Sri Sri Kalimata Thakurani & Sri Sri ... vs Union Of India & Ors on 20 February, 1981

Equivalent citations: 1981 AIR 1030, 1981 SCR (2) 950, AIR 1981 SUPREME COURT 1030, 1981 UJ (SC) 283 1981 (2) SCC 283, 1981 (2) SCC 283

Author: Syed Murtaza Fazalali

Bench: Syed Murtaza Fazalali, A. Varadarajan

PETITIONER:
SRI SRI KALIMATA THAKURANI & SRI SRI RAGHUNATH JEW & ORS.ETC

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT20/02/1981

BENCH:
FAZALALI, SYED MURTAZA
BENCH:
FAZALALI, SYED MURTAZA
VARADARAJAN, A. (J)

CITATION:
1981 AIR 1030 1981 SCR (2) 950
1981 SCC (2) 283 1981 SCALE (1)391
CITATOR INFO :
O 1984 SC 374 (5,11,12,14,16,23)

ACT:
West Bengal Land Reforms Act, 1955, S. 2(8) Proviso and Explanation, S. 20B(3) , (4) and (5); West Bengal Land Reforms (Amendment) Act, 1972 & West Bengal Land Reforms (Amendment) Act, 1977-Constitutional validity of.
Constitution of India, 1950, Articles 14, 19(1)(e), (g) and Ninth Schedule Entry Nos. 60 and 81-Violation of Fundamental Rights complaint of court to determine whether restrictions contain quality of reasonableness.

HEADNOTE:
The West Bengal Land Reforms Act, 1955 permitted a tenant (land-holder) to get the land cultivated by a bargadar, on the basis that the bargadar would share tho

produce, and the Act contained provisions for enforcement of the right of the tenant to get such share. Section 17 permitted the tenant to terminate the cultivation of the land by a bargadar and resume possession for his own cultivation on certain contingencies, one of them being that he requires it bona fide for personal cultivation.

The West Bengal Land Reforms (Amendment) Act, 1972 provided for the reduction in the ceiling area of the tenant, and incorporated sub-sections (3), (4) and (5) of section 20B of the 1955 Act, which provided that where the bargadar had voluntarily surrendered or abandoned the cultivation of the land, the facility of cultivating the land personally by the tenant should be denied to him.

The West Bengal Land Reforms (Amendment) Act 1977 inserted a Proviso and an Explanation to clause (8) of section 2 of the 1955 Act, which provided that a person or member of his family should reside in the greater part of the year in the locality where the land is situated and the principal source of his in come is derived from the land and that 'family' shall have the same meaning as in clause (c) of section 14.

The petitioners in their writ petitions to this Court assailed: (1) The West Bengal Land Reforms Act, 1955 as also amendments made to the said Act upto 1977, contending that the 1955 Act was constitutionally invalid and that the Amendment Act of 1972 was in the nature of a Ceiling Act prescribing a particular ceiling for the area of the land which should be retained by the tenant and that sub-sections (3), (4) and (5) of s. 20B of the 1955 Act were violative of Article 14 of the Constitution, as being discriminatory and arbitrary Once the tenant was given the right of personal cultivation and was permitted to get the land cultivated by a bargadar on the basis that the bargadar would share the produce, there was no warrant for not allowing the tenant to resume the land where a bargadar had voluntarily surrendered or abandoned the land and to deny the right of cultivating the land personally by the tenant, and (2) the Proviso
951
and the Explanation to section 2 of the 1955 Act deprive the petitioners of their rights guaranteed under Article 19(1)(e) and (g) of the constitution in as much as it prevents them from either going to or residing in any other place in India and places a serious curb on their right to carry on an occupation other than agriculture.

On behalf of the respondents it was submitted that the rigour of sub-sections (3) and (4) can be softened if clause (d) of section 17 is read down and interpreted in a way as to permit a tenant to resume the land under clause (d) of section 17 if the bargadar voluntarily surrenders or abandons the land.

Dismissing the writ petitions:

^

HELD: 1 (i). The West Bengal Land Reforms Act, 1955

including the Amendment Act of 1972 and the proviso introduced by the Amendment Act of 1977 are constitutionally valid. [961 G]

In the instant case the 1955 Act and the Amendment Act of 1972 having been added to the Ninth Schedule as Entry Nos. 60 and 81 prior to April 24, 1973, are immune from challenge as being violative of Part III of the Constitution. [954 A]

Waman Rao & Ors. v. Union of India & Ors., AIR 1981 SC 271, referred to.

