Supreme Court of India
Accountant And Secretarial ... vs Union Of India & Ors on 20 July, 1988
Equivalent citations: 1988 AIR 1708, 1988 SCR Supl. (1) 493
Author: S Mukharji
Bench: Mukharji, Sabyasachi (J)

PETITIONER:
ACCOUNTANT AND SECRETARIAL SERVICES PVT.LTD. & ANR.

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT20/07/1988

BENCH:
MUKHARJI, SABYASACHI (J)
BENCH:
MUKHARJI, SABYASACHI (J)
RANGNATHAN, S.

CITATION:
1988 AIR 1708 1988 SCR Supl. (1) 493
1988 SCC (4) 324 JT 1988 (3) 78
1988 SCALE (2)53
CITATOR INFO :
E&D 1991 SC 855 (46,48)

ACT:
Public Premises (Eviction of unauthorised occupants) Act, 1971-Whether the Act to the extent it had been extended to premises belonging to or taken on lease by a Corporation established by or under a Central Act and owned or controlled by Central Government was ultra vires or beyond legislative power of Parliament to extend the applicability of the Act to such premises-Determination of question involved.

HEADNOTE:
The first appellant in this appeal, a private limited company, occupying a portion of the premises belonging to the United Commercial Bank, claimed to be the tenant of the Bank, but this was not admitted by the respondent Bank. The Bank alleged that the appellant company had been allowed to occupy a portion of the Bank's premises as licensee in consideration of certain accountancy and secretarial services rendered to the Bank. The Bank had issued a notice of eviction to the appellant company under the West Bengal Premises Tenancy Act, 1956 ('the 1956 Act'). Subsequently,

the Bank issued a notice to the appellants under the Public Premises (Eviction of unauthorised occupants) Act, 1971 ('the 1971 Act') which is an Act of the Parliament. The appellants filed a writ petition in the High Court, agitating the question whether the impugned Act which provides for eviction of unauthorised occupants from public premises belonging to or taken on lease by a corporation established by or under a Central Act and owned or controlled by the Central Government was ultra vires as it was beyond the legislative power of the Parliament to extend the applicability of the said Act to such premises. The appellants were interested in denying the legislative power of Parliament in so far as it purported to extend the applicability of the 1971 Act to the premises belonging to or taken on lease by public sector corporations. Their argument went to the extent of urging that only the State legislatures and not Parliament were competent to legislate on a topic of landlord-tenant relationship in respect of land and buildings.

According to the appellants, the provisions of 1956 Act were squarely applicable and should have been resorted to by the Bank for evicting them.

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The appellants contended that a legislation of the type of West A Bengal Land (Eviction of unauthorised occupants) Act, 1962 (1962Act), which was on the pattern of the 1971 Act, would fall within the legislative field exclusively open to the State Legislatures and that the 1971 Act was ultra vires the Parliament in so far as it purported to affect the appellants' rights.

Dismissing the appeal, the Court,

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HELD: Per Sabyasachi Mukharji, J.

His Lordship agreed with Ranganathan, J. that the appeal should be dismissed. His Lordship preferred the view of the Madhya Pradesh High Court in L.S. Nair v. Hindustan Steel Ltd. Bhilai, A.I.R. 1980 M.P. 106 to the view of the Bombay High Court in Miscellaneous Petition No. 458/79-Elliot Waud Hill (P) Ltd. v. Life Insurance Corpn. This Court had in this Case proceeded on the short question whether the impugned Act which provides for eviction of unauthorised occupants from public premises to the extent it had been extended to premises belonging or taken on lease by a corporation established by or under a Central Act and owned or controlled by the Central Government, was ultra vires or beyond the legislative power of the Parliament to extend the applicability of the Act to such premises. [498D-G]

There was no dispute, as emphasised by Ranganathan, J., as to whether the premises in question or of this type was a public premises. For the purpose of this appeal, once it was held that the Public Premises (Eviction of Unauthorised occupants) Act was intra vires the Parliament, no further

issue between the parties survived. It was not necessary to consider whether the provisions of the 1971 Act even if intra vires would pervail upon the provisions of the State Legislation. For the purpose of this appeal, it was unnecessary to express any view on the amplitude and scope of Article 254 of the Constitution. [498H; 499A-B]

It had to be taken that the legislation in question must be under stood in its pith and substance, and so understood, the Act in question in this case is in respect of transfer of property other than agricultural land and as such falls in Entry 6 of List III of the 7th Schedule to the Constitution. It is clear from the decision of this Court in Indu Bhusan Bose v. Rana Sundari Devi and Anr., [1970] 1 S.C.R. 443 and the subsequent decision in V. Dhanapal Chettiarv. YesodaiAmmal, [1980] 1 S.C.R. 334 that the subject matter of housing accommodation and control thereof falls within the purview of concurrent list. In that view
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of the matter, it could not be convassed that the 1971 legislation in question was beyond the competence of the legislature. [499C-E]

Per S. Ranganathan, J.

