

A CENTRAL BANK OF INDIA
v.
N.R.C. LIMITED
(Contempt Petition No. 147 of 2014)
IN
B SLP(C) 24874 of 2013
MARCH 05, 2014

[H.L. GOKHALE AND KURIAN JOSEPH, JJ.]

C *Contempt jurisdiction: Eviction order - Time granted to tenant to vacate the premises subject to filing of usual undertaking of not transferring interest to third party and payment of mesne profit and vacation of property peacefully on the stipulated date - Undertaking not filed - Contempt*
D *petition - Held: A tenant or an occupant cannot be permitted to remain in tenanted premises of the landlord without paying the rent, or the occupation charges, which is what the respondent attempted to do - The petitioner-landlord would be entitled to take back the possession of the premises with*
E *respect to which the order of eviction has been passed, and same is permitted by taking the help of police if required - Contempt petition allowed.*

Public Premises (Eviction of Unauthorized Occupants) Act, 1971: Eviction proceedings under the Public Premises
F *Act against Public Limited Company having paid up share capital of Rs. One crore - Maharashtra Rent Control Act, 1999 - Applicability of - Held: In the instant case, notice to evict issued on 26.6.2007 i.e. much after the Act of 1999 came into force on 31.3.2000 - The 1999 Act clearly lays down that it*
G *shall not apply to Public Ltd. Companies having a paid up share capital of Rs. One crores or more - No fault with the action of the landlord taken under the Public Premises Act - Maharashtra Rent Control Act, 1999.*

Aggrieved with the eviction order, the respondent filed special leave petition before the Supreme Court which was dismissed on 19th August, 2013. However, considering the number of employees who were engaged in their registered office situated at that place, they were granted time till the end of December, 2014 to vacate the premises, subject to filing of the usual undertaking stating that it would not create any third party rights and would pay all the mesne profits in the meanwhile, and would peacefully vacate the premises concerned at the end of December, 2014. However, the undertaking was not filed, and the mesne profits as required was also not paid. Subsequently one more I.A. was filed by the respondent to be relieved of this undertaking. The said I.A. was not pressed, and the same came to be dismissed. In the instant contempt petition, the grievance of the petitioner was that the respondent has not complied with the order dated 19th August, 2013 and, therefore, an action be taken against them for committing contempt of the said order.

Allowing the contempt petition, the Court

HELD: 1. The notice to evict was issued on 26th June 2007 much after the Maharashtra Rent Control Act came into force on 31.3.2000. This Act clearly lays down that it shall not apply to Public Ltd. Companies having a paid up share capital of Rs. One crores or more. There is no dispute that the respondent is a company having a paid up share capital of more than rupees one crore. That being so, the protective umbrella of the State Rent Control Act which was available to the respondent would not be available to it beyond 31.3.2000. That being so, the provisions of Public Premises Act would clearly apply to these premise on or after 31.3.2000 for the purposes of eviction of unauthorised occupants and therefore, the action initiated by the petitioner could not be faulted with.

A [para 7] [611-B-C, F-H]

2. The company's affairs were before the BIFR, and it also had correspondence with the trade union representing the employees, but the employees union was not ready to help in any manner. These were different aspects, the financial difficulties of the respondent were brought to the notice of this Court by filing the I.A. which was not pressed, and that being so, the issue cannot be allowed to be re-agitated. A tenant or an occupant cannot be permitted to be on the premises of the landlord without paying the rent, or the occupation charges, which is what the respondent is attempting to do. The petitioner will be entitled to take back the possession of the concerned premises with respect to which the order of eviction has been passed, and same is permitted by taking the help of police if required. [paras 8, 9] [612-A-E]

Ram Pyari (Smt.) & Ors. vs. Jagdish Lal 1992 (1) SCC 157; 1991 (3) Suppl. SCR 117; *Santanu Chaudhuri vs. Subir Ghosh* 2007 (10) SCC 253; 2007 (8) SCR 482 ; *Sushil Kumar vs. Gobind Ram* 1990 (1) SCC 193; 1989 (2) Suppl. SCR 149; *Jagmittar Sain Bhagat vs. Director, Health Services, Haryana* 2013 (10) SCC 136; *Ashoka Marketing Ltd. & Anr. vs. Punjab National Bank & Ors.* 1990 (4) SCC 406. : 1990 (3) SCR 649; *Banatwala and Company vs. Life Insurance Corporation of India & Anr.* 2011 (13) SCC 446; 2011 (14) SCR 533; *Rashtriya Mill Mazdoor Sangh, Nagpur vs. The Model Mills, Nagpur and Anr.* AIR 1984 S.C. 1813; 1985 SCR 751; *M/s Jain Ink Manufacturing Company vs. Life Insurance Corporation of India & Anr.* 1980 (4) SCC 435; 1981 (1) SCR 498 - referred to.