(ii) Clauses (a), (b) and (c) of sub-section (1) of section 17 of the 1955 Act are the only grounds on which a tenant can get the land back for his personal cultivation. The contingency where the bargadar voluntarily surrenders or abandons the land is neither mentioned, nor directly or indirectly contemplated by them. The contention of the respondent cannot be accepted for it would introduce something into section 17 which is not there and this is diametrically opposed to the well-known canons of interpretation. [956 D-E]

(iii) There is no logical justification for the provisions of sub-sections (3) and (4) of section 20B. When once the cultivator chooses to bring a bargadar on the land the interest of the bargadar is protected and has been made heritable. But when the bargadar on his own volition surrenders or abandons the land, there is no reason why the tenant should not be allowed to resume cultivation and instead be compelled to get the land cultivated by some other person nominated by the authority concerned under section 49 of the 1955 Act. This provision, therefore, appears to be extremely harsh and works serious injustice to the rights of the tenants particularly after the ceiling area of the tenant has been considerably reduced by the Amendment Act of 1972. [956 E-G]

(iv) Though the provisions of sub-sections (3), (4) and (5) of section 20B a perilously border on arbitrariness and amount to serious curbs on the fundamental right of the cultivator to pursue his occupation, they cannot be struck down because they are contained in the Amendment Act of 1972 which has been placed in the Ninth Schedule prior to April 24, 1973. It will, however, be for the legislature which is the best judge of the needs of its people to give, a suitable relief to the tenant and soften the rigours of these harsh provisions. [957 C-D]

(2) The object of the proviso is to safeguard the interest of the tenant himself so that he may give wholehearted attention to the personal cultivation of
952
the land. The proviso does not debar him from following any other occupation but once a tenant wants to have the land to himself for personal cultivation he must elect whether to pursue the profession of cultivation or some other occupation. Thus, even though there is some amount of

restriction both on the right of the petitioners to reside or follow any other occupation, such a restriction cannot be said to be arbitrary or unreasonable. [958 C, E-F]

In the instant case the restriction does not amount to complete deprivation of the right of the tenant to reside elsewhere because the words for the greater part of the year' leave sufficient scope to the tenant to reside elsewhere for a part of the year if he so desires. It is not necessary that the tenant should himself reside in the village for the greater part of the year. It is sufficient if any member of the family which includes his wife, unmarried adult, married adult, minor son and so on remains in the village. This would amount to substantial compliance of the conditions of the proviso. The restriction, therefore, is partial and in public interest. [958 G, 959 D]

(3) Whenever a complaint of violation of fundamental rights is made the court has to determine whether or not the restrictions imposed contain the quality of reasonableness. In assessing these factors a doctrinaire approach should not be made but the essential facts and realities of life have to be duly considered. Our Constitution aims at building up a socialist state and the establishment of an egalitarian society and if reasonable restrictions are placed on the fundamental rights in public interest, they can be fully justified in law. [959 F-G]

State of Madras v. V.G. Row, [1952] SCR 597, referred to.

(4) As the proviso operates equally to all the tenants governed by it no question of discrimination arises. [961 F]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition Nos. 1345, 1635/79, 458, 935. 1418 and 1692/80.

Under Article 32 of the Constitution.

Sukumar Ghosh for the Petitioners in WP No. 1345/79. S.N. Kacker, Govinda Mukhoty and Rathin Das for the Respondent in WP No. 1345/79.

P. Keshva Pillai for the Petitioner in WP No. 1635/79. Rathin Das for Respondent No. 2 and Ors. In WP No. 1635/79.

Bimal Kumar Datta, Mrs. L. Arvind and A.K. Sen Gupta for the Petitioner in WP No. 458/80.

S.N. Kacker and Rathin Das for Respondent No. 2 and Ors. in WP No. 458/80.

S.C. Majumdar, Bimal Kumar Datta, Mrs. L. Arvind and A.K. Sen for the Petitioner in WP No. 935/80.

Sripal Singh for the Petitioners in WP No. 1418 of 1980 and 1692/80.

Rathin Das for Respondent Nos. 2 and Ors. in WP Nos. 935 1418 & 1692/80.