The present agrument of the appellants might not have been open to them if the premises of the Bank could be said to be premises belonging to the Union Government In that case, the legislation to the extent it governs such premises can be said to fall under Entry 32 of List I as one covering the "property of the Union". Though, the premises being situated in Calcutta any legislation under that entry in regard thereto would be subject to State Legislation, the state Legislation can only govern "save in so far as Parliament by law otherwise provides." Parliament having provided otherwise by the 1971 Act, that Act will prevail over the 11/56 and 1962 Acts. Though the Bank was a corporation wholly owned and controlled by the Government, it had a distinct personality of its own and its property could not be said to be the property of the Union. The position was beyond the pale of controversy after the decision of this Court in Bacha F.Guzdar v. C.I.T., [1955] 1 S.C.R. 876; State trading Corporation of India Ltd. v. C.T.O., [1964] 4 S.C.R. 99, and many other cases. lt was not possible for the respondents to support the legislation qua the premises under Entry 32 of List I. [505A-D]

Entry 32 of List I being out of the way, the appellants contended that the legislation squarely regularly fell under Entry 18 of List II. A question as to the interpretation of Entry 18 (or its predecessor, Entry 21 of the Provincial List under the Government of India Act, 1935) had arisen before the Federal Court and Privy Council, and also was considered in some decisions of this Court, which, except in the case of Indu Bhusan Bose v. Rama Sundari Devi, [1970] 1 S.C.R. 443, were not helpful in deciding the issue before the Court. In respect of Indu Bhushan's case, while the

respondents contended that the ruling concluded the issue in their favour, the appellants urged that it could not be taken as a decision that the house tenancy legislation could not come under Entry 18 of List II. [505E; 506B-C; 513C]

It was true that the decision in Indu Bhushan's case ultimately turned on the wider interpretation of Entry 2 of List I favoured by this Court, nevertheless, the judgment contains a specific discussion of the terms of Entry 21. Indu Bhushan must be taken to have expressed a view that premises tenancy legislation in so far as it pertains to houses and buildinYs is referable not to Entry 18 of List II but to entries 6,7

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and 13 of List III. The decision of the larger Bench of this Court in V. Dhonpal Chettier v. Yesodai Ammal, [1980] 1 S.C.R. 334, also reinforced the same line of thinking. The discussion and ratio of Dhanpal Chettier fall into place only on the view that by that time it was taken as settled law that State house control legislations were referable to the legislative powers conferred by the Concurrent List. [513C; 520D-E]

Entry 18 should be given as wide a construction as possible consistent with all the other entries in all the three legislative Lists. There is no reason why the first topic dealt with by the entry, viz. land, should be narrowly interpreted. lt should be understood as including all types of land, rural or urban, agricultural or non-agricultural, arid, cultivated, fallow or vacant, What is 'land' can be gathered from the other words of the entry which attempt a paraphrase. It is not possible to interpret this entry as encompassing within its terms legislation on the relationship of landlord and tenant in regard to houses and buildings. All the legislation coming up for consideration in the present case are referable to entries in the concurrent List and the topic of legislation is not referable to Entry 18 of List II. The provisions of the 1971 Act, in so far as they were made applicable to the premises of the respondent Bank, are intra vires and valid. [520F-H; 525E]

Once it was held that the 1971 Act is infra vires the Parliament, no further issue between the parties survived. There was some discussion r. before this Court as to whether the provisions of the 1971 Act, even if intra vires, would prevail against the provisions of the State legislations. This case is clearly governed by the primary rule in Article 254(1) of the Constitution under which the law of Parliament on a subject in the concurrent List prevails over the State Law. Article 254(2) of the Constitution is not attracted because no provision of the State Acts (enacted in 1956 and 1962) were repugnant to the provisions of an earlier law of Parliament of existing law. Even if the provision of the main part of Article 254(2) can be said to be somehow applicable, the proviso, read with Article 254(1), reaffirms

the supremacy of any subsequent legislation of Parliament on the same matter even though such subsequent legislation does not in terms amend, vary or repeal any provision of the State Legislation. The provisions of the 1971 Act will, therefore, prevail against those of the State Acts and were rightly invoked in this case by she respondent Bank. [525F; 529C-E]

There was no substance in the appellants' contention that the provision in the 1971 Act appointing one of the officers of the respondent Bank as the Estate officers was violative of Article 14. [529F]

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The appeal failed.

