

the business of the assessee-Company and had, therefore, been rightly allowed by the Tribunal. That being so, and as conceded by the learned counsel for the Department, the other item of Rs. 1,000 was also incurred wholly and exclusively for the purpose of the business of the Company. In my opinion, the answer to the question of law referred to us is that on the facts and in the circumstances of the present case, the legal and travelling expenses amounting to Rs. 9,000 and Rs. 1,000, respectively, were legally allowed by the Tribunal under section 10(2)(xv) of the Income-tax Act, 1922. The respondent will get his costs. Counsel's fee is fixed at Rs. 150.

The Commissioner of  
Income-tax,  
Punjab  
v.  
M/s Jagatjit  
Distilling  
& Allied  
Industries Ltd.  

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Pandit, J.

INDER DEV DUA, J.—I agree.

Dulat, J.

B.R.T.

APPELLATE CIVIL

*Before Shamsher Bahadur, J.*

MESSRS SHEO CHAND RAI, RAM PARTAP,—*Petitioner.*

*versus*

JAGDISH PERSHAD SRIVASTAVA,—*Respondent.*

S. A. O. 112-D of 1963.

1965

*Delhi Rent Control Act (LIX of 1958)—S. 10—Proceedings for fixation of standard rent—Interim rent fixed—Payment thereof—Whether can be enforced by Rent Controller.*

July, 23rd

*Held*, that in the proceedings for the determination of standard rent before the Rent Controller, though actually initiated by the application for ejectment which had been withdrawn by the landlord, the fixation of interim rent is envisaged by the Delhi Rent Control Act, 1958, and the Rent Controller has an inherent power to enforce payment of the sum so settled.

*Second Appeal under section 39 of Act 59 of 1958 from the order of Shri P. C. Patwar, Rent Controller, Delhi, dated 23rd March, 1965, modifying the order of Shri P. C. Sani Additional Rent Controller, Delhi, dated 8th January, 1965 ordering the deposit of interim rent at Rs. 175 from 1st February, 1961 to 31st August, 1962 and at Rs. 120 p. m. from 1st September, 1962 to 23rd March, 1965, with no order as to costs.*

S. N. CHOPRA, ADVOCATE, for the Petitioner.

D. D. CHAWLA, ADVOCATE, for the Respondent.

## ORDER

Shamsher  
Bahadur, J.

SHAMSHER BAHADUR, J.—This is a tenants' appeal directed against the appellate judgment of the Rent Control Tribunal, Delhi, fixing the interim rent of the demised premises at Rs. 120 per mensem as against the rate of Rs. 175 per mensem so fixed by the Additional Rent Controller being the stipulated rent.

In order to appreciate the question which has been raised by Mr. S. N. Chopra, the learned counsel for the tenant-appellants, it would be necessary to set out the background of the litigation in its briefest outline. The appellants Sheo Chand Rai-Ram Partap took on rent a godown situated in Gali Samosan, Frash Khanna, Delhi, at the agreed rent of Rs. 175 per mensem from the respondent-landlord Jagdish Parshad Srivastava, on 1st of July, 1960. An application for ejectment was made against the tenant on 20th of July, 1963, on the ground that he had not paid the arrears of rent with effect from 1st of December, 1961, till the 30th of June, 1963, amounting in all to Rs. 3,325. The Rent Controller under the provisions of sub-section (1) of section 15 of the Delhi Rent Control Act, 1958, (hereinafter referred to as the Act), has to call upon the tenant to deposit the rent and for this purpose the case had been adjourned from time to time and it was finally fixed for 30th of September, 1963, when the landlord applied for withdrawal of his suit for ejectment. While dismissing the application for ejectment on 30th of September, 1963, the Controller did not fix the standard rent although a plea had been raised by the tenants to this effect. The tenants appealed from this order of the Rent Controller and an application was also made before the Rent Controller on 4th of October, 1963, for fixation of standard rent. This application was also dismissed and an appeal preferred from it was heard along with the other one. Both the appeals were allowed on 26th of March, 1964, and the case was remanded to the Rent Controller to proceed with the fixation of standard rent as asked for by the tenants. During the course of the proceedings for fixation of standard rent, the Rent Controller passed an order on 8th of January, 1965, fixing the interim rent at Rs. 175 per mensem which was the stipulated rate and directed its payment under the provisions of sub-section (3) of section 15 of the Act. The tenant appealed to

the Rent Control Tribunal which by its order of 23rd of March, 1965, fixed the interim rent at Rs. 120 per mensem and directed its payment within one month from the date of the order and thereafter by the 15th day of every month. Still feeling aggrieved, the tenants have come in appeal to this Court.

