ATTAR SINGH

v.

INDER KUMAR

*November* 4, 1966

[K. N. WANCHOO, G. K. MITTER AND C.A. VAIDIALINGAM, J.J.]

*East Punjab Urban Restriction Act (III of 1949)—S. 13(3)(a)(ii)—scope of—Whether ejectment order can be obtained by landlord for any purpose "for his own use"—Or only for purposes of business or trade.*

The appellant was the tenant of certain land which was "rented land" within the meaning of s. 2(f) of the East Punjab Urban Rent Restriction Act III of 1949, and which was taken by him for the purpose of a fire-wood stall. The respondent filed an application for the ejectment of the appellant from the land mainly on the ground that he needed the land himself to erect a residential house and claimed that he was entitled to an order of ejectment under s. 13(3)(a)(ii) of the Act. The Rent Controller dismissed the application on the view that the landlord could only obtain an order under s. 13(3)(a)(ii) to have the land vacated if he needed it for a business purpose. However, the Appellate authority allowed the appeal holding that it was open to the landlord to get a tenant ejected whatever may be the purpose for which he required the land for his own use. The decision was upheld in revision by the High Court.

On appeal to this Court,

HELD : As the respondent landlord required the land not for business or trade principally but only for constructing a house for himself, he was not entitled to eject the appellant under s. 13(3)(a)(ii). [55 D]

Although sub-sclause (a) of s.13(3)(a)(ii) which provides for the landlord to be put in possession of the land if he requires it "for his own use" is not qualified, the fact that sub-cls. (b) and (c) require that the landlord should not be in possession of any rented land for his own business and should not have given up possession of any other rented land, *i.e.*, land which he was principally using for business, shows that he can only take advantage of sub-cl. (a) if he is able to show that he requires the rented land for business. Otherwise the restrictions contained in sub-cl. (b) and sub-cl. (c) would become meaningless. Reading sub-cls. (a) (b) and (c) together there can be no doubt that sub-cl. (a) is restricted to land required for business or trade. [54 G-55 G]

*Municipal Committee, Abohar* v. *Daulat Ram*, I.L.R. [1959] Punjab 1131; overruled.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2009 of 1966.

Appeal by special leave from the judgment and order dated July 15, 1966 of the Punjab High Court in Civil Revision 1077 of 1966.

*Gopal Singh*, for the appellant.

*S. L. Chhiber* and *M. L. Chhiber*, for the respondent.

A The Judgment of the Court was delivered by

**Wanchoo, J.** The main question raised in this appeal by special leave from the judgment of the Punjab High Court is the interpretation of s. 13 (3) (a) (ii) of the East Punjab Urban Rent Restriction Act, No. III of 1949, (hereinafter referred to as the Act). Brief facts necessary for determination of this question are these. The B appellant was the tenant of certain land at Lahori Gate, Patiala. It is not in dispute that the land in question is "rented land" within the meaning of s. 2 (f) of the Act inasmuch as the land was taken by the appellant for the purpose of a firewood stall. The original owner of the land became an evacuee, and eventually the respondent purchased the land from the Managing Officer and a sale C certificate was issued in his favour on May 31, 1963. The appellant thus became the respondent's tenant. Thereafter the respondent filed an application for the ejectment of the appellant on a number of grounds. One of the grounds in support of the claim for ejectment was that the respondent needed the land for erection of a residential house. It is this ground with which we are mainly con- D cerned in the present appeal. The case of the appellant on the other hand was that even if the respondent required the land for construction of a residential house he could not be given an order of ejectment under s. 13 (3) (a) (ii). That is how the interpretation of this provision mainly arises in the present appeal.

The Rent Controller held that it was clear that the respondent E did not need the land for running any business and only needed it for constructing a residential house for himself. He took the view that rented land could only be got vacated under s. 13 (3) (a) (ii) if the landlord needed it for a business purpose. On the other points raised in the case the Rent Controller found against the respondent. Therefore he dismissed the application.

F The respondent then went in appeal to the Appellate Authority. The Appellate Authority allowed the appeal. It was of the view that it was open to the landlord to get a tenant ejected from rented land under s. 13 (3) (a) ii) whatever may be the purpose for which the landlord required the land for his own use. The Appellate Authority followed the decision of the Punjab High Court G in *Municipal Committee, Abohar* v. *Daulat Ram*.[1] The other points raised in the appeal were also decided in favour of the landlord and the Appellate Authority allowed the appeal and directed the tenant to put the landlord in possession.

