

PETITIONER:
JAI NARAIN

Vs.

RESPONDENT:
KISHEN CHAND

DATE OF JUDGMENT:
27/02/1969

BENCH:
HIDAYATULLAH, M. (CJ)
BENCH:
HIDAYATULLAH, M. (CJ)
RAMASWAMI, V.
MITTER, G.K.

CITATION:
1969 AIR 1165 1969 SCR (3) 855
1969 SCC (1) 724

ACT:
Delhi Rent Control Act 1958, s. 57(1), first proviso-scope of.

HEADNOTE:

The respondent landlord filed a suit for eviction against the appellant under section 13 (1) (k) of the Delhi and Ajmer Rent Control Act, 1952, on the ground that the appellant had caused damage to the premises. The trial court ordered ejectment in February, 1959, and the appellate authority dismissed an appeal in November, 1959. The Delhi Rent Control Act 1958 came into force in February, 1959. In a revision application before the High Court, the appellant invoked the provisions of the 1958 Act and relied upon section 14(1) (j) read with s. 57 of the new Act. The High Court, acting under section 14(1)(j) and sub-section (10) of the same section gave the appellant the alternative to pay compensation for the damages caused. The landlord then filed an application for review of the High Court order pointing out that the new Act was not applicable to the case in view of the first proviso of section 57(2). The High Court granted the review and reversed its earlier orders. In appeal to this Court it was contended on behalf of the appellant that by virtue of the first proviso of section 57(2) the High Court was bound to have regard to the provisions of the 1958 Act even in proceedings pending and governed by the 1952 Act.

HELD: Dismissing the appeal,
The language of the first proviso to section 57(2) clearly shows that the proviso applies to those cases only in which 'Section 54 cannot be made applicable. The area in the present case is admittedly subjected to the Slum Areas (Improvement and Clearance) Act 1956, which is one of the enactments mentioned in s. 54. Accordingly the terms of the proviso would have no application in this case. [857 G; 859 B]

The High Court had rightly held that the phrase "to which section 54 does not apply", governs the word "premises" and is not connected with the words "in any such suit or proceedings". (858A-B)

JUDGMENT:

CIVIL APPELLATE, JURISDICTION: Civil Appeal No. 389 of 1966. Appeal by special leave from the judgment and order dated March 25, 1964 of the Punjab High Court, Circuit Bench at Delhi in Review Application No. 23-D of 1963.

C.B. Agarwala, Uma Mehta, M. L. Kapur and K. K. Sinha, for the appellant.

B.C. Misra, Bishambee Lal and R. K. Puri, for the respon-

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The Judgment of the Court was delivered by Hidayatullah. C.J., This is an appeal by a tenant who had rented a shop No. 2687 in Kinari Bazar, Delhi from the respondent on Rs. 13.50 P per month. In those premises he was selling Usha sewing machines and fans. It appears that the level of the shop was too high from the road and his clients were troubled in going to his shop and so he lowered the level and thereby altered the premises to suit his convenience. The landlord thereupon filed a suit against him for his eviction under S. 13(1)(k) of the Delhi and Ajmer Rent Control Act, 1952. The suit was filed on November 13, 1957. The trial court ordered on February 19, 1959 ejectment and payment of Rs. 145/- as arrears of rent. An appeal against the order of the trial court was dismissed by the appellate authority on November 16, 1959. A revision application was then filed by the tenant on March 25, 1960. During the course of that revision he invoked the provisions of the Delhi Rent Control Act, 1956 which had come into force on February 9, 1959 and relied upon S. 14 (1) (j) of the new Act read with S. 57. Previously he had not relied upon the new Act although the Act had been in force during the pendency of the previous proceedings. The High Court acting under s. 14(1)(j) and sub-s. (10) of the same section, gave him the alternative of paying, compensation in the sum of Rs. 500 which it appears that the landlord himself had assessed as the damages caused by the act of the tenant. The landlord later filed an application for review of the order and pointed out that the new Act was not applicable to the case in view of the first proviso of S. 57 sub. s. (2). The High Court thereupon granted the review and reversed its earlier order and ordered the eviction of the tenant.

In this appeal it is contended that the High Court was in error in passing the order on review and that the previous order was the correct order in the light of the provisions of the Act of 1958. We have therefore to consider which of the two orders of the High Court is the correct order and whether the review was properly granted or not.