The Judgment of the Court was delivered by FAZAL ALI, J These petitions under Article 32 of the Constitution have been filed in order to challenge the vires of the West Bengal Land Reforms Act, 1955 (hereinafter referred to as the '1955 Act') as also various amendments made to the said Act upto 1977. The first plank of argument related to the constitutional validity of the 1955 Act. The second plank of argument was confined to the validity of the West Bengal Land Reforms (Amendment) Act, 1972 (hereinafter referred to as the 'Amendment Act of 1972') which was in the nature of a ceiling Act prescribing a particular ceiling of the area of land which could be retained by the tenant. So far as the Ceiling Act, viz., the Amendment Act of 1972 is concerned, it is conceded by the counsel for the petitioners that the constitutional validity of the aforesaid Act is clearly concluded by a recent decision of this Court in Waman Rao & Ors. v. Union of India & Ors. where a Constitution Bench of this Court rejected the various grounds of challenge in respect of the constitutionality of various ceiling Acts passed by the States concerned. In view of this decision the learned counsel for the petitioners was fair enough to state that he does not want to press his contention regarding the constitutional validity of the Ceiling Act. Similarly, the learned counsel for the petitioners fairly conceded that as the 1955 Act, alongwith its amendments upto 1972, has been placed in the Ninth Schedule of the Constitution, it was immune from challenge and was saved by the protective umbrella contained in Art. 31B of the Constitution. In this connection, this position was made absolutely clear in Waman Rao's case (supra) where this Court observed as follows :

> "Thus, in so far as the validity of Article 31B read with the Ninth Schedule is concerned, we hold that all Acts and Regulations included in the Ninth Schedule prior to April 24, 1973 will receive the full protection of Article 31B. Those laws and regulations will not be open to challenge on the ground that they are inconsistent with or take away or abridge any of the rights conferred by any of the provisions of Part III of the Constitution."

In the instant case, it is clear that the 1955 Act as also the Amendment Act of 1972 were added to the Ninth Schedule, being entry Nos. 60 and 81, prior to April 24, 1973. In these circumstances, it is manifest that the aforesaid Acts ale completely immune from challenge on the ground that they are violative of any of the rights enshrined in Part III of the Constitution. The learned counsel for the petitioners, therefore, was fully justified in making the concession before us.

The argument of the learned counsel for the petitioners in W.P. No. 1345 of 1979, which has been adopted by the counsel for the petitioners appearing in other petitions, centres round the validity of-(1) The West Bengal Land Reforms (Amendment) Act, 1977 (published in the Gazette Extraordinary on 3-2-1978), and (2) Section 20B, sub- sections (3), (4) and (5), of the 1955 Act. So far as the challenge to the constitutional validity of this section was concerned, it was confined only on the ground that the said sub-sections were violative of Art. 14 of the Constitution of India as being discriminatory and arbitrary.

It was contended that once the land holder, viz., the tenant was given the right of personal cultivation and was permitted to get the land cultivated by a Bargadar on the basis that the bargadar would share half the produce, there was no warrant for not allowing the tenant to resume the land where the bargadar had voluntarily surrendered or abandoned the land. In order to consider this argument, it may be necessary to examine the status of the bargadar under the 1955 Act. Section 2(2) defines bargadar thus " 'Bargadar' means a person who under the system generally known as adhi, barga or bhag cultivates the land of another person on condition of delivering a share of the produce of such land to that person and includes person who under the system generally known as kisani cultivates the land of another person on condition of receiving a share of the produce of such land from that person."

Section 16 of the 1955 Act provides that where the tenant brings in a bargadar on the land, the produce of the land may be shared in the proportion of 50: 50 or 75; 25. There are also provisions in the 1955 Act for enforcement of the right of the tenant to get his share of the produce from the bargadar which have not been challenged before us. It would be seen that s. 17 permits the cultivator to terminate the cultivation of the land by a bargadar and resume possession under his own cultivation if the conditions mentioned in clauses

(a), (b) and (d) of sub-section (1) of s. 17 are satisfied. Clause (d) may be extracted thus:-

> "That the person owning the land requires it bona- fide for bringing it under personal cultivation."

Thus, the cultivator has a right to get back the land for personal cultivation if he requires it for his bona fide use and proves the same to the satisfaction of the authority appointed under s. 17(1).

