

PREM CHAND ALIAS PREM NATH

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v.

SMT. SHANTA PRABHAKAR

NOVEMBER 17, 1997

[DR. A.S. ANAND, C.J., AND K. VENKATASWAMI, J.]

B

Rent Control & Eviction.

Himachal Pradesh Rent Control Act, 1987 : Section 14(3)—Eviction petition—Bonafide requirement of premises for building/rebuilding—Dismissed by Rent Controller on the ground that there was no evidence regarding condition of building—Appellate Authority allowed the eviction petition—Confirmed by High Court—On appeal, held, condition of building is to be considered only when the eviction is on the ground that the premises has become unsafe or unfit for human habitation.

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The respondent-landlord filed a suit for eviction of the appellant-tenant before the Rent Controller on the grounds that the appellant defaulted in payment of rent and the suit premises was bonafide required by him for the purpose of building/rebuilding. The Rent Controller relying upon the decision of this Court in *Metal Ware and Co. Ltd. etc.* * dismissed the eviction petition on the ground that there was no evidence regarding the condition of the building and consequent requirement of the premises for building/rebuilding. On appeal, the Appellate Authority by reversing the decision of the Rent Controller allowed the application for eviction. The appellant tenant filed a review petition before the High Court. The High Court while dismissing the review petition, confirmed the view taken by the Appellate Authority. Hence the present appeal.

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Dismissing the appeal, this Court

HELD : 1.1. Section 14(3)(c) of the Himachal Pradesh Urban Rent Control Act, 1987 contemplates four different situations/circumstances enabling the landlord to apply for eviction of a tenant, one such circumstance being that the tenanted premises had become unsafe or unfit for human habitation. The condition of building is required to be considered when the application for eviction falls under the above category. In the instant case, the application for eviction was on another ground viz. that the tenanted

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A premises was bonafide required by the landlord for the purpose of building/rebuilding. Hence in this case there is no requirement to go into the condition of the building. [146-F-H; 147-A-C]

B 1.2. Section 14(3)(c) applies to tenanted land as well. The appellate authority had found that the lease was with reference to land with shed. The appellant-tenant has also admitted in his chief examination that the place was given to him for the workshop. Moreover, the tenant has not questioned the capacity of the landlord to rise the construction or the bonafides of the landlord to do so. [145-E; 147-F]

C **Metalware and Co. Ltd. etc. v. Bansilal Sharma & Co. etc.*, [1979] 3 SCC 398, distinguished.

Vijay Singh & Ors. v. Vijayalakshmi Ammal, [1996] 6 SCC 475, referred to.

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2514 of 1997.

From the Judgment and Order dated 5.11.96 of the Himachal Pradesh High Court in C.R. No. 1 of 1991.

C.N. Sree Kumar for the Appellant.

E Salman Khursheed, Rakesh Khanna, Ajay Garg and Surya Kanta for the Respondent.

The Judgment of the Court was delivered by

F K. VENKATASWAMI, J. The respondent as a landlord of the suit premises filed Case No.70/2 of 1987 before the Rent Controller, Solan (H.P.), for eviction of the appellant. The grounds for eviction were (a) the appellant defaulted in payment of rent from 1.1.87 up to the date of filing of the eviction petition and (b) that the suit premises was bona fide required by him for the purpose of building/re-building, which cannot be carried out without the premises being vacated. We may at once state that the ground of default in payment of rent was found against the landlord by the Rent Controller and the same was not pursued by the landlord before the Appellate Authority and the High Court. We are, therefore, concerned only with the ground of *bona fide* requirement of the premises for building/re-building by the landlord. This ground is covered by Section 14(3) (c) of the Himachal Pradesh Urban Rent Control Act, 1987 (hereinafter called the Act.)

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The Rent Controller on the basis of evidence oral and documentary and placing reliance on a judgment of this Court in *Metalware and Co. Ltd., etc. v. Bansilal Sharma and Co. etc.*, [1979] 3 SCC 398, found that there was no evidence regarding the condition of the building and consequent bona fide requirement of the same for demolition and reconstruction and that factor being a vital one for the purpose of granting an order for eviction dismissed the petition.