As is very frequent in our country, Rent Control Acts are changed from time to time causing numerous difficulties in their interpretation and application. Here too, we have a succession of Acts which were passed, to say nothing of the amendments which were made in the body of each of the Acts as they came. We are concerned first with the Act of 1952, namely. The Delhi and Ajmer Rent Control Act, 1952. Section 13(1)(k) of that Act gave a right to the landlord to evict a tenant who, whether before or after the commencement of the Act had caused or permitted to be caused substantial damage to the premises, or notwithstanding previous notice, had used or dealt with the premises

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in a manner contrary to any condition imposed on the

landlord by the Government or the Delhi Improvement Trust while giving him a lease of the land on which the premises were situated. We are not concerned with the latter part but with the first part where the tenant before or after the commencement of the Act had caused or permitted to be caused substantial damage to the premises. Whether the lowering of the floor was causing substantial damage to the premises is a question into which we need not go, because the concurrent finding of the courts of fact is that it did so. This question was not raised before us. Therefore, if s. 13 (1)(k) of the Delhi Land Ejectment Rent Control Act, 1952 applied, the eviction of the tenant was the proper order to make in view of the finding that he had caused substantial damage to the premises. However, the matter comes to the Court because of the passing of the Delhi Rent Control Act, 1958 which came into force on February 9, 1959. Section 57(1) of that Act provided that the Delhi and Ejectment Rent Control Act, 1952 in so far as it was applicable to the Union Territory of Delhi, was being repealed. While repealing it, a special saving was however made, by sub-s. (2) of the same section in favour of all suits and other proceedings which were then pending under the repealed Act and it was provided that those suits and proceedings should be continued and disposed of in accordance with the provisions of the Act as if that Act had continued to be in force and the new Act had not been passed. This would have really been a very proper provision to make to separate the operation of the two Acts but the Legislature went still further and added two provisos. We are concerned only with the first of the two provisos on which much dispute has arisen in this case. That proviso reads as follows:

"Provided that in any such suit or proceeding for the fixation of standard rent or for the eviction of a tenant from any premises to which section 54 does not apply, the court or other authority shall have regard to the provisions of this Act :"

This proviso contains a proviso within itself which excepts the case of premises to which s. 54 of the Act does not apply. That section provides as follows

"Nothing in this Act shall affect the provisions of the Administration of Evacuee Property Act, 1950, or the Slum Areas (Improvement and Clearance) Act, 1956 or the Delhi Tenants (Temporary Protection) Act, 1956."

The effect of the proviso which we have quoted above is variously described by counsel on opposite sides, According to Mr. C.B

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Agarwala who argued for the tenant, the words "to which section 54 does not apply" govern the words "any such suit or proceeding" and not the words "any premises". The High Court in the order passed on review was of the opinion that these words governed the words "any premises". In our opinion, this is the correct view to take of the matter. To begin with, it must be noticed that the proviso speaks of two things, namely, the fixation of standard rent and the eviction of a tenant from any premises. The words "from any premises" cannot be connected with the phrase "for the fixation of standard rent", because then the preposition would have been "of any premises" or "for any premises" and not "from any premises." This means that the first phrase has to be read as complete in itself beginning from the words "for the fixation" and ending with the words, "standard rent". The second phrase then reads "or for the

eviction of a tenant from any premises". The words "from any premises" go very clearly with the words "eviction of a tenant" and not with the words "any suit or proceeding".

The question then arises, where does the phrase "to which s. 54 does not apply" connect itself ? According to Mr. Agarwala that phrase must be connected with the words "in any such suit or proceeding". Since the suits contain two kinds of matters, namely, fixation of standard rent and eviction of a tenant from any premises, we have to turn to the provisions of the statutes to which S. 54 refers, namely, the Administration of Evacuee Property Act, 1950, the Slum Areas (Improvement and Clearance) Act, 1956 and the Delhi Tenants (Temporary Protection) Act, 1956. The first two do not deal at all with the fixation of fair rent and the third speaks of fair rent, but it does not provide for its fixation. It would be pointless to use the language 'any suit or proceeding to which s. 54 does not apply' in relation to fixation of standard rent. It follows therefore that the phrase "to which s. 54 does not apply" really governs 'premises'. Read in that way, all the three Acts fall in line, because they provide for premises and not for fixation of standard rent. The Administration of Evacuee Property Act, 1950, the Slum Areas (Improvement and Clearance) Act, 1956 and the Delhi Tenants (Temporary Protection) Act, 1956 all deal with premises and property and therefore the phrase "to which section 54 does not apply" is connected with the words "premises". That is the view which the High Court has taken and we think rightly. The proviso did not apply and the matter had to be governed by the old Delhi and Ajmer Rent Control Act, 1952 which had been repealed.

It was contended before us that this legislation was intended to soft action against tenants still further and that the policy

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of the law had been to give more ;and, more protection to the tenants and we must therefore read the statute in consonance with that policy. This would be an argument to consider if the language of the statute was not quite clear. But the language is clear enough to show that the proviso applies only to those cases in which s. 54 cannot be made applicable. It is admitted before us that this area is subjected to the Slum Areas (Improvement and Clearance) Act, 1956. If that is so, then, on the terms of the proviso on which much reliance is placed by Mr. Agarwala, the provisions of the Delhi Rent Control Act, 1958 cannot be taken into consideration. They are to be taken into consideration only in those cases to which the Acts mentioned in s. 54 do not apply, that is to say, in respect of premises not governed by those statutes. Since this shop is governed by one of the statutes, the proviso has no application. The High Court's view was therefore right. In the circumstances, the appeal fails and will be dismissed with costs.

R.K.P.S.

Appeal dismissed.

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