It was argued by the counsel for the petitioners that on a parity of reasoning contained in s. 17, there was no reason why-where the bargadar had voluntarily surrendered or abandoned the land-the facility of cultivating the land personally by the tenant should be denied to him. Sub- sections (3), (4) and (5) of s 20B of the 1955 Act run thus:

> "(3) If such officer or authority determines that the bargadar had not voluntarily surrendered or abandoned the cultivation of the land which was being cultivated by him as such and what he had been compelled by force or otherwise to surrender or abandon the cultivation of such land, such officer or authority shall restore the bargadar to the cultivation of the land, or where the bargadar is not available or is not willing to be restored to the cultivation of such land, the person whose land was so cultivated shall not resume personal cultivation of the land but he may, with the permission of such officer or authority, get the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a bargadar.
>
> (4) If such officer or authority determines that the bargadar had voluntarily surrendered or abandoned the cultivation of the land which was cultivated by him as such, the person whose land was being so cultivated shall not resume personal

cultivation of such land but he may, with the permission of such officer or authority, have the land cultivated by any person, referred to in section 49, who is willing to cultivate the land as a bargadar.

(5) Any contravention of the provisions of sub-

section (3) or sub-section (4) shall be an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

Sub-sections (3) and (4) prescribe the procedure which is to be adopted where a bargadar voluntarily surrenders or abandons the cultivation of the land. Under these provisions, the tenant is not allowed to resume personal cultivation but has to get the land cultivated by some other person with the permission of the officer or authority concerned.

Realising the force of the argument, Mr. S. N. Kacker, appearing for the State of West Bengal, with his usual persuasiveness submitted that sub-sections (3) and (4) are extremely harsh but the rigours of these sub-sections can be softened if we read down s. 17(d) and interpret it in such a way as to permit a tenant to resume the land under clause

(d) of s. 17 if the Bargadar voluntarily surrenders or abandons the land. We are, however, unable to agree with this argument because it will amount not only to distorting and misinterpreting clause (d) but also to causing serious violence to its plain language, which cannot be done It would appear that clauses (a), (b) and (c) of sub- section (1) of s. 17 of the 1955 Act are the only grounds given on which a tenant can get the land back for his personal cultivation. The contingency where the bargadar voluntarily surrenders or abandons the land is neither mentioned in clauses (a), (b) and (c) nor is directly or indirectly contemplated by them. In these circumstances. if we accept the contention of Mr. Kacker it would amount to introducing something into s. 17 which is not there and this is diametrically opposed to the well-known canons of interpretation We are, however, constrained to observe that there does not appear to be any logical justification for the provisions of sub-sections (3) and (4) of s. 20B.

It is understandable that when once the cultivator chooses to bring a bargadar on the land, the interest of the bargadar should be duly protected and has been made heritable. So far, there can be no objection and such a course is in consonance with the object of the statute. But when the Bargadar on his own volition surrenders or abandons the land, there is no reason why the tenant should not be allowed to resume cultivation and instead be compelled to get the land cultivated by some other person nominated by the authority concerned under s. 49 of the 1955 Act. This provision therefore appears to us to be extremely harsh and works serious injustice to the rights of the tenants particularly after the ceiling area of the tenant has been considerably reduced by the Amendment Act of 1972. Thus, the tenant having a small area guaranteed to him for his unit, he should have at least fuller and more effective rights to get that area cultivated by him or even by a bargadar of his choice subject to resuming the same, if the bargadar surrenders or abandons the land. The amendment doubtless recognises the right of the ownership of the tenant within the ceiling area and yet to deny him the right of resuming cultivation of the land from the bargadar inducted by him

after the bargadar voluntarily surrenders or abandons the same and forcing or imposing someone else to cultivate the land on behalf of the tenant appears to be contrary to the very tenor and spirit which sections 17 and 20B of the 1955 Act seem to subserve Unfortunately, however, though the provisions of sub-sections (3), (4) [and (5) of s. 20B, which is only a penal section] perilously border on arbitrariness and amounts to serious curbs on the fundamental right of the cultivator to pursue his occupation, we cannot however strike down these provisions because they are contained in the Amendment Act of 1972 which has been placed in the Ninth Schedule prior to April 24, 1973, and therefore fall within the protective umbrella and are immune from challenge. It will, however, be for the legislature which is the best judge of the needs of its people to give a suitable relief to the tenant and soften the rigours of the harsh provisions of sub-sections (3), (4) and (5) of s. 20B on the lines indicated by us. With these observations, the arguments of the learned counsel for the petitioners on this ground are overruled.