The respondent-landlord aggrieved by the dismissal of the eviction petition preferred C.M. A. NO. 20-8/14 of 1990 before the Appellate Authority, Solan. The Appellate Authority on an analysis of Section 14 (3) (c) of the Act and in view of the fact that the appellant-tenant had not disputed the availability of the resources with the landlord and compliance of other requirements except regarding the dilapidated condition of the building, found that the Rent Controller was not right in dismissing the eviction petition. According to the Appellate Authority, the ruling of this Court in *Metalware & Co.* case rendered interpreting Section 14(1) (b) of the Tamil Nadu Rent Control Act may not apply to the relevant provision in the Himachal Pradesh Act, which did not contemplate the condition of the building as one of the relevant factors for the purpose of ordering eviction on the facts of the case. The Appellate Authority also found that what was let out to the tenant was not a 'building' as defined in Section 2(b) of the Act, but an open plot measuring 100 x 95 with a shed thereon. The Appellate Authority found that Section 14(3) (c) of the Act applies to the tenanted land as well and, therefore, it is all the more reason that the Rent Controller was not right in applying the decision of this Court in *Metalware & Co.* case. On the basis of the above conclusions, the Appellate Authority by reversing the decision of the Rent Controller allowed the application for eviction.

The appellant aggrieved by the order of the Appellate Authority preferred a Revision to the High Court of Himachal Pradesh at Shimla. The learned Judge confirmed the view taken by the Appellate Authority and dismissed the Revision. Hence, the present appeal by special leave.

Mr. Sree Kumar, learned counsel appearing for the appellant-tenant, reiterated that the ruling of this Court in *Metalware & Co.* case which has been considered in a recent Constitution Bench judgment of this Court in *Vijay Singh & Ors. v. Vijayalakshmi Ammal*, [1996] 6 SCC 475, squarely applies to the facts of this case and, therefore, the Appellate Authority and the High Court were not right in coming to the conclusion that the ruling of this Court in *Metalware & Co.* case will not apply to the facts of this case.

A Mr. Salman Khursheed, learned senior counsel for the respondent, submitted that the Appellate Authority was right in holding that on the basis of the language employed in Section 14(3) (c) of the Act there is no warrant for contending that the condition of the building was *sine qua non* for ordering eviction of the tenant from the building.

B It is obvious from the rival submissions that we have to set out section itself before proceeding further. Section 14(3)(c) of the Act reads as follows:

"14(3)-A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession:-

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(c) In the case of any building or rented land, if he requires it to carry out any building work at the instance of the Government or local authority or any Improvement Trust under some improvement or development scheme or if it has become unsafe or unfit for human habitation or is required bonafide by him for carrying out repairs which cannot be carried out without the building or rented land being vacated or that the building or rented land is required bonafide by him for purpose of building or re-building or making there to any substantial additions or alterations and that such building or re-building or addition or alteration cannot be carried out without the building or rented land being vacated."

A careful reading of the above Section will show that the Section contemplates different independent situations/circumstances enabling the landlord to apply for eviction of a tenant. Those different and independent situations/circumstances can be set out as follows:-

(i) When the tenanted premises are required by the landlord to carry out any building work at the instance of the Government or local authority or any Improvement Trust under some Improvement or development scheme; or

(ii) When the tenanted premises have become unsafe or unfit for human habitation; or

(iii) When the tenanted premises are required *bona fide* by the landlord for carrying out repairs which cannot be carried out without such tenanted premises being vacated; or

(iv) When the tenanted premises are required *bona fide* by the landlord for purposes of building or rebuilding or making thereto any substantial additions or alterations and that such building or re-building or addition or alteration cannot be carried out without the building or rented land being vacated.”

From the above analysis, it will be seen that the condition of the building is required to be considered when the application falls under the above mentioned Category (ii). Admittedly, the application for eviction in the present case falls under Category (iv) and there is no requirement in such cases to go into the condition of the building. It is true that this Court has held that the requirement of the condition of the building is a vital factor whether such requirement is specifically stated in the Section or not. It must be remembered that the decision of this Court was rendered while interpreting Section 14(1)(b) of the Tamil Nadu Act which is not in *pari materia* with the Himachal Pradesh Act. In other words, there are no different categories as set out above in the Tamil Nadu Act as in Himachal Pradesh Act.

In addition to the above, as found by the Appellate Authority, the lease was with reference to land with a shed. As a matter of fact, the appellant-tenant as RW-1 in his chief examination has stated as follows:-

“The land in dispute was taken by me on rent in 1973. This place was 100’ x 95.’ The rent amount was Rs. 250 per month. This place was given to me for workshop.”

As noted above, Section 14(3)(c) applies to tenanted land as well and the tenant has not questioned the capacity of the landlord to raise the construction or the *bona fides* of the landlord to do so.

In the result, we do not find any ground to interfere with the confirming order of the High Court. The appeal fails and is dismissed with no order as to costs.

S.V.K.I.

Appeal dismissed.