

Jiwan Dass vs Life Insurance Corporation Of India And ... on 28 September, 1993

Equivalent citations: 1991LABLC213, 1994SUPP(3)SCC694, AIRONLINE 1993 SC 295, 1994 SCC (SUPP) 3 694, (1995) 1 ALL RENTCAS 326, (1995) 1 RENCJ 541, (1995) 1 RENCN 530, (1995) 2 RENTLR 533, 1995 HRR 127, 1995 SCFBRC 165

Bench: K. Ramaswamy, N.P. Singh

ORDER

K. Ramswamy and N.P. Singh, JJ

1. The appellant was inducted in 1949 as a tenant on the ground floor admeasuring 408 sq. ft. of the premises known as Bharat Building, at 8, Darya Ganj, Delhi on monthly tenancy at a rent of Rs. 15 excluding electricity and water charges. Notice was issued to the appellant determining the tenancy under Section 106 of the Transfer of Property Act and, therefore, action was initiated under Section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 for short "the Act" for eviction of the appellant from unauthorised occupation. The appellant filed Writ Petition No. 2391 of 1983 in the Delhi High Court. The Division Bench summarily dismissed it on October 28, 1983. Thus this appeal, by special leave.

2. Shri R.K. Jain learned senior counsel for the appellant contends that the respondent-Corporation being a public authority, 'before initiating the action under Section 5 of the Act, is enjoined to assign reasons which must be just and germane for the purpose of its exercise and its reasonableness must be tested on the touchstone of Article 14 of the Constitution. He further contends that unless the public authority justifies its action taken under Section 5(1) of the Act before determining the tenancy under Section 106 of the T.P. Act, it is violative of Article 14 of the Constitution. We find no force in the contention. This court in Hari Singh v. Military Estate Officer by a Bench of seven Judges upheld its constitutional validity and retrospectively and held that:

The scheme of the 1971 Act is that it confers power on Estate Officer to issue notice to persons who are in unauthorised occupation of any public premises to show cause why an order of eviction should not be made. Unauthorised occupation under the Act in relation to any public premises means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.

3. Similar contention on the anvil of Article 14 of the Constitution was raised on the ground that

when the Delhi Rent Control Act provides remedy for ejectment on specific grounds and fixity of tenancy rights, giving blanket power to the public authorities under the Act is violative of Article 14. In *Ashoka Marketing Ltd. v. Punjab National Bank* 1990(2) RCR 297 (SC) : 1990 HRR 534 this Court by a Constitution Bench, in a slightly different connotation, dealt with the similar contention in paragraphs 68 and 69 of its judgment and held that the scope of the provisions of the Public Premises Act cannot be cut down on the basis of the apprehension that the corporation like the nationalised banks or L.I.C. which are trading corporations and cannot be prescribed from buying the property in possession of the tenants at a low price and then evicting the tenants after terminating the tenancy and selling the property at a much higher value because the value of property in possession of tenants is much less compare to vacant property. The consequence of giving overriding effect to the provisions of the Public Premises Act is that premises belonging to companies and statutory bodies referred to in Clauses (2) and (3) of Section (2)(e) of the Public Premises Act would be exempted from the provisions of the Rent Control Act. The actions of these companies and statutory bodies while dealing with their properties under the Public Premises Act will not have to be judged by the standard that they would not act as private landlords and their actions would be informed by reason and guided by public interest. Therefore, this Court had negated the possibility of taking action against the tenants for letting out for higher rent or selling the property at a higher value.

4. Section 106 of the T.P. Act does indicate that the landlord is entitled to terminate the tenancy by giving 15 days' notice, if it is a premises occupied on monthly tenancy and by giving 6 months' notice and if the premises are occupied for agricultural or manufacturing purposes; and on expiry thereof proceedings could be initiated. Section 106 of the T.P. Act does not contemplate of giving any reason for terminating the tenancy. Equally the definition of the public premises "unauthorised occupation" under Section 2(g) of the Act postulates that the tenancy "has been determined for any reason whatsoever". When the statute has advisedly give wide powers to the public-authorities under the Act to determine the tenancy, it is not permissible to cut down the width of the powers by reading into it the reasonable and justifiable grounds for initiating action for terminating the tenancy under Section 106 of the T.P. Act. If it is so read Section 106 of T.P. Act and Section 2(g) of the Act would become ultra vires. The statute advisedly empowered the authority to act in the public interest and determine the tenancy or leave or licence before taking action under Section 5 of the Act. If the contention of the appellant is given acceptance he would be put on a higher pedestal than a statutory tenant under the Rent Act. Take for example that a premises is let out at a low rent years back like the present one. The rent is unrealistic. With a view to revise adequate market rent, tenant became liable to ejectment. The contention then is, action is violative of Article 21 offending right to livelihood. This contention too is devoid of any substance. An owner is entitled to deal with his property in his own way profitable in its use and occupation. A public authority is equally entitled to use the public property to the best advantage as a commercial venture. As an integral incidence of ejectment of a tenant/licensee is inevitable. So the doctrine of livelihood cannot discriminately be extended to the area of commercial operation. Therefore, we do not find any substance in the contentions of the appellant. The appeal is accordingly dismissed. No costs.