We now come to the second plank of the argument which comprises the challenge to the proviso and the Explanation to s. 2 of the 1955 Act. This provision having been brought into force after the 24th of April, 1973, falls beyond the ambit of Art. 31B and is not covered by the protective umbrella of that Article. In these circumstances, the challenge to the constitutionality of this provision could be entertained by us. Mr. Kacker did not controvert this position. The impugned proviso and the Explanation which were added to clause (8) of s. 2 by the West Bengal Land Reforms (Amendment Act, 1977, may be extracted thus:-

> "Provided that such person or member of his family resides for the greater part of the year in the locality where the land is situated and the principal source of his income is produced from such land. Explanation-The term "family" shall have the same meaning as in clause (c) of section 14K"

It was submitted that the proviso insists that the cultivator or member of his family must reside in the locality where the land is situate for the greater part of the year and thus deprives the petitioners of their right guaranteed to them under Art 19(1) (e) and (g) of the Constitution inasmuch as it compels the petitioner to reside in the village and prevents them from either going to or residing in any other place in India. The second ground of challenge to the constitutionality of the proviso was that it places a serious curb on the right of the petitioners to carry on their occupation other than agriculture.

As regards the first argument, we are unable to agree with the learned counsel because the object of the proviso is to safeguard the interest of the tenant himself so that he may give whole-hearted attention to the personal cultivation of the land which has been secured for him by virtue of a valuable piece of agrarian reform. If the tenant is allowed to go out of the village and reside at other places then the benefit conferred by the 1955 Act cannot be fully utilised by the tenant and would frustrate the very purpose for which agrarian reforms are meant. Moreover, the land is given to the tenant as the tiller of the soil fundamentally for the reason that cultivation is his main source of sustenance as is mentioned in the proviso itself. If, therefore, the principal source of sustenance of the tenant is agriculture it would be futile for the tenant to say that he should be permitted to follow other avocations or occupations in the main which will defeat the very purpose for which the proviso

has been enacted. The proviso does not debar him from following any other occupation but once a tenant wants to have the land to himself for personal cultivation he must elect whether to pursue the profession of cultivation or some other occupation. Thus, even though there is some amount of restriction both on the right of the petitioners to reside or follow any other occupation, such a restriction cannot be said to be arbitrary or unreasonable. It is well settled that where a restriction is imposed by the legislature in public interest in order to advance a particular purpose or carry out the dominant object. such a restriction is undoubtedly a reasonable one within the meaning of clauses (4) and (5) of Art. 19 of the Constitution. Moreover, in the instant cast, the restriction does not amount to complete deprivation of the right of the tenant to reside elsewhere because the words 'for the greater part of the year' leave sufficient scope to the tenant to reside elsewhere for a part of the year if he so desires. Furthermore, the Explanation adopts the definition of "family" which is the same as defined in s. 14K of the 1955 Act which runs thus:

> "(i) himself and his wife, minor sons, unmarried daughters, if any,
>
> (ii) his unmarried adult son, if any, who does not hold any land as a raiyat,
>
> (iii) his married adult son, if any, where neither such adult son nor the wife nor any minor son or unmarried daughter of such adult son holds any land as a raiyat,
>
> (iv) widow of his predeceased son, if any, where neither such widow, nor any minor son or unmarried daughter of such widow holds any land as a raiyat,
>
> (v) minor son or unmarried daughter, if any of his pre deceased son, where the widow of such predeceased son is dead any minor son or unmarried daughter of such predeceased son does not hold any land as a raiyat, but shall not include any other person."

Thus, it is not necessary that the tenant should himself reside in the village for the greater part of the year and it is sufficient if any member of the family which includes his wife, unmarried adult, married adult, minor son and so on, remains in the village and this would amount to substantial compliance of the conditions of the proviso. The restriction, therefore, is partial and in public interest and bears a close nexus with the object of the 1955 Act, viz, to achieve agrarian reforms.

