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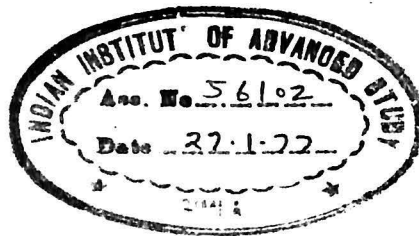


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Schedule

COMMENTARIES

on

THE EAST PUNJAB URBAN RENT RESTRICTION ACT, 1949.

EAST PUNJAB ACT NO. III OF 1949.

[Received the assent of His Excellency the Governor on the 23rd March, 1949, and first published in the East Punjab Government Gazette (Extraordinary) of March 25, 1949.]

1	2	3	4
Year	No.	Short title	Whether repealed or otherwise affected by legislation.
1949 ...	III	The East Punjab Urban Rent Restriction Act, 1949.	Amended in part by East Punjab Act XIII of 1949 ² Amended in part by Punjab Act XVII of 1950 ³ Amended in part by Adaptation of Laws Order, 1950 Amended by Punjab Act XLIII of 1953 ⁴ Amended by Punjab Act XXIX of 1956 ⁵

An Act to restrict the increase of rent of certain premises situated within the limits of urban areas, and the eviction of tenants therefrom.

It is hereby enacted as follows :—

1. (1) This Act may be called the East Punjab Urban Rent Restriction Act, 1949.

(2) It extends to all urban areas in ⁶[Punjab], but nothing herein contained shall be deemed to affect the regulation of house accommodation in any Cantonment area.

(3) It shall come into force atonce.

Short title,
extent and
commence-
ment.

¹For Statement of Objects and Reasons, see *East Punjab Government Gazette* (Extraordinary), 1948, page 558-F ; for proceedings in the Assembly, see *East Punjab Legislative Assembly Debates*, Volume III, 1949, pages 631-37.

²For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1950, page 840 ; for proceedings in the Assembly, see *East Punjab Legislative Assembly Debates*, Volume III, 1949, pages (24) 100—(24) 102 and (25) 51—(25) 69. (Contd : see next page)

Comentary :

Urban areas :—See definition under Section 2 (j). It gives any area administered by a municipal committee, a cantonment board, a town committee or a notified area or any area declared by notification to be urban for the purpose of this Act.

It specifically includes areas administered by a cantonment board. But when we go to read the subsequent part of sub-section (2) which says that nothing herein contained shall be deemed to affect the regulatin of house accommodation in any cantonment area we find that some restriction has been placed as is given in *Sunder Singh v Faqir Chand A. I. R. 1948 E. P. 47*. "All that the words nothing herein contained shall be deemed to affect the regulation of house accommodation in any cantonment area" means that the provisions of the Rent Restriction Act shall have no effect upon the action that the cantonment authorities may take in that connection.

Definitions. **2.** In this Act, unless there is anything repugnant in the subject or context,—

³For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1950, page 840 ; for proceedings in the Assembly, see *East Punjab Legislative Assembly Debates*, Volume II, 1950, pages (4) 42—(4) 43. This Act while repealing Ordinance No. 6 of 1950, saved anything done or any action taken in exercise of any power conferred by or under the said Ordinance by deeming it to have been done or taken in exercise of the powers conferred by or under this Act.

⁴For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1953, page 1116.

⁵For Statement of Objects and Reasons, see *Punjab Government Gazette* (Extraordinary), 1956, pages 1243 to 1245.

⁶Substituted for the words "East Punjab" by the Adaptation of Laws Order, 1950.

- (a) "building" means any building or part of a building let for any purpose whether being actually used for that purpose or not, including any land, godowns, out-houses, or furniture let therewith, but does not include a room in a hotel, hostel or boarding house ;
 - (b) "Controller" means any person who is appointed by the State Government to perform the functions of a Controller under this Act ;
 - (c) "landlord" means any person for the time being entitled to receive rent in respect of any building or rented land whether on his own account or on behalf, or for the benefit, of any other person, or as a trustee, guardian, receiver, executor or administrator for any other person, and includes a tenant who sublets any building or rented land in the manner hereinafter authorized, and, every person from time to time deriving title under a landlord ;
 - (d) "non-residential building" means a building being used solely for the purpose of business or trade ;
- Provided that residence in a building only for the purpose of guarding it shall not be deemed to convert a "non-residential building" to a "residential building";
- (e) "prescribed" means prescribed by rules made under this Act ;
 - (f) "rented land" means any land let separately for the purpose of being used principally for business or trade ;
 - (g) "residential building" means any building which is not a non-residential building ;

