General Radio & Appliances Co. Ltd. & Ors vs M.A. Khader (Dead) By Lrs on 17 April, 1986

Equivalent citations: 1986 AIR 1218, 1986 SCR (2) 607, AIR 1986 SUPREME COURT 1218, 1986 ARBILR(SUPP) 265, (1986) 1 APLJ 47, 1986 HRR 404, (1986) LS 90, 1986 SCFBRC 284, 1986 MPRCJ 265, 1986 2 UJ (SC) 655, (1986) 2 RENCR 283, 1986 (2) SCC 656, (1986) 3 SUPREME 378, (1986) 60 COMCAS 1013, (1986) 2 COMLJ 249, (1986) 2 RENCJ 413

Author: B.C. Ray

Bench: B.C. Ray, O. Chinnappa Reddy, K.N. Singh

PETITIONER:
GENERAL RADIO & APPLIANCES CO. LTD. & ORS.

Vs.

RESPONDENT:
M.A. KHADER (DEAD) BY LRS.

DATE OF JUDGMENT17/04/1986

BENCH:
RAY, B.C. (J)
BENCH:
RAY, B.C. (J)
REDDY, O. CHINNAPPA (J)
SINGH, K.N. (J)

CITATION:
1986 AIR 1218 1986 SCR (2) 607
1986 SCC (2) 656 1986 SCALE (1)595
CITATOR INFO :
D 1991 SC 70 (6)

ACT:
Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (AP Act No. 15 of 1960), section 10(ii) (a) read with section 2(ix)- Transfer of tenancy right under the lease/subletting, meaning of - Whether the voluntary amalgamation by virtue of the provisions of sections 391 and 394 of the Companies act, 1956 of a company having tenancy rights in a building with another company amounts to a "transfer of tenancy rights" within the meaning of AP Act 15 of 1960 - Subsequent events, taking judicial notice of.

HEADNOTE:

M/s. General Radio & Appliances Co. Ltd., a tenant under the respondent-landlord with effect from 7th day of January, 1959 under a rent agreement dated 12.1.1959 filed a company petition, before the Bombay High Court, under sections 391 and 394 of the Companies Act praying for an order sanctioning the scheme of amalgamation proposed by it with M/s. National Ekco Radio and Engineering Co. Ltd. The Bombay High Court sanctioned the said scheme by its order dated 27.3.1968. After the said amalgamation of the two companies, appellant No. 1 company stood dissolved from 16 April 1968. The respondent landlord issued a notice on 26.12.1968 to the first appellant company terminating the tenancy on the ground of subletting and/or transfer and assignment of the interest of appellant No. 1 company to the appellant No.2 company. Thereafter, the respondent filed the Rent Control Case No. 96 of 1969 for eviction under Rule 10(ii)(a) of the AP Act 15 of 1960. The Rent Controller accepted both the pleas of respondent, namely, unauthorised subletting of the premises and wilful default in payment of rent and negatived the defence of the appellants that consequent upon the scheme of amalgamation when made a rule of the Court, there was no transfer or subletting but a blending of two companies together. In appeal, the Chief Judge, City Small Causes Court set aside the eviction orders holding that a transfer of assets under a scheme

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of amalgamation being an involuntary one, it did not amount to assignment of lease by the amalgamating company. However, the High Court while allowing the further Revision Petition filed by the landlord restored the eviction orders passed by the Rent Controller. Hence the appeal by certificate.

Dismissing the appeal, the Court

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HELD : 1.1 The Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 is a special Act which provides for eviction of tenants on certain specific grounds mentioned in section 10 of the said Act. There is no express provision in the said Act that in case of any involuntary transfer or transfer of the tenancy right by virtue of a scheme of amalgamation sanctioned by the Court by its order under sections 391 and 394 of the Companies Act as in the present case, such transfer will not come within the purview of section 10(ii)(a) of the said Act. In other words such a transfer of tenancy right on the basis of the order of the court will be immune from the operation of the said Act and the transferee tenant will not be evicted on the ground that the original tenant transferred its right under the lease or sublet the tenanted premises or a portion thereof. [615 FH; 616 A-B]

1.2 On a plain reading of section 2(ix), of the Act, it is clear that "any person placed in occupation of a building by the tenant" cannot be deemed or considered to be a tenant in respect of the premises in which the said person is to be in possession within the meaning of the said Act. Therefore, the second appellant that is National Ekco Radio and Engineering Co. Ltd., the transferee company who has been put in possession of the tenanted premises by the transferor tenant General Radio and Appliance Co. (P) Ltd. cannot be deemed to be tenant under this Act on the mere plea that the tenancy right including the leasehold interest in the tenanted premises have come to be transferred and vested in the transferee company on the basis of the order made under sections 391 and 394 of the Companies Act. [616 B-D]