The fundamental rights enshrined in Art. 19 of the Constitution are not absolute and unqualified but are subject to reasonable restrictions which may be imposed under sub-clauses (4) and (5) of Art. 19. Whenever a complaint of violation of fundamental rights is made the Court has to determine whether or not the restrictions imposed contain the quality of reasonableness. In assessing these factors a doctrinaire approach should not be made but the essential facts and realities of life have to be duly considered. Our Constitution aims at building up a socialist state and the establishment of an egalitarian society and if reasonable restrictions are placed on the fundamental rights in public interest, they can be fully justified in law. The principles laying down the various tests of reasonableness have been very aptly enunciated in the case of State of Madras v. V.G. Row which is almost the locus classicus on the subject in question. In that case Shastri, C.J, speaking for the Court

observed as follows :-

> "It is important in this context to bear in mind that the test of reasonableness, wherever prescribed, should be applied to each individual statute impugned, and no abstract standard, or general pattern, of reasonableness can be laid down as applicable to all cases. The nature of the right alleged to have been infringed, the underlying purpose of the restrictions imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of the imposition, the prevailing conditions at the time, should all enter into the judicial verdict."

The case has been consistently followed by later decisions of this Court right uptodate Another important factor to consider the reasonableness of restrictions is if the restrictions imposed are excessive or dispreportionate to the needs of a particular situation. Further, if the restrictions are in implementation of the directive principles of the Constitution the same would be upheld as being in public interest because the individual interest must yield to the interest of the community at large for only then a welfare state can flourish.

Applying these tests to the facts of the present case we are satisfied that the restrictions contained in the impugned proviso cannot be said to be unreasonable for the following reasons:

> The dominant object of the proviso is to abolish the age-old institutions of absentee land-holders by insisting that the cultivator to whom land is allotted must give full and complete attention to the soil and as a result of which there will be a maximum utilisation of the agricultural resources which would increase production. Under the Amendment Act of 1972 an adult unmarried person is entitled to hold an area up to 2.50 hectares which is equal to 6.72 acres, a tenant with a family of two or more is entitled to hold 12.36 hectares and a tenant having a family of five or more is entitled to hold 7 hectares which is equal to 12.23 acres being the maximum area permissible. Thus, the area left to the tenant is quite vast and appreciable and if the tenant wants to bring this area under cultivation in right earnest it would hardly leave him time to quit the village and pursue other avocations of life. It is obvious that the tenant has to remain in the village for the purpose of cultivating the lands, sowing the seeds, growing it and harvesting it. These processes would doubt less require the presence of the tenant for a greater part of the year which is what the proviso predicates. If the tenant is permitted to leave the village for more than half the year then the very purpose of giving such a vast area for cultivation to a tenant will be foiled. Moreover, the proviso merely insists that the tenant should remain in the village or its periphery for "greater part of the year" which appears to be not only reasonable but absolutely essential if the land has to be cultivated in a scientific manner in order to yield the maximum possible production, which would result in better and equitable distribution of agricultural products for the use of the people of the country. Another aspect of the proviso is that the land is given to the tenant only if his main source of sustenance is from agriculture so that the land may be reserved only for the tiller of the soil and none else. Hence, the restrictions imposed, therefore, by the proviso are

undoubtedly in public interest and in consonance with the concept of promoting and accelerating agrarian reforms which is the prime need of the hour.

For these reasons, therefore, the challenge that the proviso violates Art. 19 (1) (e) and (g) must fail.

The last contention put forward by the petitioners was that the proviso is also violative of Art. 14 inasmuch as it is extremely arbitrary and discriminatory. We are unable to uphold the challenge on the ground that the proviso violates Art. 14 because we do not find any element of arbitrariness in the proviso. If the statute insists that the tiller of the soil must remain in the village for a greater part of the year in order to cultivate the land which has been given to him and thereby increase the produce. Of the land, no serious prejudice is caused to the tenant because that is the purpose for which he has himself secured the land. Secondly, as the proviso operates equally to all the tenants governed by it no question of discrimination at all arises. Thus, this argument also is wholly untenable and must fail.

For the reasons given above, we hold that both the Act of 1955, including the Amendment Act of 1972, and the proviso introduced a by the Amendment Act of 1977 are constitutionally valid. As we have made certain observations regarding the harshness of the provisions of sub-sections (3), (4) and (5) of s. 20B of the 1955 Act, let a copy of this judgment be sent to the Hon'ble Chief Minister of West Bengal. The petitions are dismissed without any order as to costs.

N.V.K. Petitions dismissed,