping there. I am of the opinion that the mere presence of furniture and willingness to pay rent does not constitute occupation within the meaning of section 13(2)(v). This view was also expressed by Harnam Singh, J. in *Baij Nath v. Badhawa Singh* (3). The learned Judge held that although occupation includes possession as its primary element it also includes something more and the owner of a vacant house who as long as leaves it vacant is not in occupation. The fact that 'occupation' means occupation in the sense of actual user appears to be clear from the words of section 13(2)(v), since it specifically exempts houses situated in a hill-station which normally remain unoccupied by owners or tenants from October to April, although their furniture remains there. I thus consider that the decision of the learned Appellate Authority was correct and dismiss the revision petition, but leave the parties to bear their own costs.

K.S.K.