(h) "scheduled building" means a residential building which is being used by a person engaged in one or more of the professions specified in the Schedule to this Act, partly for his business and partly for his residence ;

(i) "tenant" means any person by whom or on whose account rent is payable for a building or rented land and includes a tenant continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building or rented land by its tenant, unless with the consent in writing of the landlord, or a person to whom the collection of rent or fees in a public market, cart-stand or slaughter-house or of rents for shops has been farmed out or leased by a municipal, town or notified area committee ; and

(j) "urban area" means any area administered by a municipal committee, a cantonment board, a town committee or a notified area committee or any area declared by the State Government by notification to be urban for the purpose of this Act.

Commentary :

2. (i) *Tenant includes a tenant continuing in possession after the termination of the tenancy in his favour.*

According to the Act, a tenant whose period of tenancy has expired as agreed between the landlord or tenant or according to the terms of the lease deed whether before or after coming into force of this Act, a right has been conferred on the tenant of continuing in possession of the premises as a

tenant even though according to the original terms of the lease he ceased to be a tenant and could be ejected in the absence of this Act.

Therefore the word tenant as used in the Act must be taken to include an ex-tenant and the landlord an ex-landlord. See *M. Y. Mahmood v. Kirala Corporation Ltd.*, A. I. R. 1946 Mad. 181.

The various ruling on this subject are given below :—

Sm. Sant Kuer v. Ganesh Chaudury A.I.R. 1949 Pat. 137.

Tenant after service of notice of ejectment.

B. Rangaswami Naidu v. Vummidi Bangaru Chetty A. I. R. 1949 Mad. 139.

Tenant against whom a valid decree for ejectment has been passed. Also see A. I. R. 1945 Pat. 385.

Sukumari Devi v. Rajdhari Pandey A. I. R. 1942 Cal. 49.
A tenant continuing in possession after expiry of the tenancy.

Also see A. I. R. 1948 Mad. 139.

Tenant whose tenancy has expired by efflux of time still continues to be a tenant. A. I. R. 1946 Cal. 81, 49 C. W. N. 430, 48 C. W. N. 711, A.I.R. 1923 Bom. 387 and A.I.R. 1922 Cal. 391.

Sub-tenant :—In the later part of the definition of tenant we find that the word tenant also includes a person placed in occupation of a building or rented land by its tenant with the consent of the landlord in writing. Therefore a tenant can sublet a portion of his tenancy with the consent of the landlord in writing to a sub-tenant. See *Puran Chand Velraj v. Bombay Cloth Market Co., Ltd.*, A. I. R. 1943 Bom. 141.

3. The State Government may direct that all or any of the provisions of this Act shall not apply to any particular building or rented land or any class of buildings or rented lands. Exemption

4. (1) The Controller shall on application by the tenant or landlord of a building or rented land fix the fair rent for such building or rented land after holding such inquiry as the Controller thinks fit. Determination of fair rent.

(2) In determining the fair rent under this section, the Controller shall first fix a basic rent taking into consideration—

(a) the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to the 1st January, 1939 ; and

(b) the rental value of such building or rented land if entered in property tax assessment register of the municipal, town or notified area committee, cantonment board, as the case may be, relating to the period mentioned in clause (a) :

[Provided that, notwithstanding anything contained in sub-sections (3), (4) and (5), the fair rent for any building in the urban area of Simla shall not exceed the basic rent.]

