

Supreme Court of India

Rajendra Sales Corpn vs Indermull Mimtaji on 8 April, 1994

Equivalent citations: 1994 SCC (2) 286

Author: M Punchhi

Bench: Punchhi, M.M.

PETITIONER:

RAJENDRA SALES CORPN.

Vs.

RESPONDENT:

INDERMULL MIMTAJI

DATE OF JUDGMENT 08/04/1994

BENCH:

PUNCHHI, M.M.

BENCH:

PUNCHHI, M.M.

BHARUCHA S.P. (J)

CITATION:

1994 SCC (2) 286

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. This appeal is directed against the judgment of the High Court of Madras in the second appeal filed by the appellant before us. The appellant is the sublessee of premises belonging to the Pasumorthy Rukmani Ammal Charity, which has been held to be a public charitable trust and which is not disputed in this appeal. The respondent is the lessee of the said premises. The suit was filed by the respondent against the appellant for eviction from the said premises upon the ground that the sub-lease of the appellant had been terminated by the respondent. The suit was filed upon the basis that the said premises were exempt from the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 read with GO No. 2000 dated August 16, 1976 issued by the Governor of Tamil Nadu under the provisions of Section 29 of the said Act. The suit was dismissed by the trial court but was decreed in the first appeal. The second appeal before the High Court was dismissed.

2. The only contention raised before us is that the appellant, as sublessee of the said premises, is entitled to the protection of the said Act and that the said GO has no application.

3. Section 29 empowers the Government to exempt any building or class of buildings from all or any of the provisions of the said Act. By the said GO all buildings owned by Hindu, Christian and Muslim religious trusts and public charitable trusts are exempted from all the provisions of the said Act.

4. By virtue of Section 29 the Government is entitled to exempt any building or class of buildings from the provisions of the said Act and what has been exempted by the said GO are all buildings owned by public religious and charitable trusts of Hindus, Christians and Muslims. The exemption, therefore, attaches to the buildings. The said premises, being owned by a trust of the kind stipulated, are exempt from the provisions of the said Act and a sublessee thereof cannot claim the protection of the provisions of the said Act.

5. Our attention was drawn by learned counsel for the appellant to the judgment of this Court in *S. Kandaswamy Chettiar v. State of T. N.* I wherein it was held that public religious and charitable endowments and trusts constitute a well-recognised distinct group inasmuch they not only serve public purposes but the disbursement of their income is governed by the objects with which they were created and buildings belonging to such endowments or trusts clearly fall into a distinct class different from buildings owned by private landlords and, as such, their classification into one group by the State Government while issuing the said GO had to be regarded as being based on an intelligible differentia. It was also observed that the objectives of the said Act were to control rents and to prevent unreasonable eviction and these objectives were interrelated. It was obvious that if the trustees of public religious trusts and public charities were to be given freedom to charge the normal market rent then to make that freedom effective it was necessary to arm the trustees with the right to evict tenants for non-payment of such market rent. The State Government, on the materials before it, had come to the conclusion that the 'fair rent' fixed under the said Act was unjust in the case of such buildings and it was necessary to permit the trustees of such buildings to recover from their tenants reasonable market rent and, if that were so, non-eviction when reasonable market rent was not paid would be unreasonable. Relying upon these observations, it was submitted that it was only the lessor trust which was entitled to take proceedings dehors the said Act against the lessee and not the lessee against the sublessee. It was submitted that the whole rationale of the finding that the said Section 29 and GO did not contravene Article 14 was that these provisions were necessary in the interest of the lessor trust and the lessee, therefore, could not utilise these provisions against the sublessee.

6. In our view, the reasoning adopted in *Kandaswamy Chettiar* case¹ must be carried to its logical conclusion. Public religious and charitable trusts are given freedom to charge the normal market rent. To make that freedom effective, it is necessary to arm the trustees with the right to evict tenants for non-payment of such market rent. Such eviction cannot in fact be obtained where the tenants have created sub-tenants unless the sub-tenants are also liable to eviction without the protection of the said Act. The provisions, therefore, of the said Section 29 and GO attach to the buildings owned by the religious and public charitable trusts and the protection of the said Act is not

available both to lessees and sublessees thereof.

7. In this view of the matter, the appeal fails and is dismissed with no order as to costs.

8. We have heard learned counsel for the parties. We direct that the appellant shall not be evicted from the said premises for a period of 6 months from today provided he files an undertaking in this Court that he 1 (1985) 1 SCC 290 shall, on or before the expiry of six months, hand over to the respondent vacant possession of the said premises. The undertaking shall be filed within two weeks.