Supreme Court of India
Anand Swaroop Vohra vs Bhim Sen Bhari on 21 July, 1994
Equivalent citations: 1994 SCC (5) 372, JT 1994 (4) 412
Author: M M.K.
Bench: Mukherjee M.K. (J)

PETITIONER:
ANAND SWAROOP VOHRA

Vs.

RESPONDENT:
BHIM SEN BHARI

DATE OF JUDGMENT21/07/1994

BENCH:
MUKHERJEE M.K. (J)
BENCH:
MUKHERJEE M.K. (J)
MOHAN, S. (J)

CITATION:
1994 SCC (5) 372 JT 1994 (4) 412
1994 SCALE (3)414

ACT:

HEADNOTE:

JUDGMENT:

The Judgment of the Court was delivered by M.K. MUKHERJEE, J.- Special leave granted.

2. This appeal is directed against the judgment and order of the Delhi High Court dated 27-4-1992 dismissing the application filed by the appellant under Section 25-B(8) of the Delhi Rent Control Act, 1958 ('Act' for short) for revision of the order of the Rent Controller, Delhi dated 14-2-1992 rejecting his application for recovery of possession of his tenanted premises made on the ground specified in Section 14-C(1) of the Act.

3. The appellant and his brother, the respondent 2 herein, are the owners of House No. 65/11, New Rohtak Road, New Delhi. They let out its entire ground floor (except the garage) to the Respondent 1 (hereinafter referred to as the 'tenant') in 1959 at a monthly rental of Rs 300. The appellant, who was an employee of the Central Government, retired on 30-4-1987 and shifted, consequent thereto, from the government quarters allotted to him, to the first floor of the house. Respondent 2, who was

also an employee of the Central Government, had earlier shifted to the first floor on his retirement in 1982. Thereafter in 1989 he (the appellant) filed an application under Section 25-B(1) of the Act read with Section 14-C(1) of the Act before the Rent Controller, Delhi seeking eviction of the tenant on the ground that the accommodation available to him and his family members on the first floor was not sufficient.

4. On receipt of the summons of the application the tenant entered appearance and sought and obtained leave to contest the same on the grounds that the accommodation available to the appellant was more than sufficient and that, in any case, the sufficiency or insufficiency of accommodation could not be gone into in an application under Section 14-C.

5. After hearing the parties, the Controller rejected the application solely on the basis of the judgment of the Delhi High Court in Madan Lal Lamba v. Tarlok Singh Sehgall wherein it has been held, relying upon the judgment of this Court in Narain Khamman v. Parduman Kumar Jain2 that where a retired government employee is in possession of an independent dwelling 1 43 (1991) DLT 624 2 (1985) 1 SCC 1 :(1985) 1 SCR 1025 unit he is not entitled to file an application under Section 14-C of the Act and that in such an application the Controller is not entitled to take into consideration the size of the family of the landlord and sufficiency or insufficiency of the accommodation in his occupation because those considerations can prevail only in an eviction petition filed in accordance with clause (e) of the proviso to Section 14(1) of the Act.

6. Aggrieved by the rejection of his application the appellant filed a revisional application in the Delhi High Court which was summarily rejected in view of its decision in Madan Lal Lamba I. Hence this appeal.

7. Before we proceed to consider the points raised by the learned counsel for the parties it will be convenient to refer to the relevant provisions of the Act. The Act applies to the premises which are defined by Section 2(i) of the Act as meaning, inter alia, any building or part of a building which is, or is intended to be, let separately for use as a residence or for commercial use or for any other purpose. Chapter III of the Act comprising Sections 14 to 25, relates to "control of eviction of tenants"; and Section 14(1) thereof lays down that notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any court or Controller in favour of the landlord against a tenant. However, the various clauses of the proviso thereto lay down certain grounds on which only such recovery of possession can be ordered and clause (e) thereof permits eviction of a tenant if the premises let for residential purposes are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent upon him provided that the landlord is the owner of the premises and he has no other reasonably suitable residential accommodation.