(3) In fixing the fair rent of a residential building the Controller may allow, if the basic rent—

(i) in the case of a building in existence before the 1st January, 1939—

- (a) does not exceed Rs. 25 per mensem, an increase not exceeding $8\frac{1}{3}$ per cent on basic rent ;
- (b) exceeds Rs. 25 per mensem but does not exceed Rs. 50 per mensem, an increase not exceeding $12\frac{1}{2}$ per cent on such basic rent ;
- (c) exceeds Rs. 50 per mensem, an increase not exceeding 25 per cent on such basic rent ;
- (ii) in the case of a building constructed on or after the 1st January, 1939—
 - (a) does not exceed Rs. 25 per mensem, an increase not exceeding 25 per cent on such basic rent ;
 - (b) exceeds Rs. 25 but does not exceed Rs. 50 per mensem, an increase not exceeding $37\frac{1}{2}$ per cent on such basic rent ;
 - (c) exceeds Rs. 50 per mensem, an increase not exceeding 50 per cent on such basic rent.

(4) In fixing the fair rent of a scheduled building the Controller may allow, in the basic rent—

- (i) in the case of a building in existence before the 1st January, 1939—
 - (a) does not exceed Rs. 25 per mensem, an increase not exceeding $13\frac{1}{3}$ per cent on such basic rent ;
 - (b) exceeds Rs. 25 but does not exceed Rs. 50 per mensem, an increase not exceeding $17\frac{1}{2}$ per cent on such basic rent ;
 - (c) exceeds Rs. 50 per mensem, an increase not exceeding 30 per cent on such basic rent ;
- (ii) in the case of a building constructed on or after the 1st January, 1939—

- (a) does not exceed Rs. 25 per mensem, an increase not exceeding 30 per cent on such basic rent ;
 - (b) exceeds Rs. 25 but does not exceed Rs. 50 per mensem, an increase not exceeding $42\frac{1}{2}$ per cent on such basic rent ;
 - (c) exceeds Rs. 50 per mensem, an increase not exceeding 55 per cent on such basic rent.
- (5) In fixing the fair rent of a non-residential building or rented land the Controller may allow, if the basic rent—
- (i) in the case of a building in existence before the 1st January, 1939, or in the case of rented land—
 - (a) does not exceed Rs. 50 per mensem, an increase not exceeding $37\frac{1}{2}$ per cent on such basic rent ;
 - (b) exceeds Rs. 50 per mensem, an increase not exceeding 50 per cent on such basic rent ;
 - (ii) in the case of a building constructed after the 1st January, 1939—
 - (a) does not exceed Rs. 50 per mensem, an increase not exceeding 50 per cent on such basic rent ;
 - (b) exceeds Rs. 50 per mensem, an increase not exceeding Rs. 100 per cent on such basic rent.
- (6) Nothing in this section shall be deemed to entitle the Controller to fix the fair rent of a building or rented land at an amount less than the rent payable for such building or rented land under a subsisting lease entered into before the first day of January, 1939.

Commentary:

Fair rent :—The Rent Controller can on the application of the landlord or tenant fix the fair rent of a building or rented land according to the method prescribed by Section 4.

On an application being made to him he shall hold an inquiry as he deems fit and first fix basic rent and then alone would allow the increase of certain percentage as prescribed in the Section.

Basic rent :—In fixing the basic rent the Controller shall take into consideration (1) the rates prevailing in the locality for the same or similar accommodation in similar circumstances during the twelve months prior to the 1st January, 1939, and (2) the rental value of such building or rented land if entered in property tax assessment register of Municipal Committee or Cantonment Board as the case may be relating to the period twelve months prior to the 1st January, 1939.

Retrospective effect :—A landlord can apply for fixation of fair rent during currency of a lease and can claim it only after its fixation by the Rent Controller without any retrospective effect to the date of the lease. After the fixation of fair rent, the Landlord is entitled to an order of eviction if the tenant does not pay rent at the rate fixed by the Controller.

Date on which order fixing standard rent takes effect see A. I. R. 1954 Punjab 208 D. B.

Increase in
fair rent in
what case
admissible.

5. When the fair rent of a building or rented land has been fixed under section 4, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense and if the building or rented land is then in the occupation of a tenant, at his request :

Provided that the fair rent as increased under this section shall not exceed the fair rent payable under this Act for a similar building or rented land in the same locality with such addition, improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed :

Provided further that any dispute between the landlord and tenant in regard to any increase claimed under this section shall be decided by the Controller :

Provided further that nothing in this section shall apply to any periodical increment of rent accruing under any subsisting agreement entered into before the first day of January, 1939.