Case Law Reference:

1991 (3) Suppl. SCR 117 referred to Para 3

2007 (8) SCR 482 referred to Para 3

H

1989 (2) Suppl. SCR 149	referred to	Para 4	A
2013 (10) SCC 136	referred to	Para 4	
1990 (3) SCR 649	referred to	Para 5	
2011 (14) SCR 533	referred to	Para 5	
1985 SCR 751	referred to	Para 6	B
1981 (1) SCR 498	referred to	Para 6	

CIVIL ORIGINAL JURISDICTION : Contempt Petition (C)
No. 147 of 2014.

IN

Special Leave Petition (C) No. 24874 of 2013.

Raju Ramachandran, O.P. Gaggar, Alok Kumar Jain for
the Appellant.

T.R. Andhyarujina, U.A. Rana, Levi A. Rubins, Mrinal Elker
(for Gagrat & Co.) for the Respondent.

The Judgment of the Court was delivered by

H.L. GOKHALE, J. 1. This contempt petition makes a grievance that the respondent-N.R.C. Ltd. has not complied with the order dated 19th August, 2013 passed by this Court while dismissing their SLP (C) No.24874 of 2013, and an action be taken against them for committing contempt of the above order passed by this Court. The said order dismissed the SLP filed by the respondent, challenging their eviction from the premises occupied by them. However, considering the number of employees who were engaged in their registered office situated at that place, they were granted time till the end of December, 2014 to vacate the premises, subject to filing the usual undertaking in the Registry of this Court within four weeks from that date, stating that the petitioner will not create any third party rights, all the mesne profits will be paid in the meanwhile, and will peacefully vacate the premises concerned at the end of December, 2014.

A 2. That special leave petition was filed to challenge the
judgment dated 10th May, 2013 of the High Court of Bombay
in Writ Petition No.2898/2011 and L.P.A. No.174 of 2012
under which the order passed by the Estate Officer of the
appellant, and confirmed by the City Civil Court was left
B undisturbed. The order dated 19th August, 2013 required the
respondent to file the necessary undertaking, but it was not
filed, and the mesne profits as required have also not been
paid. It is also pointed out that subsequently one more I.A., being
I.A. No.2 of 2014, was taken out by the respondent-N.R.C. Ltd.
C to be relieved of this undertaking, and that I.A. was not pressed,
and the same came to be dismissed by this Court by its order
dated 7th October, 2013.

3. Mr. Raju Ramachandran, learned senior counsel,
D appearing for the petitioner Central Bank of India points out that
the financial difficulties of the respondent were placed on record
in that I.A. and subsequently the same has been withdrawn.
That being so, there was no reason for the respondent not to
file the undertaking and not to pay the mesne profits as required.
E He has drawn our attention to two judgments of this Court in
almost similar circumstances. One was the case of *Ram Pyari*
(*Smt.*) & *Ors. vs. Jagdish Lal* reported in 1992 (1) SCC 157,
and the other was that of *Santanu Chaudhuri vs. Subir Ghosh*
reported in 2007 (10) SCC 253. In both these matters
undertakings to vacate were given but they were not complied
F with, and therefore the contempt petition was filed. This Court
in both these matters noted that since undertaking was not
given, there could not be any contempt as such, but the order
passed by this Court had to be complied with, and therefore
G permitted the petitioners to take the help of police to take back
the possession of the concerned premises.

4. Mr. T.R. Andhiyarujina, learned senior counsel,
appeared for the respondent-N.R.C. Ltd. He relied upon the
judgment of this Court in *Sushil Kumar vs. Gobind Ram*
reported in 1990 (1) SCC 193 to submit that the Estate Officer
H

was *coram non judice*, since according to him he did not have jurisdiction to pass the order of eviction. He referred to the judgment of this Court in the case of *Jagmittar Sain Bhagat vs. Director, Health Services, Haryana* reported in 2013 (10) SCC 136 to submit that the question of jurisdiction can be raised at any stage. He has drawn our attention to the judgment rendered by this Court in C.A.No.1970 of 2014 on 11th February, 2014 in the case of *Dr. Suhas H. Pophale vs. Oriental Insurance Co. Ltd. and Its Estate Officer* to which one of us (H.L. Gokhale,J.) was a party. Mr. Andhiyarujina has submitted that this judgment clearly lays down that the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 will not apply prior to the Act coming into force, that is prior to 16th September, 1958. He has drawn our attention to various paragraphs of this judgment and submitted that though this judgment has been rendered subsequent to the dismissal of the present special leave petition, inasmuch as the law is now clarified, the respondent-N.R.C. Ltd. cannot be said to be an unauthorized occupant, nor can the action under the Public Premises Act be said to be valid. He pointed out that the N.R.C. Ltd. has been a tenant of this property since about 1946. Subsequently, the building wherein its premises are situated, was taken over by the Life Insurance Corporation, and thereafter by the Central Bank of India. In view of this judgment, the relationship between the Central Bank of India and the N.R.C. Ltd. as landlord and tenant will continue to be governed under the Bombay Rent Act and now under The Maharashtra Rent Control Act, 1999.