1.3 The order of amalgamation has been made on the basis of the petition made by the transferor company in company petition No. 4 of 1968 by the High Court of Bombay. As such it cannot be said that this is an involuntary transfer effected by order of the Court. [615 C-D]
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1.4 Subsequent event can be taken judicial notice of. Here, the first appellant company stood dissolved from 16th of April 1968 and therefore, is no longer in existence in the eye of law and it has effaced itself for all practical purposes. The second appellant company that is the transferee company is now the person placed in occupation of the suit premises by the tenant, the first appellant company. There is undoubtedly no written permission or consent of the respondent landlord to the transfer of tenancy right of the first appellant company as required under section 10(ii)(a) of the Act. Moreover even if it is assumed to be a subletting to the second appellant by the first appellant, such subletting has been made contrary to the provisions of the said Act and in violation of the terms of clause 4 of the tenancy agreement dated 12.1.1959 which clearly prohibits such subletting of the tenanted premises without the written permission of the landlord. [615 B-F]

Sabhayanidhi Virudhunagar Ltd. v. A.S.R. Subrahamanya Nadar & Ors., 1951 A.I.R. Madras p. 209 and Parasaram Harnand Rao v. Shanti Prasad Narinder Kumer Jain & Anr., [1980] 3 S.C.R. p. 444, referred to.

Devarajulu Naidu v. Ethirajavalli Thyaramma, [1949] 2 M.L.R. p. 423, held inapplicable.

Venkatarama Iyer v. Renters Ltd., [1951] II M.L.R. p. 57 approved.

JUDGMENT:

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1923 of 1976.

From the Judgment and Order dated 23rd April, 1976 of the Andhra Pradesh High Court in Civil Revision Petition No. 684 of 1974.

U.R. Lalit, D.N. Mishra and Miss Ratna Kapoor for the Appellants.

A.Subba Rao for the Respondents.

The Judgment of the Court was delivered by B.C. RAY, J. This appeal by way of certificate granted by the High Court of Andhra Pradesh at Hyderabad under Article 133 of the Constitution of India is against the judgment and decree in Civil Revision Petition No. 684 of 1974 made on 23rd of April, 1976 and it raises an important question of law, i.e. whether the voluntary amalgamation of the first and second appellants companies amounts to a transfer of the first appellant's right under the lease within the meaning of s. 10 (ii)(a) of Andhra Pradesh Buildings (Lease, Rent & Eviction) Control Act, 1960.

The front corner portion of the premises bearing No. 8092/1/2 (new No. 5-1-1-) situated at Rashtrapati Road at Secundrabad was let out on January 12, 1959 to M/s General Raio & Appliances Co. (P) Ltd., the first appellant, on a monthly rent of Rs. 200 on the basis of the rental agreement dated January 12, 1959 (Exhibit P-6) executed by the first appellant. Clause 4 of the said agreement provides that the tenant shall not sub-let the premises or any portion thereof to anyone without the written consent of the landlord. The respondent-landlord M.A. Khader issued a notice dated December 26, 1968 to the tenant-appellant No. 1, M/s. General Radio and Appliances (P) Ltd. terminating the tenancy on the ground of subletting and/or transfer and assignment of the interest of the Appellant No. 1 to the Appellant No. 2. Thereafter on April 7, 1969 the Rent Control Case No. 96 of 1969 was filed by the respondent- landlord for eviction of the Appellanttenant on two grounds, i.e. (i) unauthorised subletting of the premises by the first appellant and (ii) wilful default in payment of rent from October 7, 1968 to April 7, 1969. The appellants Nos. 1 and 2 filed a joint counter contending that there was neither subletting, nor assignment of the tenancy rights by the first appellant to the second appellant, i.e. the first appellant company was amalgamated with the second appellant company by operation of law under the scheme of amalgamation and order of the High Court of Bombay under ss. 391 and 394 of the Companies Act, 1956 and that the judgment of the Bombay High Court was judgment 'in Rem' and it was binding on the petitioner even though he was not a party to the proceedings. It was further contended therein that by reason of order of the Bombay High Court all the property rights and powers of every description including tenancy right held by the M/s. General Radio Appliance (P) Ltd., the appellant No. 1, have been blended with the second appellant company, M/s. National Ekco Radio and Engineering Co. Ltd., and that there was no wilful default in payment of rent. The application for eviction should, therefore be dismissed.