Commentary :

Scope of the section :—Once a fair rent is fixed there can never be any further increase in rent except as provided by this section. The increase permissible is only in cases where some additions, improvements or alterations have been carried out at the landlord's expense with the consent or at the request of the tenant.

The first proviso to the section says that the increased rent shall not exceed the fair rent payable under this Act for a similar building in the same locality with such additions, improvements or alterations. It shall not be chargeable until they have been completed.

This section comes into operation if the fair rent has once been fixed.

Landlord
not to
claim any-
thing in
excess of
fair rent.

6. (1) Save as provided in section 5, when the Controller has fixed the fair rent of a building or rented land under section 4—

(a) the landlord shall not claim or receive any premium or other like sum in addition to fair rent or any rent in excess of such fair rent, but the landlord may stipulate for and receive in advance an amount not exceeding one month's rent ;

(b) any agreement for the payment of any sum in addition to rent or of rent in excess of such fair rent shall be *null and void*.

(2) Nothing in this section shall apply to the recovery of any rent which became due before the 1st day of January, 1939.

Commentary :

Date of operation :—See *Nandu Ram v Jagan Nath Parshotam Das A. I. R. 1953 Him. Prad 55.*

7. (1) No landlord shall in consideration of the grant, renewal or continuance of a tenancy of any building or rented land require the payment of any fine, premium or any other like sum in addition to the rent.

Fine or premium not to be charged for grant renewal or continuance of tenancy

(2) Nothing in this section shall apply to any payment under any subsisting agreement entered into before the 1st day of January, 1939.

8. (1) Where any sum has, whether before or after the commencement of this Act, been paid which sum is by reason of the provisions of this Act irrecoverable, such sum shall, at any time within a period of six months after the date of the payment, or in the case of a payment made before the commencement of this Act, within six months after the commencement thereof, be recoverable by the tenant by whom it was paid or his legal representative from the landlord who

Rent which should not have been paid may be recovered.

received the payment or his legal representative, and may without prejudice to any other method of recovery be deducted by such tenant from any rent payable within such six months by him to such landlord.

(2) In this section the expression "legal representative" has the same meaning as in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which the deceased person was a member.

Increase of rent on account of payment of rates, etc., of local authority, but rent not to be increased on account of payment of other taxes, etc.,

9. (1) Notwithstanding anything contained in any other provision of this Act a landlord shall be entitled to increase the rent of a building or rented land if after the commencement of this Act a fresh rate, cess or tax is levied in respect of the building or rented land by any local authority, or if there is an increase in the amount of such a rate, cess or tax being levied at the commencement of the Act :

Provided that the increase in rent shall not exceed the amount of any such rate, cess or tax or the amount of the increase in such rate, cess or tax, as the case may be.

(2) Notwithstanding anything contained in any law for the time being in force or any contract, no landlord shall recover from his tenant the amount of any tax or any portion thereof in respect of any building or rented land occupied by such tenant by any increase in the amount of the rent payable or otherwise, save as provided in sub-section (1).

Landlord not to interfere with amenities enjoyed by the tenant.

10. (1) No landlord shall, without just or sufficient cause, cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in occupation of a building or rented land may, if the landlord has contravened the provisions of this section, make an application to the Controller complaining of such contravention.

(3) If the Controller on enquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the landlord without just or sufficient cause, he shall make an order directing the landlord to restore such amenities.

11. No person shall convert a residential building into a non-residential building except with the permission in writing of the Controller.

Conversion
of a
residential
building
into a non-
residential
building.

12. If a landlord fails to make the necessary repairs to a building other than structural alterations, it shall be competent for the Controller to direct on application by the tenant, and after such inquiry as the Controller may think necessary, that such repairs may be made by the tenant, and that the cost thereof may be deducted from the rent which is payable by him.

Failure by
landlord to
make
necessary
repairs.

13. (1) A tenant in possession of a building or rented land shall not be evicted therefrom in execution of a decree passed before or after the commencement of this Act or otherwise and whether before or after the termination of the tenancy, except in accordance with the provisions of this section, or in pursuance of an order made under section 13 of the Punjab Urban Rent Restriction Act, 1947, as subsequently amended.

Eviction
of
tenants.