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It is contended by Mr. Chopra, the learned counsel for the appellants, that the proceedings for fixation of standard rent are independent of the proceedings for eviction of tenants and the provisions relating to fixation of interim rent and its payment in ejection proceedings are not applicable to the provisions relating to fixation of standard rent alone. It is no doubt true that the provisions regarding rent are subject-matter of sections 4 to 13 in Chapter II, while those relating to control of eviction of tenants are dealt with in sections 14 to 25 of Chapter III of the Act. Section 15 falls under the chapter relating to control of eviction of tenants and under sub-section (3), the Controller "shall, within fifteen days of the date of the first hearing of the proceeding, fix an interim rent in relation to the premises to be paid or deposited in accordance with the provisions of sub-section (1) or sub-section (2) as the case may be, until the standard rent in relation thereto is fixed having regard to the provisions of this Act, and the amount of arrears, if any calculated on the basis of the standard rent shall be paid or deposited by the tenant within one month of the date on which the standard rent is fixed or such further time as the Controller may allow in this behalf." It is worthy of note that fixation of interim rent is provided for even in the proceedings for fixation of rent. Under section 10 of the Act:—

"If an application for fixing the standard rent or for determining the lawful increase of such rent is made under section 9, the Controller shall, as expeditiously as possible, make an order specifying the amount of the rent or the lawful increase to be paid by the tenant to the landlord pending final decision on the application and shall appoint the date from which the rent or lawful increase so specified shall be deemed to have effect."

What is lacking in section 10 and what is actually provided for in sub-section (3) of section 15 is that the interim rent

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so fixed becomes payable within one month of the date when the order is passed and the absence of this provisions in section 10 has induced the learned counsel to argue that though the interim rent in the present instance could have been fixed under section 10, the direction that its payment should be made within one month is unenforceable. In my opinion, this submission is without force. Concededly, the proceedings for fixation of rent are still pending and the Rent Controller has the power under section 10 to direct fixation of interim rent during these proceedings. It would be indeed a futile proceedings for the fixation of interim rent if the Rent Controller is held to be devoid of authority in enforcing such a payment. Powers to enforce its orders inhere in every Court of law and there is nothing to justify the conclusion which is sought to be deduced from a comparison of section 10 and sub-section (3) of section 15 that direction for payment of interim rent can be made in one case and not the other. Section 10 would be lost of all meaning and content if it were to be construed in the manner contended for by the learned counsel for the appellants. I have, therefore, no hesitation in repelling the submission of Mr. Chopra, even assuming the correctness of his argument that the ejection application of the landlord having been withdrawn and dismissed on 30th of September, 1963, the proceedings for fixation of standard rent thereafter ceased to be ancillary to ejection and assumed an independent character under Chapter II.

The learned counsel has further urged that the tenant is entitled to some relief as the Rent Control Tribunal has fixed the interim rent at Rs. 120 per mensem by rule of thumb without considering the plea of the tenant that the standard rent of the premises should be fixed at Rs. 20 per mensem. Mr. Chopra, has also argued that a sum of Rs. 1,320.15 paise paid by the tenant on landlord's behalf has not been accounted for. Document of this effect having been produced by the learned counsel and Mr. D. D. Chawla, the learned counsel for the respondent, having accepted authenticity, it seems to me that this sum should be deducted from the amount which is payable by the tenants.

I am of the view that in the proceedings for the determination of standard rent before the Rent Controller though actually initiated by the application for ejection which had been withdrawn by the landlord, the fixation of

interim rent is envisaged by the Act and the Controller has an inherent power to enforce payment of the sum so settled. Without in any way pre-judging the issue with regard to the quantum of standard rent, I reduce the interim rent from Rs. 120 to Rs. 100 per mensem. This reduction is being made merely to alleviate the hardship of the tenants in making a lump sum payment of a large amount and it should not be understood in any way to be a reflection on the merits of the dispute. It is mutually agreed by counsel that the interim rent fixed at the rate of Rs. 100 per mensem after deducting a sum of Rs. 1,320.15 paise would come to Rs. 3,654.85 paise upto the end of July, 1965. This amount should be paid by the tenants within one month and if there is default in making the payment, this appeal would be deemed to have been dismissed *in toto*. The interim rent will hereafter be paid at Rs. 100 per mensem till the final adjudication on the question of standard rent payable by the 15th day of every month. The parties are left to bear their own costs of this appeal.

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CRIMINAL MISCELLANEOUS.

*Before H. R. Khanna, J.*

HARKISHAN SINGH,—*Petitioner.*

*versus*

THE STATE OF PUNJAB, AND ANOTHER,—*Respondents.*

Criminal Writ No. 4 of 1965.

*Preventive Detention Act (IV of 1950)—S. 4—Punjab Detenus Rules (1950) framed under—Whether valid—Preventive detention—Consequences of—Whether different from those of punitive detention—Order of the Government imposing restrictions on detenus—Whether justiciable—Defence of India Act (LI of 1962)—S. 44—“Authority”—Whether includes Central and State Governments.*

1965

July, 26th

*Held*, that the Punjab Detenus Rules, 1950, have been framed by the Punjab Government for the purpose of determining the conditions of detention of persons detained in any prison in the State of Punjab. The effect of these rules is to avoid differential treatment and arbitrariness in the matter of treatment of the detenus and the jail authorities, in whose custody the detenus are kept, are bound to