8. By Ordinance 24 of 1975, which was promulgated on 1-12- 1975, and Delhi Rent Control (Amendment) Act, 1976 (Act 18 of 1976), which replaced the former, certain changes were introduced in the Act. Section 14-A was inserted in Chapter III providing certain rights to a person occupying residential premises allotted to him by the Central Government or any other local

authority in that if he is required to vacate such residential accommodation on the ground that he owns in the Union Territory of Delhi, a house in his name or in the name of his spouse or dependent children, he can recover immediate possession of his premises let out by him notwithstanding anything contained elsewhere in the Act or in any other law for the time being in force. However, in view of the proviso to sub-section (1) of the above section, if such person owns in the Union Territory of Delhi two or more dwelling houses, either in his own name or in the name of his wife or dependent child, he cannot recover possession of more than one of such dwelling houses and he has to select one of them. Chapter HI-A, containing Sections 25-A to 25-C, was simultaneously introduced by the above Amending Act to provide summary trial of the applications filed by the landlords cliff (sic) under Section 14-A and also applications filed by other landlords for bona fide requirement of their premises under Section 14(1)(e) of the Act.

9. The Act was again amended in 1988 by the Amending Act 57 of 1988 to carve out some more classes of landlords to enable them to recover immediate possession of the premises let out by them through introduction of Sections 14-B to 14- D. While released or retired persons from armed forces or the dependents of the members of armed forces who had been killed in action are covered by Section 14-B, the retired employees of the Central Government and of the Delhi Administration are covered by Section 14-C and widows are covered by Section 14-D. The landlords classified in Sections 14-B, 14-C and 14-D have also been given the benefit of invoking the summary trial under Chapter III-A. Section 14-C of the Act with which we are mainly concerned in this appeal reads as under:

> "14-C. (1) Where the landlord is a retired employee of the Central Government or of the Delhi Administration, and the premises let out by him are required for his own residence, such employee may, within one year from the date of his retirement or within a period of one year from the date of commencement of the Delhi Rent Control (Amendment) Act, 1988, whichever is later, apply to the Controller for recovering the immediate possession of such premises.
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> (2)Where the landlord is an employee of the Central Government or of the Delhi Administration and has a period of less than one year preceding the date of his retirement and the premises let out by him are required by him for his own residence after his retirement he may, at any time within a period of one year before the date of his retirement, apply to the Controller for recovering the immediate possession of such premises. (3) Where the landlord referred to in sub- section (1) or sub-section (2) has let out more than one premises, it shall be open to him to make an application under that sub- section in respect of only one of the premises chosen by him."

10.The learned counsel for the appellant submitted that the Controller and the High Court failed to appreciate that Madan Lal case1 had no manner of application to the instant case having regard to the distinct and different language of Sections 14-A and 14-C and its allied Sections 14-B and 14- D. Besides, the learned counsel submitted, the later judgment of this Court in Surjit Singh Kalra v. Union of India3 clearly laid down that in an application filed under Section 14-B, Section 14-C or Section 14-D the tenant's right to contest the application was restricted to the parameters of the

respective sections and that he could not widen the scope of his defence by relying upon Section 14(1)(e). In other words, according to the learned counsel for the appellant, the rights conferred upon the classified landlords under Sections 14-B to 14-D are different from and independent of the rights under Section 14(1)(e). Resultantly, the principles laid down in the case of Narain Khamman2 would not have any manner of application herein, argued the learned counsel.

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11. In responding to the above submissions, the teamed counsel for the tenant strongly urged that once it was established that the appellant had in his possession a dwelling unit, which answered the description of premises within the meaning of Section 2(i) of the Act, he could not invoke the special provisions of Section 14-C of the Act and that if he felt that the accommodation was insufficient be could only take resort to the provisions of Section 14(1)(e). According to the learned counsel as the provisions of Sections 14-A to 14-D were pari materia the principle laid down by this Court in the case of Narain Khamman2 and quoted with approval in S.P. Jain v. Krishna Mohan Gupta4 would squarely apply.

