

A

## NANDLAL AND OTHERS

v.

MOTI LAL

August 1, 1977

B

[A. C. GUPTA AND P. N. SHINGHAL, JJ.]

*The Central Provinces and Berar Letting of Houses and Rent Control Order, 1949, Chapter II, Clause 13, application to municipality constituted subsequent to notification dated July 26, 1949, whether requires fresh Notification u/s. 2 of the C.P. and Berar Regulation of Letting of Accommodation Act, 1946.*

C

The plaintiff-respondent filed a suit for evicting the defendants-appellants from the suit premises situated within the limits of Tirodha Municipality. The maintainability of the suit was challenged on the ground that previous permission of the Controller was not taken u/s. 8 of the C.P. and Berar Regulation of Letting of Accommodation Act, 1946. The Court of First Appeal, dismissed the suit, but in appeal the High Court held that the Notification dated July 26, 1949, applied only to the Municipalities existing on that date, and that as no fresh Notification extending the benefits of the Rent Control Order to the subsequently constituted Tirodha Municipality, was issued, the protection of cl. 13 was not available to the appellants. Allowing the appeal by special leave, the Court,

D

HELD : The wordings of the notification dated July 26, 1949, provide that Chapter II of the Rent Control Order extends to "all the Municipalities" in the State. No fresh notification was therefore necessary to extend the benefit of the Rent Control Order to a subsequently constituted Municipality. Tirodha was constituted as a Municipality on June 12, 1956, and the provisions of Chapter II became applicable to it from that date. [239E-F]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1139 of 1975.

E

Appeal by Special Leave from the Judgment and Order dated 16-12-1974 of the Bombay High Court (Nagpur Bench) at Nagpur in S.A. No. 195/65.

(Dr.) N. M. Ghatate, for the Appellants.

S. N. Khardekar and A. G. Ratnaparkhi, for the Respondent.

F

The Judgment of the Court was delivered by

G

SHINGHAL J.—In this appeal by special leave against the judgment of the Bombay High Court (Nagpur Bench) dated December 16, 1974, the only question which has been raised for our consideration is whether the provisions of clause 13 of the Central Provinces and Berar Letting of Houses and Rent Control Order, 1949, hereinafter referred to as the Rent Control Order, were applicable to the plaintiff-respondent's suit for the eviction of the defendants-appellants from the house and *ota* situated in Thiroda. That clause forms part of Chapter II and prohibits the determining of a lease without the previous written permission of the Controller.

H

The Rent Control Order was issued on July 26, 1949. The State Government issued, at the same time, a notification under section 2, of the Central Provinces and Berar Regulation of Letting of Accommodation Act, 1946, hereinafter referred to as the Act, directing,

*inter alia*, that Chapter I of the Rent Control Order shall extend to the whole of the Central Provinces and Berar (and the States integrated with the Central Provinces and Berar), and Chapter II and IV shall extend to,—

“(a) All the Municipalities in the Central Provinces and Berar and the States integrated with the Central Provinces and Berar.”

The area of Tiroda was declared to be a Municipality by a notification dated June 12, 1956, and was not a Municipality when the aforesaid notification was issued under section 2 of the Act.

The plaintiff raised a suit for the eviction of the defendants from the suit premises on May 2, 1963, without obtaining the Controller's permission under clause 13 of the Rent Control Order. The short point of controversy is whether the notification dated June 12, 1956 declaring Tiroda to be a Municipality could attract the provisions of the Rent Control Order by virtue of the notification dated July 26, 1949. The High Court has taken the view that as a fresh notification was not issued under section 2 of the Act when the Tiroda Municipality was constituted on June 12, 1956, the provisions of the Rent Control Order did not “automatically become applicable to premises within the limits of a new Municipality by virtue of the notification of 1949”.

The validity of the notification which was issued on July 26, 1949, under section 2 of the Act, has not been challenged before us, so that there can be no doubt that while Chapter I became applicable to the whole of the Central Provinces and Berar and the integrated States, Chapters II and IV became applicable to all Municipalities in that State with effect from that date. Tiroda was not a Municipality at that time and did not come within the purview of the notification. But it became a Municipality on June 12, 1956 and the notification became applicable to it from that date. We therefore see no justification for the argument that the notification was confined to those Municipalities which were in existence on July 26, 1949, and that a fresh notification was necessary to extend the benefit of the Rent Control Order to a subsequently constituted Municipality. There is nothing in the wordings of the notification to justify any such argument. On the other hand, the wordings of the notification are quite unambiguous and there is no reason why they should not be given their simple and natural meaning. They clearly provide that Chapters II and IV of the Rent Control Order extend to “all the Municipalities” in the State. As Tiroda was constituted as a Municipality on June 12, 1956, the provisions of those chapters became applicable to it from that date. We are unable to agree with the view taken by the High Court that the protection of clause 13 of the Rent Control Order was not available to the appellants. As they raised a defence against the maintainability of the suit on the ground that previous permission of the Controller was not taken by the respondent, the High Court clearly erred in rejecting that defence and in setting aside the judgment of the Court of first appeal by which the plaintiff's suit was dismissed.

**A** The appeal is allowed, the impugned judgment of the High Court dated December 16, 1974 is set aside, and the decree of the Court of first appeal dismissing the plaintiff's suit is restored with costs throughout.

**B** M.R.

*Appeal allowed.*