(2) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the applicant, is satisfied—

- (i) that the tenant has not paid or tendered the rent due by him in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the

last day of the month next following that for which the rent is payable :

Provided that if the tenant on the first hearing of the application for ejectment after due service pays or tenders the arrears of rent and interest at six per cent per annum on such arrears together with the cost of application assessed by the Controller, the tenant shall be deemed to have duly paid or tendered the rent within the time aforesaid,

- (ii) that the tenant has after the commencement of this Act without the written consent of the landlord—
 - (a) transferred his right under the lease or sub-let the entire building or rented land or any portion thereof ; or
 - (b) used the building or rented land for a purpose other than that for which it was leased, or
 - (iii) that the tenant has committed such acts as are likely to impair materially the value or utility of the building or rented land, or
 - (iv) that the tenant has been guilty of such acts and conduct as are a nuisance to the occupiers of buildings in the neighbourhood, or
 - (v) that where the building is situated in a place other than a hill station, the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause,
- the Controller may make an order directing the tenant to put the landlord in possession of the building or rented land and if the Controller is not so satisfied he shall make an order rejecting the application :

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not to exceed three months in the aggregate.

(3) (a) A landlord may apply to the Controller for an order directing the tenant to put the landlord in possession—

(i) in the case of a residential building, if—

(a) he requires it for his own occupation ;

(b) he is not occupying another residential building, in the urban area concerned ; and

(c) he has not vacated such a building without sufficient cause after the commencement of this Act, in the said Urban area ;

(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 ;

(iii) 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 ;

(iv) in the case of any residential building, if he requires it for use as an office or consulting room by his son who intends to start practice as a lawyer or as a "Registered Practitioner" within the meaning of that expression as used in the Punjab Medical Registration Act, 1916 or for the residence of his son who is married, if—

(a) his son as aforesaid is not occupying in the urban area concerned any other building for use as office, consulting room or residence, as the case may be ; and

(b) his son as aforesaid has not vacated such a building without sufficient cause after the commencement of this Act, in the urban area concerned :

Provided that where the tenancy is for a specified period agreed upon between the landlord and the tenant, the landlord shall not be entitled to apply under this sub-section before the expiry of such period :

Provide further that where the landlord has obtained possession of a residential building or rented land under the provisions of sub-paragraph (i) or sub-paragraph (ii) he shall not be entitled to apply again under the said sub-paragraph for the possession of any other building of the same class or rented land :

Provided further that where a landlord has obtained possession of any building under the provisions of sub-paragraph (iv) he shall not be entitled to apply again under the said sub-paragraph for the possession of any other building for the use of, or as the case may be, for the residence of the same son.

(b) The Controller shall, if he is satisfied that the claim of the landlord is *bona fide* make an order directing the tenant to put the landlord in possession of the building or rented land on such date as may be specified by the Controller and if the Controller is not so satisfied, he shall make an order rejecting the application :

Provided that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building or rented land and may extend such time so as not to exceed three months in the aggregate.

(4) Where a landlord who has obtained possession of a building or rented land in pursuance of an order under sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) of sub-section (3) does not himself occupy it or, if possession was obtained by him on behalf of his son in pursuance of an order under sub-paragraph (iv) of paragraph (a) of sub-section (3), his son does not occupy it for the purpose for which possession was obtained, for a continuous period of twelve months from the date of obtaining possession or where a landlord who has obtained possession of a building under sub-paragraph (iii) of the aforesaid paragraph (a) puts that building to any use or lets it out to any tenant other than the tenant evicted from it, the tenant who has been evicted may apply to the Controller for an order directing that he shall be restored to possession of such building or rented land and the Controller shall make an order accordingly.

(5) Where the Controller is satisfied that any application made by a landlord for the eviction of a tenant is frivolous or vexatious, the Controller may direct that compensation not exceeding one hundred rupees be paid by such landlord to the tenant.

Commentary :

Sub-Section (1) Statutory tenancy :—“A statutory tenant is a person who, after his contractual tenancy has expired

retains possession of his house by virtue of the provisions of the Act." See *Redman's Landlord and Tenant*.

This sub-section gives retrospective effect to the Section 13 by the use of the words "passed before or after the commencement of this Act." No decree passed before the Act can be given effect to after coming into force of this Act and any execution proceedings pending in the courts would become infructuous.

See 56 P. L. R. 549—Contractual Tenancy.

