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C.A.No. 670 OF 2001  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R  
ITEM No.105 Court No.11 SECTION IV

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.670 OF 2001@@  
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Smt. Rajinder Dhada Appellant (s)

VERSUS

Jagjit Singh Respondent (s)

Date : 06/11/2001 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.C. LAHOTI  
HON'BLE MR. JUSTICE BRIJESH KUMAR

For Appellant (s) Mr. P.N. Puri, adv.

For Respondent (s) Mr. Neeraj Kumar Jain, adv.  
Mr. Aditya Kumar Chaudhry, adv.  
Mr. Bharat Singh, adv.  
Mr. Ugra Shankar Prasad, adv.

UPON hearing counsel the Court made the following  
O R D E R

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.SP2

The appeal is dismissed in terms of the signed order  
without any order as to costs.

.SP1

(Neena Verma)  
Court Master

(Radha Rani Bhatia)  
Court Master

Signed order is placed on the file.

.PA

.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
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.PL54

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.670 OF 2001@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCC

Smt. Rajinder Dhada

.... Appellant

Versus

Jagjit Singh

.... Respondent

O R D E R@@  
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.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

A petition seeking eviction of tenant on a ground available under Section 13(3)(a)(i)(a) of The East Punjab Urban Rent Restriction Act, 1949 (hereinafter 'the Act', for short) succeeded before the Rent Controller who passed an order of eviction. The order was maintained by the Appellate Authority who dismissed the tenant's appeal. In a revision preferred by the tenant under Section 15(5) of the Act, the High Court has set aside the order of eviction and directed the eviction petition to be dismissed. The aggrieved landlady has come up in appeal by special leave.

The ownership of the landlady over the premises and their occupation by the respondent in the capacity of a tenant, is not disputed. The requirement, as alleged in the pleadings and as was found by the Rent Controller, is that the landlady is a Nurse, presently in occupation of a ..2/-

: 2 :

quarter allotted to her in the hospital where she is serving. There she is residing with her husband and two children. Smt. Bir Kaur was the landlady's husband's sister, who, unfortunately died of cancer. She has left behind two children, a son aged about 13 years and a daughter aged about 4 years. The sister-in-law's husband is an ASI in police and is alive. As there was no other family member in the family of deceased sister-in-law, the children were required to stay with the landlady and the accommodation, presently in occupation of the landlady was not enough to meet the requirement of such enlarged family. However, the High Court found from evidence, that out of the two children left by the sister-in-law of the land lady, the daughter was residing with another sister-in-law and the son was lodged in a Hostel in a different city where he was prosecuting his studies. The High Court found that neither the children were dependent on the landlady nor were they ordinarily residing with her so as to be treated as members of her family. In the opinion of the High Court, the requirement of such children of deceased sister-in-law of the landlady was not germane to the ground under Section 13(3)(a)(i)(a) of the Act.

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Having heard the learned counsel for the parties, we are satisfied that no fault can be found with the view taken by the High Court. The relevant provision permits the tenant being directed to put the landlord in possession of

the tenancy premises, if he requires it for his own occupation. Such a requirement has to be bonafide. Explanation - 2, incorporated in sub-section (3) of Section 13 of the Act defines "family" to mean such relations of the landlord as ordinarily live with him and are dependent upon him etc. The definition is suggestive of legislative intent.

The High Court has, from the material available on record, found the two children, whose requirement was intended to be satisfied by the landlady by evicting the tenant, to be neither dependent on, nor ordinarily living with, the landlady. It is not the case of the landlady that de hors the requirement of the two children above said, the landlady still wanted to quit the accommodation in her occupation in the hospital and bonafidely desired to shift to her own premises.

In such facts and circumstances, no fault can be found with the decision of the High Court, allowing the ...4/-

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revision and directing the eviction petition to be dismissed. The appeal is devoid of any merit and is dismissed though without any order as to costs.

.SP1

.....J.  
( R.C. LAHOTI )

New Delhi,  
November 06, 2001.

.....J.  
( BRIJESH KUMAR )