12.The questions which came up for consideration in Narain Khamman case2 were, (i) whether a government servant, who, consequent upon service of a notice upon him in accordance with Section 14-A(1) of the Act had already vacated the government accommodation and shifted to other premises belonging to him, could still invoke the summary jurisdiction of Chapter III-A of the Act to evict his tenant and, if so, (ii) whether he could maintain such application on the ground that the accommodation available to him was not sufficient. In answering these questions this Court laid down the following three propositions:

> "(1) It is not necessary that a person in occupation of residential premises allotted to him by the Central Government or a local authority who is required by or in pursuance of a general or special order made by that Government or authority to vacate such accommodation or, in default, to incur certain obligations, such as payment of market rent, on the ground that he owns in the Union Territory of Delhi a residential accommodation either in his own name or in the name of his wife or dependent child should be in occupation of the accommodation allotted to him on the date when he files an eviction application under Section 14-A(1) of the Delhi Rent Control Act, 1958, to recover possession of the residential premises which he so owns and which has been let by him.
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> (2)If such person has, however, other premises which he owns either in his own name or in the name of his wife or dependent child which are available to him for his residential accommodation or into which he has already moved, he cannot maintain an application under Section 14-A(1) of the Act.
>
> (3)Even if the other premises owned by him either in his own name or in the name of his wife or dependent child are not reasonably suitable for his accommodation, he cannot maintain an application under Section 14-A(1) but must file an application on

> the ground specified in clause (e) of the proviso to sub- section (1) of Section 14 of the Act."

13. In S.P. Jain case4 this Court referred to and relied upon Narain Khamman case2 while dealing with and disposing of an application made 4 (1987) 1 SCC 191 : (1987) 1 SCR 411 under Sections 24-A, 24-B of the U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 with the following words:

> "Narain Khamman v. Parduman Kumar Jain2 was dealing with Section 14-A of the Delhi Rent Control Act, 1958 which is more or less similar to the section involved in the present appeal. At page 1032 of the report the position has been discussed. There it was observed that if a person had, however, other premises which he owned either in his own name or in the name of his wife or dependent child, which were available to him for residential accommodation or into which he had already moved in, he could not maintain an application under Section 14-A of the Delhi Rent Control Act."

14.From a plain reading of Section 14-C of the Act it is evident that an employee of the Central Government or Delhi Administration who is retired or is on the verge of retirement can recover immediate possession of his tenanted premises if the same are required by him for his own residence, by filing an application before the Rent Controller within the time prescribed under sub-sections (1) and (2), as the case may be. However, if such a person has more than one tenanted premises he has to confine his requirement in respect of only one such premises, according to his choice.

15.It is not in dispute that after retirement from the Central Government service the appellant herein filed an application in accordance with sub-section(1) of Section 14- C within the period prescribed therein on the ground that he required the premises let out to the tenant for his own residence as the accommodation available to him on the first floor of the house in question was insufficient. It is not the case of the tenant also that except the premises let out to him, the appellant has other tenanted premises. In the context of these undisputed facts the only question that falls for our consideration in this appeal is whether the application could be rejected on the basis of the principles laid down by this Court in Narain Khamman case2. Having given our careful consideration to all aspects of the matter we feel no hesitation in answering the question in the negative for more than one reason.

16.The language of Section 14-C is clear, plain and unambiguous and it admits of only one meaning, to wit, an employee of the Central Government or Delhi Administration who is retired or is due to retire can exercise his right to recover immediate possession of his tenanted premises within the time prescribed, if he requires the same for his own residence but if he has more than one such premises his requirement must be limited to one of his choice. As the appellant's application fulfilled all the requirements of the above section it could not be, therefore, rejected as not maintainable.

17.We next find that in following the principles laid down by this Court in Narain Khamman case2 the Delhi High Court observed in Madan Lal case 1 that there was no dispute that the summary procedure for eviction prescribed under Sections 14-A, 14-B, 14-C and 14-D was pari materia. If Section 14-A is read in juxtaposition with the other sections, namely, 14-B, 14-C and 14-D it will be obvious that the above observation is incorrect. While the former speaks of only the right of a landlord, who has been served with a notice to vacate the Government accommodation allotted to him, to recover immediate possession of his tenanted premises without reference to his requirement of such premises for his own residence, the exercise of right under the latter is dependent upon such requirement. On a careful perusal of the judgment in Narain Khamman case2 we find that absence of any such requirement' clause in Section 14-A primarily weighed with this Court in laying down the principles formulated therein.