52 P. L. R. 460—A Trespasser.

Sub-Section (2) :—A landlord may apply for eviction of his tenant in case of non payment of rent in respect of the building or rented land within fifteen days after the expiry of the time fixed in the agreement or by the last day of the month next following for which the rent is payable. In case the tenant does not pay the arrears of rent with interest and costs as provided in the proviso he may be ordered to be evicted by the Controller.

Tendor :—Tendor with statement that the applicant is not his landlord. Tendor held not conditional. See *Maya Ram v. Shivji Maharaj Idol Mandir* 58 P. L. R. 2 Short Notes.

Deposit in Court :—Tenant depositing money under protest. Held not a proper tendor. See *Jiwana Mal v. Khushi Ram* 54 P. L. R. 501 = A. I. R. 1953 Punjab 70.

In the case of non compliance with the proviso to sub-section 2 (i) of S. 13 of the East Punjab Urban Rent Restriction Act, 1949, it is incumbent on the Rent Controller to order eviction of a tenant. *Debi v. Desa* 56 P.L.R. 284, A.I.R. 1954 S. C. 215 followed.

Sub-Letting :—As has already been dealt with under the definition of tenant that a tenant includes a sub-tenant where

sub-tenancy has been created with the consent of the landlord. If a tenant sublets a building or part of a building without the consent of the landlord then he is entitled to be evicted under the provisions of Section 13 Sub-section 2 (ii) (a).

Cloth merchant tenant allowing a tailor to sit in demised shop on monthly payment not liable to ejectment where it was found that it was merely a licence and not a sub-lease. See *Amar Nath v. Shrimti Savitri* 57 P. L. R. 276, 1926 (1) K. B. 198; 1952 (1) M. L. J. 652 relied on.

Allowing a partner to use rented building for partnership business. It does not amount to sub-letting-See *Ajit Parshad v. Gian Singh* 58 P. L. R. 124,

Applicability of Code of Civil Procedure.

Ex-parte decree passed. Inherent power of Controller to set it aside. See *Vishanu Narain Gulati v. Atam Dev* 55 P. L. R. 6 short notes

Sub-Section (2) : Scope of 'May'.

As in the very part of the said sub-section the word shall is also used, it makes it clear that even if the conditions of the sub-section are fulfilled, the court may on other circumstances being established refuse to order ejectment.

See *Shri Digamber Jain Sabha Simla v. Messrs Express Block and others*. 56 P.L.R. 279 also see A.I.R. 1954 S.C. 215 and 56 P. L. R. 284.

*Sub-Section (3) :—*This sub-section has been amended by the East Punjab Urban Rent Restriction (Amendment) Act, 1956 which came into force on 24th September, 1956.

By this amendment the shops cannot be got vacated on the ground of personal necessity or for landlords' own occupation.

Erection :—As regards erection or re-erection of the building the landlord can apply for its possession if he requires it to carry out any building work at the instance of the Government or local authority or any improvement trust. Otherwise he can get the possession of the premises only if he proves that it has become unsafe or unfit for human habitation. The previous ruling of the Punjab High Court that it was the desire of the landlord to build and not the condition of the building now holds no good.

See 56 P. L. R. 18= A. I. R. 1954 Punjab, 135.

Bona fide claim:—The expression 'bonafide' involves something more than a mere wish and involves an element of need to some extent at least.

See A.I.R. 1923 Cal. 223 A.I.R. 1924 Cal. 57.

Requires :—The word "requires" as used in S. 13 (3) (a)(ii) of the East Punjab Urban Rent Restriction Act, 1949 means something less than "needs" or "reasonably requires" and all that the landlord has to show is that he bonafide intends to occupy the premises.

See Maharaj Jagat Bahadur Singh v Badri Parshad Seth 56 P. L. R. 549, (1949) I. K. B. 300 relied on.

Landlord occupying portion of house not sufficient for his needs can apply for eviction of tenant occupying other portion. See Baij Nath v Badhawa Singh 58 P. L. R. 236.

Business :—Landlord intending to start new business in the Urban Area where he already owns a factory ; it is doubtful if it is open to the landlord to circumvent the provisions of S. 13 (3) (ii) (b) of the Rent Restriction Act, by asserting that he wants to starts a new business.