Two witnesses were examined on behalf of the landlord and three witnesses were examined on behalf of the tenant. The Rent Controller, Secunderabad, on consideration of evidences on record held that the appellant No. 1 company has sublet the premises to the appellant No. 2 company without written consent of the landlord, as the amalgamation of the first appellant-company with the second appellant- company amounted to subletting or assignment. It was further held that there was wilful default in payment of rent for the period in question. The Rent Controller, therefore,

allowed the application and directed the appellants to vacate and deliver vacant possession of the suit premises under their occupation to the landlord-petitioner within a period of three months from the date of the order.

Against this judgment and decree an appeal being Appeal No. 406 of 1972 was preferred before the Chief Judge, city Small Causes Court, Hyderabad. On 29.10.75 the Chief Judge, City Small Causes Court, Hyderabad after hearing the parties held that though the appellant No. 1 company voluntarily sponsored the scheme of amalgamation, the ultimate power to sanction or not to sanction it rested with the High Court. The scheme of amalgamation though proposed by appellant No. 1 company voluntarily yet it became binding and enforceable on all the parties only when it was made a rule of the court. It was, therefore, held that the transfer of assets and liabilities including the leasehold interest of appellant No. 1 company to appellant No. 2 company took place by virtue of the order of the court. It was held that such a transfer of assets being an involuntary one did not amount to assignment of lease by appellant No. 1 company to appellant No. 2 company and as such it did not violate the terms of the lease. By amalgamation of appellant 1 company with appellant 2 company, the appellant 1 company is not wound up but it is merely blended with the other company. It was also held that there was no wilful default on the part of the tenant to pay the rent for the period mentioned in the petition inasmuch as in spite of the tender of the rent the respondent-landlord refused to accept the same and to grant receipt in the name of appellant No. 2 company. The appeal was, therefore, allowed and the order of the Rent Controller was set aside dismissing the eviction petition with costs.

Against this judgment and order, an application in revision being Civil Revision Petition No. 684 of 1974 was filed in the High Court of Judicature of Andhra Pradesh, Hyderabad. On April 23, 1976 the said Revision Application was allowed and the judgment and decree of the Appellate Court was set aside on restoring the decision of the Rent Controller. It was held that the amalgamation of appellant No. 1 company with appellant No. 2 company on the basis of application made by the appellant No. 1 company by submitting a scheme which was duly approved and sanctioned by the High Court of Bombay was not an involuntary one and this order of amalgamation indicated transfer of tenancy right without any notice or opportunity to the landlord. It is thus hit by the provision of s. 10(ii)(a) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960.

Against this judgment and order the instant appeal by way of certificate granted by the High Court of Andhra Pradesh has been preferred. The only question which falls for consideration in this appeal is whether in view of the order made by the High Court of Bombay on 27.3.1968 sanctioning the scheme of amalgamation proposed by the appellant No. 1 company under ss. 391 and 394 of the Companies Act in Company Petition No. 4 of 1968 and the subsequent transfer of tenancy right in the suit premises and vesting of the same in the 2nd appellant can be deemed to be subletting of the tenancy right of the appellant No. 1 or transfer or assignment of interest in the tenanted premises of the appellant No. 1 to the appellant No. 2 within the meaning of S. 10(ii)(a) of the said Act. The appellant No. 1 General Radio and Appliances (P) Ltd.admittedly took the premises in question on the basis of an agreement dated 12th of January, 1959 duly executed by him in favour of the landlord-respondent at a monthly rent of Rs. 200 for a period of eleven months commencing from

7th January 1959. Clause 4 of the said agreement is in the following terms :

> "That they shall not sublet the said premises or any portion thereof to anyone without the written consent of the landlord."

On January 9, 1968 the appellant No. 1 M/s General Radio and Appliances (P) Ltd., filed the Company Petition No. 4 of 1968 in the High Court of Bombay under s. 394 of the Companies Act for sanction of a scheme of amalgamation with M/s National Ekco Radio & Engineering Co. Ltd., M/s. General Radio & Appliances (P) Ltd. was shown as transferor Company and the National Ekco Radio and Engineering Co. Ltd. was shown as a transferee company in the said petition. The High Court of Bombay by order dated 28th March, 1968 sanctioned the scheme of amalgamation. It is pertinent to refer here to the relevant portions of the scheme which are as follows :

> "With effect from Ist day of January 1967 the undertaking and all the property, rights, powers of every description including all leases and tenancy rights, industrial, import and all other licences, quota rights of General Radio & Appliances (P) Ltd. (hereinafter called the transferor company) without further act or deed be transferred and vested or deemed to be transferred and vested in the National Ekco Radio & Engineering Co. Ltd. (hereinafter called the transferee company) etc."