18. The last and the most formidable reason for which the orders under challenge cannot be sustained is the decision of this Court in Surjit Singh case3 wherein this Court had to consider the provisions of Sections 14-B to 14-D, in general and Section 14-B in particular with reference to Section 14(1)(e). In so doing the Court first considered the rights of the landlords classified under Sections 14-B to 14-D vis-a-vis Section 14(1)(e) and observed as follows: (SCC pp. 92-93, para 9) "Before the introduction of Sections 14-B to 14-D Section 14(1)(e) was the only remedy available to all landlords except those covered under Section 14-A to recover possession of their premises. The Controlle r shall give the tenant leave to contest the applications, if the tenant in his affidavit discloses such facts as would disentitle the landlords from obtaining an order for recovery of possession of the premises on the grounds specified under Section 14(1)(e). It is but natural when the landlord brings an action for recovery of possession of the premises covered under Section 14(1)(e), the tenant has the legitimate right to show that the landlord does not qualijy under or satisfy the requirements of Section 14(1)(e). But today the remedy under Section 14(1)(e) is available only to landlords in general or the landlords who are not classified landlords under Sections 14-B to 14-D. The classified landlords have been conferred with certain rights which are different from and independent of the rights under Section (sic) 14(1)(e)."

(emphasis supplied)

19. The Court then deliberated upon the contention of the tenant that notwithstanding the independent and specified rights of the classified landlords provided under Sections 14-B to 14-D, Section 14(1)(e) was the weapon of defence for the tenant even against such applications and negatived the same with the following, amongst other, observations: (SCC p. 98, para 18) "When an application is filed under Section 14-B, a copy of the application should be sent to the tenant by making necessary amendment to the prescribed form and omitting the other references which are not relevant. If the application is filed under Section 14-B, the summons should state that the application is filed under Section 14-B, and not under Section 14(1)(e) or 14-A. Likewise if the applications are under Sections 14-C to 14-D, the summons should state accordingly. That would indicate the scope of the defence of the tenant for obtaining leave referred to in sub-section (5) of Section 25- B. Under sub-section (5), the tenant could contest the application by obtaining leave with reference to the particular claim in the application of the landlord depending upon whether it is under Section 14-A, 14-B, 14-C or 14-D or under Section 14(1)(e). The tenant cannot be allowed to

take up defence under Section 14(1)(e) as against an application under Section 14-B. There cannot be any defence unconnected with or unrelated to the claim or right of the plaintiff or applicant. That would be against our jurisprudence. It is unlikely that the legislature intended the result for which the counsel for the tenant contended. It will be a mechanical interpretation of the enactment defeating its purpose. Such an interpretation has never found favour with the courts which have always adopted a purposive approach to the interpretation of statutes. Section 14-B and other allied provisions ought to receive a purposeful construction and sub-section (5) of Section 25-B should be so construed as to implement the object and purpose of Sections 14-B to 14-D. It is the duty of the court to give effect to the intention of the legislature as expressed in Sections 14-B to 14-D."

(emphasis supplied) However, while laying down that a defence under Section 14(1)(e) was not available to a tenant against applications made under Sections 14-B to 14-D, this Court hastened to add: (SCC p. 99, para 20) "The tenant of course is entitled to raise all relevant contentions as against the claim of the classified landlords. The fact that there is no reference to the word bona fide requirement in Sections 14-B to 14-D does not absolve the landlord from proving that his requirement is bona fide or the tenant from showing that it is not bona fide. In fact every claim for eviction against a tenant must be a bona fide one. There is also enough indication in support of this construction from the title of Section 25-B which states 'special procedure for the disposal of applications for eviction on the ground of bona fide requirement'."

20. On the conclusion as above, we set aside the impugned orders and direct the Rent Controller to dispose of the application filed by the appellant in accordance with law and in the light of the observations made hereinbefore. The appeal is thus allowed with costs.