See Ajit Parshad v Gian Singh 58 P. L. R. 124.

There is absolutely nothing contained in the Act to suggest that a landlord can get the premises vacated where he wants to start new business in the Urban Area where he already owns some other business concern. From second proviso after section 13 (a) we gather that once a landlord getting possession of a residential building or rented land under the provisions of sub-paragraph (i) or (ii) he shall not be entitled to apply again. Therefore, if the landlord gets one premises for his business and he wants to start another then according to the provision of above proviso he cannot get another premises vacated for his business or some other new business. If this principle were to hold good then a landlord already in possession of a premises for his business cannot apply for eviction of a tenant on the ground that he wants to start a new business or he wants it to expand his business which he was previously doing.

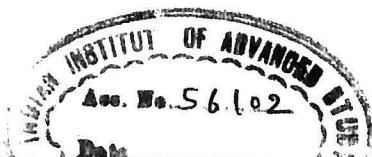
A contrary view has been taken in the judgment Maharaj Jagat Bahadur Singh *v* Badri Parshad Seth 56 P. L. R. 549.

Trespasser :—S. 13 (1) Scope of Trespasser whether protected. The words of clause (1) of section 13 of the Act, appear wide enough to protect any person who has incurred a liability to pay rent. But the Act is not designed to protect trespassers from eviction. See Som Nath *v* L. D. Desai 52 P. L. R. 464 = A. I. R. 1951 Punjab 404.

The limited right of a landlord under clause (2) of S. 13 of the Act is available against his tenant and not against a trespasser. See A.I.R. 1951 Punjab 404 = 52 P.L.R. 454 above mentioned.

Person to whom house is sublet without the consent of the landlord can be impleaded in proceedings against tenant as trespasser.

See Indira Devi *v* Ganga Ram A.I.R. 1953 Him. Prad. 60.



Finding of fact :—Claim of landlord found to be bonafide. It is a finding of fact and cannot be interfered with under Art. 227. See A.I.R. 1954 H. P. 75 and 56 P.L.R. 549. Now under the amendment of 1956 the High Court has been given very wide powers of Revision even more than as given by Section 115 of Civil Procedure Code. The High Court can go into the matter not only to see its legality but also the propriety of the order.

Restoration :—A landlord after obtaining possession of a building for the purpose of re-erection puts it to any use or lets it out then the tenant can apply within 12 months to be put back in possession. But this provision does not apply where the building has been re-erected. See 56 P. L. R. 6 short notes.

The Rent Controller has no power to order restoration of a building after its construction see 53 P. L. R. 90 A.I.R. 1951 Punjab 432. Compromise to return built building to the tenant. Held that a decree on the basis of compromise was beyond the jurisdiction of the Rent Controller and therefore could not be executed. See 54 P. L. R. 500 =A. I. R. 1953 Punjab 51,

Order of restoration can not be challenged in a civil suit. See Atma Singh v Dewan Chand 56 P. L. R. 8 Short notes.

Decisions which have become final not to be reopened in appeal.

14. The Controller shall summarily reject any application under sub-section (2) or under sub-section (3) of section 13 which raises substantially the issues as have been finally decided in a former proceeding under this Act.

Commentary :

Resjudicata :—No order under this Act is resjudicata but if once a matter has been decided between the same parties on substantially the same facts a subsequent application would be barred by this section. If the position of one of the parties improves or becomes different from what it was before then a

fresh application under different circumstances though between the same parties or premises would not be barred under this section. See *Ram Chander v. Kidar Nath* 56 P. L. R. 18= A. I. R. 1954 Punjab 135.

15. (1) (a) The State Government may, by a general or special order, by notification confer on such officers and authorities as they think fit, the powers of appellate authorities for the purposes of this Act, in such area or in such classes of cases as may be specified in the order.

Vesting of appellate authority on officers by State Government.

(b) Any person aggrieved by an order passed by the Controller may, within fifteen days from the date of such order or such longer period as the appellate authority may allow for reasons to be recorded in writing, prefer an appeal in writing to the appellate authority having jurisdiction.

In computing the period of fifteen days the time taken to obtain a certified copy of the order appealed against shall be excluded.

(2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall decide the appeal after sending for the records of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as it thinks fit either personally or through the Controller.