It has been urged on behalf of the appellant that the amalgamation of M/s General Radio & Appliances (P) Ltd., 1st appellant with the 2nd appellant company is involuntary one, which has been brought into being on the basis of the order of the High Court of Bombay made under ss. 391 and 394 of the Companies Act. The first appellant company has not been wounded up and or liquidated, but it has been merely blended with the 2nd appellant on the basis of the order of the court. As such there has been no subletting by the 1st appellant company to the 2nd appellant company of the tenancy right of the 1st appellant in respect of the suit premises, nor there has been any transfer or assignment of interest of the 1st appellant in respect of its tenancy right in the premises in question in favour of the 2nd appellant within the meaning of S. 10(ii)(a) of the said Act. It has been further urged in this connection that the 1st appellant company by virtue of the scheme of amalgamation which was sanctioned by the Bombay High Court merely becomes a devision of the 2nd appellant company i.e. M/s. National Ekco Radio and Engineering Company Ltd. In other words, it was tried to be contended that the 1st appellant company has not become extinct, but it has been merged and or blended in the 2nd appellant company. In order to determine this issue it is relevant to set out herein the provisions of S. 10(ii)(a) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (A.P. Act No. 15 of 1960). Section 10(ii) runs as follows :

> "A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant reasonable opportunity of showing cause against the applicant is satisfied :
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> (ii) that the tenant has, in Andhra area after the commencement of the Hyderabad House Rent Control Order of 1953 Fasli without the written consent of the landlord ;

> (a) transferred his right under the lease or sublet the entire building or any portion thereof, if the lease does not confer on him any right to do so."

Section 2(ix) defines tenant :

> "'tenant' means any person by whom or on whose account rent is payable for a building and includes the surviving spouse, or any son or daughter, of a deceased tenant who had been living with the tenant in the building as a member of the tenant's family up to the death of the tenant and a person continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building by its tenant, etc."

In the instant case the appellant No. 1 i.e. M/s General Radio and Appliances Co. (P) Ltd. is undoubtedly the tenant having taken lease of the premises in question from the respondent landlord by executing a rent agreement dated 12th January, 1959 at a rental of Rs. 200 per month, the tenancy commencing from 7th day of January 1959. On the basis of the sanction accorded by order of the High Court of Bombay made on 27th March 1968 sanctioning the scheme of amalgamation in Company Petition No. 4 of 1968 filed by the 1st appellant, all the property, rights and powers of every description including all leases and tenancy rights etc. of the 1st appellant were transferred to and vested or deemed to be transferred and vested in the 2nd appellant M/s National Ekco Radio and Engineering Co. Ltd. It also appears that the appellant No. 1 company stood dissolved from 16th of April, 1968. This clearly goes to show that the General Radio and Appliances (P) Ltd., the tenant company has transferred all its interest in the tenanted premises in favour of the appellant No. 2 i.e National Ekco Radio and Engineering Co. Ltd. (the transferee company). The order of amalgamation has been made on the basis of the petition made by the transferor company in Company Petition No. 4 of 1968 by the High Court of Bombay. As such it cannot be said that this is an involuntary transfer effected by order of the court. Moreover the 1st appellant company is no longer in existence in the eye of law and it has effected itself for all practical purposes. The 2nd appellant company i.e. transferee company is now the tenant in respect of the suit premises and the 1st appellant company has transferred possession of the suit premises in favour of the 2nd appellant company. There is undoubtedly no written permission or consent of the respondent landlord to this transfer of tenancy right of the 1st appellant company as required under S. 10(ii)(a) of the said Act. Moreover even it is assumed to be a subletting to the 2nd appellant by the 1st appellant, such subletting has been made contrary to the provisions of the said Act and in violation of the terms of clause 4 of the tenancy agreement (Exhibit P-6) which clearly prohibits such subletting of the tenanted premises without the written permission of the landlord. The Andhra Pradesh Building (Lease, Rent and Eviction) Control Act, 1960 is a special Act which provides for eviction of tenants on certain specific grounds mentioned in S. 10 of the said Act. There is no express provision in the said Act that in case of any involuntary transfer or transfer of the tenancy right by virtue of a scheme of amalgamation sanctioned by the court by its order under ss. 391 and 394 of the Companies Act as in the present case, such transfer will not come within the purview of S. 10(ii)(a) of the said Act. In other words such a transfer of tenancy right on the basis of the order of the court will be immune from the operation of the said Act and the transferee tenant will not be evicted on the ground that the original tenant transferred its right under the lease or sublet the tenanted premises or a portion

