

A

LIAQ AHMED AND ORS.

v.

SHRI HABEEB-UR-REHMAN

APRIL 28, 2000

B

[S. SAGHIR AHMAD AND R.P. SETHI, JJ.]

Rent Control & Eviction :

Delhi Rent Control Act, 1958—Section 14(1)(e) r/w Section 25-B—

C *Petition under—Leave to defend—Grant of—Rent Controller—Jurisdiction of—Held, if tenant discloses ground and pleads a cause which *prima facie* is not baseless, unreal and unfounded, the Controller is obliged to grant him leave to defend—Civil Procedure Code, 1908—Order XXXVII—Enemy Properties Act, 1968—Section 18—Evacuee Property Act.*

D *Rent Control Legislation—Legislative intent—Are intended to preserve social environment and promote social justice by safeguarding the interests of the tenants.*

E *Interpretation of Statute—Rent Control Law—Interpretation of—Held, should be by keeping in mind the object of the legislation—Where the Rent Acts afford a real and sanctified protection to the tenant, the same should not be nullified by giving a hyper-technical or liberal construction to the language of the statute.*

F *Respondent claiming to be the owner of the property in question on the basis of a sale deed, filed an eviction petition on the ground of *bona fide* requirement. The appellant opposed the petition on the ground that the property is vested in the Custodian of Enemy Properties of India, which could not be alienated or sold to the respondent, along with other grounds. The Rent Controller did not grant him leave to defend and rejected the plea of the appellants, considering an order dated 30th March, 1954 passed by the Assistant Custodian (Judicial) in relation to the premises whereby it was declared as non-evacuee property.*

G *High Court confirmed the order of the Rent Controller.*

H *In appeal to this Court, the appellants contended that they are the tenant of the property having a right to resist the claim of the respondent*

and they relied on Exhibit P-1, an intimation by the Custodian of Enemy Property for India to the grandfather of the appellants to the effect that the property had vested in the Custodian of the Enemy Property for India.

Allowing the appeal, the Court

HELD : 1.1. The Controller as well as the High Court appear to have completely ignored the object of the Rent Control legislation and the scheme of the Act while dealing with the case of the appellants. The Controller was obliged to grant the leave and after affording the parties opportunity, adjudicate the rival claims. Thus the orders of the Rent Controller and that of the High Court suffers from inherent legal infirmities which are required to be set aside. [804-D; 805-G]

1.2. From the scheme of the Delhi Rent Control Act, it is evident that if tenant discloses ground and pleads a cause which *prima facie* is not baseless, unreal and unfounded, the Controller is obliged to grant him leave to defend his case against the eviction sought by the landlord. The enquiry envisaged for the purpose is a summary enquiry to *prima facie* find out the existence of reasonable grounds in favour of the tenant. If the tenant brings to the notice of the Controller, such facts as would disentitle the landlord from obtaining an order for recovery of possession, the Controller shall give him leave to contest. The law envisages the disclosure of facts and not the proof of the facts. [804-B-D]

2. Rent Controller filed to see the distinction between the Evacuee Property Act under which the order dated 30th March, 1954 was passed and the Enemy Property Act, 1968 regarding which letter Exhibit P-1 was issued intimating that the property, the subject matter of the litigation, had vested in the Custodian of Enemy Properties for India. [805-E]

3.1. The Rent Acts are intended to preserve social environment and promote social justice by safeguarding the interests of the tenants mainly and at the same time protecting the legitimate interests of the landlords. The provisions of the Rent Acts; therefore, may result in frustrating the object for which the legislation was made. It should be kept in mind that the Rent Acts undoubtedly lean more in favour of the tenants for whose benefit they were essentially passed. The rational approach in interpreting the law relating to the control of rents is expected from the courts dealing with the cases under the statutes relating to rent by keeping in mind the

A

B

C

D

E

F

G

H

A object of the legislation intended to provide social justice preventing unscrupulous landlord to their pressure under threat of eviction. [803-C-E]

3.2. Where the Rent Acts afford a real and sanctified protection to the tenant, the same should not be nullified by giving a hyper-technical or liberal construction to the language of the statute which instead of advancing the object of the Act may result in its frustration. [802-F]

Mangat Ram v. Kedar Nath, [1980] 4 SCC 276, relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3022 of 2000.