The appellant then went in revision to the High Court which upheld the view taken by the Appellate Authority and dismissed the H revision. Thereupon the appellant obtained special leave, and that is how the matter has come up before us.

(1) I.L.R. [1959] Punjab 1131.

The Act was passed in 1949, and the purpose of the legislation was to restrict the increase of rent of certain premises situate within the limits of urban areas and eviction of tenants. The Act thus is a piece of ameliorative legislation in the interests of tenants of premises in urban areas, so that they may be protected against large increase in rents and from harassment by eviction consequent on the increase of population and the division of the Punjab in 1947 and large movement of population in consequence thereof. The Act deals with buildings—residential and non-residential—and also with rented land. In the present appeal we are concerned with rented land, which is defined in s. 2(f) as meaning any land let separately for the purpose of being used principally for business or trade. Thus rented land is a piece of land on which there is no building—residential or non-residential, but which has been let for business or trade, as in this case, for keeping a firewood stall. Sections 4 to 10 deal with fair rent and other ancillary matters. Section 13 provides for protection to tenants from eviction. Sub-section (1) thereof, *inter alia*, lays down that a tenant in possession of a building or rented land shall not be evicted therefrom except in accordance with the provisions of that section. Sub-section (2) then provide grounds on which a landlord may get a tenant evicted and applies both to buildings and rented land. We are not concerned in the present appeal with this sub-section. Sub-section (3) provides for special cases of eviction and the relevant provision with which we are concerned reads thus :—

> "(3) (a) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession....
>
> . . . . . .
>
> (ii) in the case of rented land, if—
>
> (*a*) he requires it for his own use;
>
> (*b*) he is not occupying in the urban area concerned for the purpose of his business any other such rented land, and
>
> (*c*) he has not vacated such rented land without sufficient cause after the commencement of this Act, in the urban area concerned."

The contention of the respondent-landlord which has found favour with the High Court is that this provision applies in the case of rented land if the landlord requires that rented land *for his own use*, and it is urged that as the expression "for his own use" is unqualified, the landlord can ask for eviction if he requires the rented land for his own use, whatever may be the use to which he may put the rented land after eviction. This view was taken by the High

A Court in the case of *Municipal Committee, Abohar*(1) and has been followed in the present case. On the other hand, the contention on behalf of the appellant-tenant is that though the words "for his own use" in this provision are not in terms qualified, they must be read as qualified, on a combined reading of sub-clauses (b) and (c) along with sub-cl. (a); and if that is done, the provision really means B that a landlord can ask for eviction of rented land only in those cases where he requires the rented land for his own use for carrying on a trade or business principally. Thus, it is urged, even if a landlord requires the rented land in order to construct a residential building for himself, that is not requirement for his own use within the meaning of sub-cl. (a) of this provision. As in this case the landlord has stated definitely that he required the land for constructing a C residential building for himself and for no other purpose it is contended for the appellant that he cannot take advantage of s. 13(3)(a)(ii).

We are of opinion that the contention raised on behalf of the appellant is correct, and the view taken by the High Court in the case of *Municipal Committee Abohar*(1) cannot be sustained. It is D true that in sub-cl. (a) the words "for his own use" are not qualified and at first sight it may appear that a landlord can ask for eviction from rented land if he requires it for his own use, whatever may be the use to which he may put it after eviction. Now if sub-cls. (b) and (c) were not there this would be the correct interpretation of sub-cl. (a). This interpretation has been put by the High Court in *Municipal Committee Abohar*(1); but in that case the High Court E has not considered the effect of sub-cls. (b) and (c) on the meaning to be given to the words "for his own use" in sub-cl. (a) and seems to have proceeded as if sub-cls. (b) and (c) were not there at all. We are of opinion that sub-cl. (a) has to be read in this provision along with sub-cls. (b) and (c) and it has to be seen whether the presence of sub-cls. (b) and (c) makes any difference to the meaning F of the words "for his own use" in sub-cl (a), which is otherwise unqualified. Now if sub-cls. (b) and (c) were not there, a landlord can ask for an order directing the tenant to put him in possession in the case of rented land if he required it for his own use. In such circumstances it would have been immaterial what was the use to which the landlord intended to put the rented land after he gets G possession of it so long as he uses it himself. But as the provision stands, the landlord cannot get possession of rented land merely by saying that he requires it "for his own use" (whatever may be the use to which he may put it after getting possession of it); he has also to show before he can get possession, firstly, that he is not occupying in the urban area concerned for the purpose of his business any other such rented land. If (for example) he is in possession of any H other rented land in the urban area concerned for the purpose of his business he cannot ask for eviction of his tenant from his rented