5. Inasmuch as this submission has been raised by Mr. Andhiyarujina, learned senior counsel, we would like to point out that this judgment in Dr. Pophale's case clarifies the legal position as laid down by this Court earlier in the case of *Ashoka Marketing Ltd. & Anr. vs. Punjab National Bank & Ors.* reported in 1990 (4) SCC 406. That judgment has held that the Public Premises Act and the State Rent Control Acts were both referable to the concurrent list, and would be valid in their

A spheres, but Public Premises Act will prevail to the extent of any repugnancy. Therefore, this Court held earlier in the case of Banatwala and Company vs. Life Insurance Corporation of India & Anr. reported in 2011 (13) SCC 446 that to the extent the Public Premises Act covers the relationship between the
B landlord and the tenant, namely, for eviction of unauthorized occupants and for recovery of arrears of rent, the Public Premises Act will apply and not in other aspects of their relationship. This is why in Banatwala's case (supra) it was held that the application for the maintenance of the premises would
C lie to the Court of Small Causes in Mumbai, and it will not be hit by the provisions of the Public Premises Act. The issue in Dr. Suhas H. Pophale's case was as to when the Public Premises Act will apply, and it was laid down that the Act will not apply prior to the Act coming into force, and until the
D premises concerned belonged to the concerned public corporation, whichever is the later date. This was on the footing that if there are any welfare provisions in the statutes, the legislature cannot be intended to have taken them away if there is no repugnancy.

E 6. In Dr. Suhas H. Pophale's case the judgment of this Court in the case of *Rashtriya Mill Mazdoor Sangh, Nagpur vs. The Model Mills, Nagpur and Anr.* reported in AIR 1984 S.C. 1813 was specifically referred in paragraph No.29 to point out that if there is any welfare provision in a statute it cannot
F be taken away. This was in the context of the Payment of Bonus Act. It was also held that the judgment in *M/s Jain Ink Manufacturing Company vs. Life Insurance Corporation of India & Anr.* reported in 1980 (4) SCC 435 did not consider the issue of protection in a welfare legislation to the tenant, prior
G to the premises becoming public premises, and the issue of retrospectivity. So also these issues were not in consideration in the case of *Ashoka Marketing Ltd.* (supra). In paragraph 49 of Dr. Pophale's case, this Court discussed the inter relation between Article 254(1) and 254 (2) of the Constitution, and
H specifically pointed out that the Government and the statutory

corporations were taken out of the protective umbrella when the Maharashtra Rent Control Act was passed, and so they would be covered under the Public Premises Act, but of course from the date when the Act comes into force or from the date when the premises belong to the concerned Government corporation. What applies to the landlord, equally applies to the tenants.

7. As far as the present action initiated by the Central Bank of India is concerned, the notice to evict was issued on 26th June, 2007, much after the Maharashtra Rent Control Act came into force on 31.3.2000. This Act clearly lays down that it shall not apply to Public Ltd. Companies having a paid up share capital of Rs. One Crore or more. Section 3 (1) (b) of the Act reads as follows:-

3 Exemption

(1) This act shall not apply

(a)

(b) To any premises let or sub-let to banks, or any Public Sector Undertakings or any Corporation established by or under any Central or State Act, or foreign missions, international agencies multinational companies, and private limited companies and public limited companies having a paid up share capital of rupees one crore or more."

There is no dispute that the respondent N.R.C. Ltd. is a company having a paid up share capital of more than rupees one crore. That being so, the protective umbrella of the State Rent Control Act which was available to the N.R.C. Ltd. would not be available to it beyond 31.3.2000. That being so, the provisions of Public Premises Act would clearly apply to these premises on or after 31.3.2000 for the purposes of eviction of unauthorised occupants and therefore, the action initiated by the Central Bank of India could not be faulted with.

A 8. Mr. Andhiyarujina, learned senior counsel, appearing for
the N.R.C. Ltd. has drawn our attention to the fact that the
company's affairs are before the BIFR, and it also had
correspondence with the trade union representing the
employees, but the employees union was not ready to help in
B any manner. Those are different aspects, and as pointed out
by Mr. Raju Ramachandran, learned senior counsel, the
financial difficulties of N.R.C. Ltd. were brought to the notice of
this Court by filing the I.A.No.2 of 2014 which was not pressed,
and that being so, the issue cannot be allowed to be re-agitated.
C A tenant or an occupant cannot be permitted to be on the
premises of the landlord without paying the rent, or the
occupation charges, which is what N.R.C. Ltd. is attempting to
do.

D 9. This being the position, in our view, the Central Bank
will be entitled to take back the possession of the concerned
premises with respect to which the order of eviction has been
passed, and we permit it to resume the same by taking the help
of police if required.

E The contempt petition is allowed in the above terms.

D.G.

Contempt petition allowed.