thereof. It is important to note in this connection the definition of tenant as given in S. 2(ix) of the said Act which provides specifically that a tenant does not include a person placed in occupation of a building by its tenant. On a plain reading of this provision it is crystal clear that any person placed in occupation of a building by the tenant cannot be deemed or considered to be a tenant in respect of the premises in which the said person is to be in possession within the meaning of the said Act. Therefore, the 2nd appellant i.e. National Ekco Radio and Engineering Co. Ltd. the transferee company who has been put in possession of the tenanted premises by the transferor tenant General Radio and Appliance Co. (P) Ltd. cannot be deemed to be tenant under this Act on the mere plea that the tenancy right including the leasehold interest in the tenanted premises have come to be transferred and vested in the transferee company on the basis of the order made under ss. 391 and 394 of the Companies Act.

The effect of an order under S. 153(A) of the Companies Act 1913 which corresponds to ss. 391 and 394 of the Companies Act, 1956 has been very succinctly stated in the case of Sahayanidhi Virudhungar Ltd. v. A.S.R. Subrahmanya Nadar & Ors., 1951 A.I.R. Madras p. 209. Section 153(A) of the Companies Act has been enacted with a view to facilitate arrangements and compromise between a Company and its creditors or shareholders which involve a transfer of its assets and liabilities to other companies as part of such agreement. If any such scheme or arrangement is sanctioned by court, the court is empowered by the section to make provisions by its order sanctioning the arrangement or any subsequent order, for the transfer of the assets and liabilities of a company in liquidation to another company styled in the section as transferee company. Where an order of court made under the section provides for the transfer of the assets and liabilities of a company in liquidation to another company, the assets are, by virtue of that order, without more, transferred to and vest in the transferee company and the liabilities of the former company are also cast upon the transferee company. Under the ordinary law of contract while assets are assignable, liabilities under contracts or duties arising thereunder are not assignable, but the effect of S. 153(A) is to some extent to override the ordinary law. Thus by an order sanctioning amalgamation of the rights, interest and liabilities of the transferor company are transferred and vested in the transferee company. It appears that by the order of amalgamation, the interest, rights of the transferor company in all its properties including leasehold interest and tenancy rights are transferred and vested in the transferee company.

It has been urged that the effect of amalgamation is analogous to that of a man who enters with partership with another. The two companies do not become jointly liable to their respective separate creditors and neither becomes liable for the debts of the other. The general effect of amalgamation as provided in Halsbury's Laws of England (3rd Edition) Vol. 22, P. 432 has been referred to in this connection and it has been submitted that by the amalgamation there has been no subletting as the 1st appellant company has co-interest in transferee company, the 2nd appellant company herein. The case of Devarajulu Naidu v. Ethirajavalli Thyaramma, [1949] 2 M.L.R. p. 423 has been referred to in this connection. In that case the original tenancy was in favour of three persons who were partners in the firm and after dissolution of the partnership firm one of the partner was allowed to wind up the affairs of the partnership and thereafter he was allowed to use the demised premises for his sole business. The question arose whether in such case the landlord was entitled to eviction of that partner from the tenanted premises on the ground that there was subletting. It was held in the

facts of that case that the original tenancy being in favour of three persons who were partners in the firm and act on the part of the two partners after dissolution of the firm to allow one of the parterns to use the premises for his sole business could not amount to a transfer or subletting of the premises to the petitioner. It has been observed as follows :

> "This act on the part of the two partners other than the petitioner cannot amount to a transfer or sub-letting of the premises to the petitioner. It is true that the Courts in England have taken up an extreme view that even when one of two partners after the dissolution of the partnership assigns to the other partner the interest of the partnership in premises which had been taken on lease by the partnership, it would amount to a breach of the covenant prohibiting an assignment of the lease without the consent of the lessor. But this Court was not inclined to apply this doctrine to Indian conditions. In Koragalva v. Jakri Beary, (1926, 52 M.L.J. 8) Devadoss, J. held that the transfer by a co-lessee in favour of another lessee of his right in the lease would not be a breach of a covenant against the assignment without the consent of the landlord."