(4) The decision of the appellate authority and subject only to such decision, an order of the Controller shall be final and shall not be liable to be called in question in any Court of Law except as provided in sub-section (5) of this section.

(5) The High Court may, at any time, on the application of any aggrieved party or on its own motion, call for and

examine the records relating to any order passed or proceedings taken under this Act for the purpose of satisfying itself as to the legality or propriety of such order or proceedings and may pass such order in relation thereto as it may deem fit.

Commentary :

Personadesigneta :—The state Government may authorise such officers to exercise appellate powers under this Act. Such powers given to any officer would be in his name or holding any office.

Jurisdiction of additional District Judge to hear appeals where District Judge has been authorised to hear appeals.

See A. I. R. 1954 Punjab 231.

District Judge cannot assign appeal to the Additional District Judge.

See Parkash Lal *v.* Sant Singh.

53 P. L. R. 48=A. I. R. 1951 Punjab 415.

53 P. L. R. 50=A. I. R. 1951 Punjab 355.

Limitation :—Before the amendment of 1956 the section as it stood prescribed a time limit within which to file an appeal. In the Limitation Act we find that period of limitation given is 3 years 6 years or 1 year while in this Act it was within 15 days. Many a times, difficulties arose before the courts but now the matter has been set right by the amendment. Now the time taken for obtaining a certified copy of the order is also given over and above 15 days.

Applicability of Limitation Act to East Punjab Urban Rent Restriction Act.

See A. I. R. 1955 Him. Prad. 12.

16. For the purposes of this Act, an appellate authority or a Controller appointed under the Act shall have the same powers of summoning and enforcing the attendance of witnesses and compelling the production of evidence as are vested in a Court under the Code of Civil Procedure, 1908.

Power to
summon
and en-
force at-
tendance
of
witness.

17. Every order made under section 10, or section 13, and every order passed on appeal under section 15 shall be executed by a civil court having jurisdiction in the area as if it were a decree of that court.

Execution
of orders.

Commentary :

Execution :—Every order passed under this Act is executable by a civil court having jurisdiction in the area as if it were a decree of that court. The same procedure for execution is laid as that of other civil decree passed by a civil court having jurisdiction to pass such an order.

Second appeal :—Even in execution of orders under this Act an appeal and second appeal would lie as in the execution of other civil decrees or orders.

See Hans Raj Salig Ram V. Niranjan Lal.

A. I. R. 1952 Punjab 159=54 P. L. R. 31. D. B.

Power of Executing Court :—The executing Court can go behind the order where the order has been passed in proceedings between parties who are not landlord or tenant or do not hold the relationship of landlord and tenant such order is a nullity and without jurisdiction.

See Hans Raj Salig Ram V. Niranjan Lal A. I. R. 1952 Punjab 159=54 P. L. R. 31.

18. Every landlord and every tenant of a building or rented land shall be bound to furnish to the Controller, or any person authorized by him in that behalf, such particulars in respect of such building or rented land as may be prescribed.

Landlord
and tenant
to furnish
particulars.

Penalties.

19. (1) If any person contravenes any of the provisions of sub-section (2) of section 9, sub-section (1) of section 10, section 11 or section 18, he shall be punishable with fine which may extend to one thousand rupees.

(2) If any person contravenes any of the provisions of clause (a) of sub-section (1) of section 6 or sub-section (1) of section 7 he shall be punishable with imprisonment which may extend to two years and with fine.

(3) No Court shall take cognizance of an offence under this section except upon—

(a) a complaint of facts which constitute such offence filed with the sanction of the Controller in writing, or

(b) a report in writing of such facts made by the Controller.

Power to make rules

20. The State Government may, by notification, make rules for the purpose of carrying out all or any of the provisions of this Act.

Repeal of
Punjab
Act No. VI
of 1947
and East
Punjab
Act No.
XXI of
1948.

21. The Punjab Urban Rent Restriction Act, 1947, and the Punjab Urban Rent Restriction. (East Punjab Amendment) Act, 1948, are hereby repealed.

SCHEDULE

1. Lawyers.
2. Architects.
3. Dentists.
4. Engineers.
5. Veterinary Surgeons.
6. Medical practitioners, including practitioners of indigenous systems of medicine.