(1) I.L.R. [1959] Punj. 1131.

land, even though the rented land of which he may be in possession for the purpose of his business may not be his own land and he may only be a tenant of that land. This shows clearly that though the words "for his own use" in sub-cl' (a) are not qualified, the intention of the legislature must have been that if the landlord is in possession of other rented land, whether his own or belonging to somebody else, for his business he cannot evict a tenant from his own rented land. It clearly follows from this that the intention when the words "for his own use" are used in sub-cl. (a) is that the landlord requires the rented land from which he is asking for eviction of the tenant for his own trade or business. Otherwise we cannot understand why, if it is the intention of the legislature that the landlord can ask for eviction of his tenant of rented land for any purpose whatever, he should not get it back if he is in possession of other rented land for his business. This to our mind clearly implies that sub-cl. (a) has to be read in the light of sub-cl.(b), and if that is so, the words "for his own use" must receive a meaning restricted by the implication arising from sub-cl. (b).

Turning now to sub-cl. (c), we find that the landlord has not only to prove before he can get the tenant evicted on the ground that he requires rented land for his own use that he is not in possession of any other rented land for the purpose of his business in that urban area but also to prove that he had not vacated any rented land without sufficient cause after the commencement of the Act. Thus he has not only to prove that he is not in possession of any other rented land for his business but also to prove that he had not vacated any other rented land which he used principally for business without sufficient cause. For example, even if the landlord is not in possession of any rented land for his business but had vacated other rented land which means land that he had taken for business without sufficient cause he would still not be entitled to ask for eviction of a tenant from his own rented land. This again shows that if the landlord had been in possession of land for business principally and vacated it without sufficient cause he cannot ask for the eviction of a tenant from his own rented land on the ground that he requires it for his own use.

It should therefore be clear that "for his own use" in sub-cl. (a) means use for the purpose of business principally, for otherwise we cannot understand why, if the landlord had given up some rented land which he had taken for business principally, he should not be entitled to recover his own rented land if he required it (say) as in this case, for constructing a residential building for himself. The very fact that sub-cls . (b) and (c) require that the landlord should not be in possession of any rented land for his own business and should not have given up possession of any other rented land, *i.e.*, land which he was principally using for business, show that he can

A only take advantage of sub-cl. (a) if he is able to show that he requires the rented land for business. Otherwise the restrictions contained in sub-cl. (b) and sub-cl. (c) would become meaningless, if it were held that sub-cl. (a) would be statisfied if the landlord requires the rented land for any purpose as (for example) constructing a residential house for himself. We are of opinion therefore that
B sub-cls. (a), (b) and (c) in this provision must be read together, and reading them together there can be no doubt that when sub-cl. (a) provides that the landlord requires rented land for his own use, the meaning there is restricted to use principally for business or trade. We have already said that the Act is an ameliorative piece of legislation meant for the protection of tenants, and we have no
C hesitation in coming to the conclusion that the words "for his own use" in sub-cl. (a) in the circumstances must be limited in the manner indicated above, as that will give full protection to tenants of rented land and save them from eviction unless the landlord requires such land for the same purpose for which it had been let *i.e.* principally for trade or business. We are therefore of opinion that the view taken in the case of *Municipal Committee Abohar*(1) is incorrect,
D and as the respondent landlord required the land in this case not for business or trade principally but only for constructing a house for himself he is not entitled to eject the appellant under s. 13 (3) (a) (ii).

In this view of the matter it is unnecessary to consider other
E points which were raised in the High Court and which were also raised before us. The appeal is hereby allowed and the application for eviction of the appellant rejected. As already ordered, the appellant will pay the costs of the respondent.

R.K.P.S. *Appeal allowed.*

(1) I.L.R. [1959] Punj. 1131.