This decision has got no application to the instant case inasmuch as in that case the only question involved was whether the transfer by co-lessee in favour of another lessee of his rights would be a breach of covenant against assignment without the consent of the landlord.

We have already stated hereinbefore that the 1st appellant company, the tenant, has transferred their interest in the tenanted premises to the appellant No. 2 company on the basis of the order made by the High Court of Bombay in Company Petition No. 4 of 1968 sanctioning the scheme submitted to it by the transferor company. We have also held that this is not an involuntary transfer by operation of law, but a transfer of the interest of the tenant company on the basis of their application made before the said High Court in the said Company Petition. Furthermore, we have also held that the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 which is a special Act provides specific grounds for termination of a tenancy and eviction of the tenant in S. 10(ii)(a) i.e. on the ground of subletting and/or transferring the interest of the tenant either in whole or any part of the tenanted premises to another person. Thus the Act prohibits in specific terms both subletting as well as the transfer or assignment of the interest of the tenant. Moreover clause 4 of the rent agreement executed by the 1st appellant expressly prohibits subletting of the tenanted premises without the express consent of the landlord. The transferor company in this case has undoubtedly been dissolved and the company has ceased to exist for all practical purpose in the eye of law.

All the interest of the transferor company including possession in respect of the tenanted premises have been transferred to the transferee company in contravention of the provisions of the said Act as well as in contravention of the terms and conditions of the said rent agreement thereby making the transferee company liable to be evicted from the tenanted premises.

It has been observed by Subba Rao, J. in the case of Venkatarama Iyer v. Renters Ltd., [1951] II M.L.R. 57 as follows :

> "The Madras Buildings (Lease and Rent) Control Act applies not only to residential and non- residential buildings, but also to same buildings used for both purposes. If a Company doing business in a particular premises (taken on lease) transfers its business as a going concern to another company and also the net assets for consideration and thereafter the transferee company takes over the business and carries on business in the premises let out to the former company it cannot be said that there was no transfer of the right of the former company under the lease to the latter company. On such transfer the tenant is liable to be evicted."

It is pertinent to mention in this connection the decision of this court in Parasaram Harnand Rao v. Shanti Prasad Narinder Kumar Jain & Anr., [1980] 3 S.C.R. p. 444. In this case the appellant landlord executed a lease in respect of the disputed premises in favour of respondent No. 2 for three years on 1.4.1942. In 1948 the appellant landlord filed a suit for eviction of the tenant for non-payment of the rent and for conversion of user of the premises. The suit for possession was dismissed, but a decree for arrears of rent was passed and it was held that Laxmi Bank was the real tenant. The Bombay High Court subsequently made an order that the Bank be wound up and in the winding up proceedings, the High Court appointed an official liquidator who sold the tenancy right to the respondent No. 1 in 1961. The sale was subsequently confirmed by the High Court and the respondent No. 1 took possession of the premises on 24.2.1961. The landlord appellant filed an application under the Delhi Rent Control Act for eviction of the Laxmi Bank and a decree for eviction was passed in favour of the appellant. Thereafter respondent No. 1 filed a suit for declaration that he was tenant of the landlord. The suit was dismissed and the appeal against that order also failed. The respondent No. 1, however, filed an application for recalling the warrant of possession issued by the court in pursuance of the decree in favour of the appellant. This ultimately came up in second appeal and the High Court allowed the Rent Controller's order allowing recalling of warrant of possession. On appeal by special leave this Court held that the amplitude of S. 14(b) of the Delhi Rent Control Act was wide enough not only to include any sublease but even an assignment or any other mode by which possession of the tenanted premises is parted. In view of the wide amplitude of s. 14(b), it does not exclude even an involuntary sale.

On a conspectus of all these decisions referred to hereinbefore the irresistible conclusion follows that there has been a transfer of the tenancy interest of appellant No. 1 in respect of the premises in question to the appellant No. 2, subsequently renamed appellant No. 3 M/s. National Radio Electronics Co. Ltd. in utter contravention of the provisions of S. 10(ii)(a) of the said Act as well as of the terms and conditions of clause 4 of the rent agreement dated 12.1.1959 executed by 1st appellant i.e. M/s General Radio and Appliances (P) Ltd. in favour of respondent landlord.

We, therefore, affirm the judgment and order passed by the High Court of Judicature Andhra Pradesh and dismiss this appeal. There will, however, be no order as to costs.

S.R. Appeal dismissed.