C From the Judgment and Order dated 16.4.99 of the Delhi High Court in C.R. No. 337 of 1998.

Bahar U. Bargi and Anis Suhrawardy for the Appellants.

D S.K. Mehta, Dhruv Mehta and Ms. Shobha for the Respondent.

The Judgment of the Court was delivered by

SETHI, J. Leave granted.

E Rent control legislations have been acknowledged to be pieces of social legislation which seek to strike a just balance between the rights of the landlord and the requirements of the tenants. Such legislations prevent the landlords from taking the extreme step of evicting the tenants merely upon technicalities or carved grounds. This Court in *Mangat Ram v. Kedar Nath*, [1980] 4 SCC 276 held that where the Rent Acts afford a real and sanctified protection to the tenant, the same should not be nullified by giving a hyper-technical or liberal construction to the language of the statute which instead of advancing the object of the Act may result in its frustration. The Rent Acts have primarily been enacted to give protection to the tenants.

G The history of the legislation regarding Rent Controls in the country would show that the Rent Acts were enacted to overcome the difficulties arising out of the scarcity of the accommodation which arose primarily due to the growth of industrialisation and commercialisation and inflow of the population to the urban areas. Such legislations were initially confined to the big cities like Bombay, Calcutta and Rangoon but their jurisdiction was gradually extended to other areas in the country. Because of scarcity of the

accommodation and gradual rise in the rents due to appreciation of the value of urban properties, the landlords were found to be in a position to exploit the situation for their unjustified personal gains which were consequently detrimental to the helpless tenants who were subjected to uncalled for litigation for eviction. It thus became imperative for the Legislature to intervene to protect the tenants against harassment and exploitation by the landlords for which appropriate legislations came to be passed by almost all the States and Union Territories in the country with the paramount object of essentially safeguarding the interest of tenants and for their benefit. The Rent Acts also made provision for safeguarding the interests of genuine landlords. The Rent Acts are intended to preserve social environment and promote social justice by safeguarding the interests of the tenants mainly and at the same time protecting the legitimate interests of the landlords. The provisions of the Rent Acts are, therefore, not required to be interpreted in a hyper-technical manner which in cases may result in frustrating the object for which the legislation was made. It should be kept in mind that the Rent Acts undoubtedly lean more in favour of the tenants for whose benefits they were essentially passed. The rational approach in interpreting the law relating to the control of rents is expected from the courts dealing with the cases under the statutes relating to rent by keeping in mind the object of the legislation intended to provide social justice preventing unscrupulous landlord to exploit the circumstances and force the tenants to submit to their pressure under the threat of eviction.

Delhi Rent Control Act (hereinafter referred to as "the Act") has also been enacted to provide for the control of rents and evictions of the tenants from the premises covered by the Act. Section 2(e) and (l) define 'landlord' and 'tenant' respectively. Section 14 provides protection to the tenants against eviction. Eviction against a tenant can be ordered by the Rent Controller only on the grounds specified in various clauses and sub-sections of the said Section. Section 14(A) to 14(D) confer rights upon the landlord to recover immediate possession of premises on the grounds mentioned therein. Section 15 specifies the circumstances where the tenant can get protection against his eviction. If the eviction of the tenant is sought under Section 14(1)(e) of the Act, as was the prayer made by the respondent herein, the tenant of the premises upon service of the summons can pray to obtain leave from the Controller to defend the case. Sub-section (5) of Section 25B provides:

A

B

C

D

E

F

G

H

A "25B(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in clause (e) of the proviso to sub-section (1) of Section 14, or under Section 14-A."

