

REVISIONAL CIVIL

Before Mehar Singh, C.J.

SHEO LAL,—Petitioner.

versus

ROSHAN LAL,—Respondent.

Civil Revision No. 387 of 1968

February 20, 1970.

East Punjab Urban Rent Restriction Act (III of 1949)—Section 13(3) (a) (i)—Landlord needing milk for the members of his family—Eviction of the demised premises sought for the purpose of keeping a buffalo—Such purpose—Whether tantamounts to “his own occupation”—Eviction—Whether can be ordered.

Held, that normal and ordinary amenities and necessities of life are as much part of a landlord's needs for his residential purposes as requirement of premises by him for personal residence. If a landlord needs a buffalo to meet such a daily and essential requirement of his family, it is a need that is within the scope of his normal manner of living. If the word “his own occupation” in section 13(3) (a) (i) of the East Punjab Urban Rent Restriction Act are to be interpreted to mean only the occupation by landlord for the members of his family, then that would exclude the necessary amenities which the landlord may require in the normal manner of his living. This approach would restrict the meaning of these words to mere human occupation of the premises which is not justified by anything appearing in the statute. Hence eviction of a tenant from the demised premises can be ordered if the landlord needs the premises for keeping a buffalo to supply milk to the members of his family.

(Para 3).

Petition under section 15(5) of the East Punjab Urban Rent Restriction Act, for revision of the order of Shri J. P. Gupta, Appellate Authority, Hissar, dated the 1st January, 1968, reversing that of Shri V. D. Aggarwal, Rent Controller, Hissar, dated 17th March, 1967, accepting the appeal and setting aside the order of the learned Rent Controller and dismissing the application.

V. M. JAIN, AND S. S. NARANG, ADVOCATES, for the Petitioner.

RAM RANG, ADVOCATE, for the Respondent.

JUDGMENT

MEHAR SINGH, C.J.—The landlord has something like thirty members of his family and he buys about ten seers of milk daily for the family.

He lives in one house and the tenant is in his another house, in occupancy of three rooms described as rooms 1, 7 and 8 in that house. The landlord has admitted that there are two ways from the house where he resides to the house in which the tenant has the rooms, the distance by one way being three furlongs and by the other one furlong. It does not appear from the evidence that the landlord has any of his other houses nearer to the house in which he resides than the house in which the tenant occupies the three rooms. The tenant has been in his tenancy for about twelve years.

(2) The landlord sought eviction of the tenant on the ground of *bona fide* requirement of rooms 1 and 8 with the tenant for his own occupation under section 23(3)(a) (i) of the East Punjab Urban Rent Restriction Act, 1949 (East Punjab Act 3 of 1949), that he needed two out of the three rooms with the tenant for keeping a buffalo so as to make milk available to the members of his family. He said he needed one room for the buffalo and the next room for storing fodder for the animal. The Rent Controller was of the opinion that the use of the rooms for the purpose of keeping a buffalo is a mode of use of the same by the landlord, who is the best person to determine really what his need is. So he ordered the eviction of the tenant from the two rooms in question giving the tenant three months' time within which to vacate the same from the date of his order which was March 17, 1967. On appeal the learned Appellate Authority, following *Institute of Radio Technology v. Pandurang Baburao* (1), was of the opinion that the words 'his own occupation' mean occupation of himself and all persons, who are dependent on the landlord and that the same did not include occupation for keeping cattle by the landlord. In the case relied upon by the learned Judge no such question really arose. It was not a case in which eviction had been sought on the ground of requirement by the landlord of the demised premises for his own occupation because he needed the same for keeping his cattle. The Appellate Authority accepted the appeal of the tenant and on January 1, 1968, dismissed the eviction application by the landlord. This is a revision application by the landlord from the appellate order of the Appellate Authority.

(3) No case has been referred to by the learned counsel for the parties which deals with the basis upon which in the present case the landlord claims eviction of the tenant on the ground of requirement

(1) A.I.R. 1946 Bom. 212.

of the rooms in question 'for his own occupation'. The learned counsel for the landlord contends that a buffalo is a necessity for the landlord and his family and the good faith of the landlord is available from this that he offered the tenant one room vacant in the upper-storey of the same house, which would have left the tenant with two rooms, one on the ground-floor and the other on the first-floor. The reply by the learned counsel for the tenant is that when eviction is sought on the ground of 'his own occupation' by the landlord, then he must require the premises for the same purpose for which the same are in the occupation of the tenant, in other words, he must require the premises for human occupation, and the requirement of the premises for keeping cattle cannot be for the landlord's own occupation. The learned counsel has urged that 'his own occupation' can only mean occupation by him or a member of his family, in other words, occupation only by a human being, and not for any other purpose. If this argument is accepted, it would mean that the words 'his own occupation', would exclude the necessary amenities which the landlord may require in the normal manner of his living. This approach would restrict the meaning of these words to mere human occupation of the premises and would exclude the occupation of any part of the premises by the landlord for amenities and necessities of life. Such an interpretation of the words 'his own occupation' is not justified by anything appearing in the statute. No doubt a landlord cannot make his whimsical considerations as his needs and bring his case under the words 'his own occupation', but normal and ordinary amenities and necessities of life are as much part of a landlord's needs for his residential purposes as requirement of premises by him for personal residence. In this case both the Rent Controller and the Appellate Authority found that the number of members of the family of the landlord is a little over thirty and his normal purchase of milk is about ten seers daily. If he needs a buffalo to meet such a daily and essential requirement of his family, it is a need that is within the scope of his normal manner of living and when he requires the demised rooms for this purpose, he requires the same 'for his own occupation' as a part of his residential purposes. It is true that there is a distance of about one furlong between the two houses, but the evidence does not show that in the house in which the members of the family actually reside there is a place where a buffalo can be kept and there is room for keeping fodder for the animal.

(4) So the approach of the Rent Controller was correct and accepting this revision application, and reversing the appellate order

of the Appellate Authority, the order of eviction made by the Rent Controller against the tenant is restored. The tenant is given two months from today within which to vacate rooms 1 and 8. There is no order in regard to costs.

R. N. M.