B From the scheme of the Act it is evident that if tenant discloses grounds and pleads a cause which *prima facie* is not baseless, unreal and unfounded, the Controller is obliged to grant him leave to defend his case against the eviction sought by the landlord. The enquiry envisaged for the purpose is a summary enquiry to *prima facie* find out the existence of reasonable grounds in favour of the tenant. If the tenant brings to the notice of the Controller, such facts as would disentitle the landlord from obtaining an order for recovery of possession, the Controller shall give him leave to contest. The law envisages the disclosure of facts and not the proof of the facts. In the instant case the Controller as well as the High Court appear to have completely ignored the object of the Rent Control legislation and the scheme of the Act while dealing with the case of the appellants.

C The facts in the present case are that the respondent claiming to be the owner on the basis of a sale deed executed in his favour on 25th November, 1991 registered on 27th November, 1991, filed a petition seeking eviction of the appellants on the ground of his bona fide requirement as contemplated under Section 14(1)(e) read with Section 25B of the Act. The claim of the landlord was resisted by the appellants on the ground that the property, the subject matter of litigation, is vested in the Custodian of Enemy Properties for India which could not be alienated or sold to the respondent-landlord. Reliance was placed on Section 18 of the Enemy Properties Act, 1968. It was further pleaded that under Section 19 of the said Act the Rent Controller had no jurisdiction. The appellants further submitted that the sale deed in favour of the respondent was not legal and genuine as the same was allegedly made by persons who had become Pakistani nationals and had thus legally forfeited their title, rights and interests in the property. The appellants further pleaded that they had become owner of the property by adverse possession.

D Appearings for the appellants Shri Bargi, learned Advocate has submitted that his clients forego their claim of being the owners of the property by adverse possession and restrict their claim to be the tenants

thereof having a right to resist the claim of the respondent and to remain in possession of the property in accordance with the provisions of law applicable in the case.

In support of their case the appellants had relied upon Annexure P-1 which was an intimation by the Custodian of Enemy Properties for India to the grandfather of the appellants to the effect that the property had vested in the custodian of enemy properties for India. The aforesaid communication read as under:

“With reference to your letter dated 30.9.70 I have to state that the above premises vests in the Custodian of Enemy Property for India. The Tehsildar, Tis Hazari, Delhi has been authorised by the Custodian to collect rent in respect of the premises. You are, therefore, requested to pay the rent to the above mentioned Tehsildar against his official receipt under intimation to this office.”

The Rent Controller negatived the plea of the appellants by taking into consideration order dated 30th March, 1954 passed by the Assistant Custodian (Judicial) in relation to the premises whereby property No.1761 situated at Ward No.XIX, Delhi had declared as non evacuee property. It appears that the Rent Controller failed to see the distinction between the Evacuee Property Act under which the order dated 30th March, 1954 was passed and the Enemy Property Act, 1968 regarding which letter Exhibit P-1 dated 15th October, 1970 was issued intimating that the property, the subject matter of the litigation, had vested in the Custodian of Enemy Properties for India. The question as to whether the property had actually vested or not, the consequence of its vesting or non-vesting and the authenticity of the sale deed relied upon by the respondent, were the questions which could be determined only at the trial after the appellants were granted leave to contest the claim of the respondent-landlord. The pleas raised by the appellants could not, in any way, be termed to be frivolous, baseless, unreal and unfounded. If that be the position, the Controller was obliged to grant the leave and after affording the parties opportunity, adjudicate the rival claims. Thus the orders of the Rent Controller and that of the High Court suffers from inherent legal infirmities which are required to be set aside.

Under the circumstances the appeal is allowed by setting aside the order of the Rent Controller dated 22.10.1997 and that of the High Court dated 16.4.1999, impugned in this appeal. The appellants herein are granted leave

A

B

C

D

E

F

G

H

A to defend the eviction petition in terms of the provisions of the Act. The Rent Controller is, however, directed to expedite the disposal of the petition filed by the respondent-landlord after affording the parties reasonable opportunity of proving their cases. No costs.

K.K.T.

Appeal allowed.

B