L.S. Nair v. Hindustan Steel Ltd. Bhilai , A.I.R. 1980 M.P. 106; Elliot Waud Hill (P) Ltd. v. Life Insurance Corporation Miscellaneous Petiton No. 458/79 before Bombay High Court; Indu Bhusan Bose v. Rama Sundari Devi and Anr.. [1970] 1 S.C.R. 443; A.C. Patel v. Vishwanath Chadda, ILR 1954 Bombay 434; V. Dhanapal Chettiar v. Yasodai Ammal , [1980] 1 S.C.R. 836; Bacha P. Guzdar v. C.I.T, [1955] 1 S.C.R. 876; State Trading Corporation of India Ltd. v. C.T.O [1964] 4 SCR 99; A.P. State Raod Transport Corporation v. I.T.O., [1964] 7 SCR 17; Heavy Engineering Mazdoor Union v. State, [1969] 3 S.C.R. 995; Vidarbha Housing Board v. I.T.O., [1973] 92 I.T.R. 430; Western Coalfields Ltd. v. Special Area Development Authority, [1982] 2 S.C.R. 1; Manohar v. C.G. Deasi, AIR 1951 Nag. 33; Raman Dass v. State, AIR 1954 All. 707; Darukhanawala v. Khemchand, ILR 1954 Bom, 546; M. Karuna v. State, AIR 1955 Nag 153, Kewalchand v. Dashrathlal, ILR 1956 Nag 618; Sukumar Dutta v. Gaurishankar, [1964] 69 CWN 833; Raval & Co. v. Ramachandran, AIR 1967 Mad. 57;Mangtulal v. Radhey Shyam, AIR 1953 Pat. 14; Milap Chand v. Dwarakadas, AIR 1964 Raj 252; Rama Sundari v. Indu Bhusan, AIR 1967 Cal. 355; Nawal Mal v. Nathu Mal, AIR 1962 Raj. 193; Bapalal & Co. v. Thakur Das, AIR 1982 Mad. 309; Vnited Province v. Atiga Begum, [1940J F.C.R. 110; Megh Raj v. Allan Rakhia, AIR 1947 PC 72; Atma Ram v. State of Punjab, [1959] Supp. 1 S.C.R. 748; Manaklal Chhotalal v. M.G. Makwana & Ors., [1967] 3 SCR 65; Babu Jagtanand Sri Satyanarayanji, ILR 40 Patna 625; Union of India v. Valluri S. Chaudhary, [1979] 3 SCR 802, State v. Peter, [1980] 3 SCR 290, 292; Jaisingh Jairam Tyagi v. Maman Chand, [1980] 3 S.C.R. 224; Hoechst Pharmaceuticals v. State, [1983] 3 S.C.R. 130; Dhillon's case, [1972] 2 S.C.R. 33; Jain Ink Manufacturing Co. v. LIC, [1981] 1 S.C.R. 498 and Zaverbhai Amaidas v. State, [1955] S.C.R. 799, referred to.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal NO 900 of From the Judgment and order dated 12.2.1987 of the Calcutta High Court in Matter No. 676 of 1978.

Dr. Y.S. Chitale, Anil Mitra, P.H. Parekh, D. Chandfachud, S.C. Ghosh and R.K. Dhil1on for the Appellants.

K. Parasaran Attorney General for Union of India.

K.N. Bhat, A. Subba Rao and Miss Madhu Moolchandani for the Respondents.

The Judgment of the Court was delivered by SABYASACHI MUKHARJI, J. I had the advantage of reading in draft the judgment proposed to be delivered by my learned Brother Ranganathan, J. It is, however, necessary to add a few sentences. I was reluctant to take up this matter as it arises out of a decision of the Division Bench of the High Court of Calcutta. That decision was occasioned by a reference made by the Chief Justice of that High Court on a reference made by me to the Chief Justice sitting singly in that Court. In the High Court I had not expressed any view on the contentions urged. In those circumstances both the parties requested me to take up the matter. It was in these circumstances that I became a party to this judgment. I agree with my learned Brother that the appeal should be dismissed and the order he proposes to make as to costs.

It is not necessary in view of the facts and circumstances of the case to refer in detail to the reasons. I would, however, make it clear that I prefer the view of the Division Bench of the Madhya Pradesh High Court in the case of L.S. Nair v. Hindustan Steel Ltd. Bhilai, AIR 1980 MP 106. I would prefer this view in preference to that of the F. Iearned Single Judge of the Bombay High Court in Miscellaneous Petition No. 458/79 Elliot Waud Hill (P) Ltd. v. Life Insurance Corpn. Further, it is necessary to reiterate that in this case we have proceeded on the short question canvassed before the Division Bench of the High Court out of which this appeal arises, i.e., whether the impugned Act which provides for eviction of unauthorised occupants from public premises to the extent it has been extended to premises belonging or taken on lease by a corporation established by or under a Central Act and owned or controlled by the Central Govt. is ultra vires or beyond the legislative power of the Parliament to extend the applicability of the Act to such premises. It is only this question which was mooted before the High Court and required consideration by us under Article ,136 of the Constitution. It is, therefore, not necessary to express any view on any other aspect of the matter.

Furthermore, as has been emphasised by my learned Brother there was no dispute as to whether the premises in the present appeal is a public premises. Therefore, the question whether the premises in question or of this type is a public premises is not an aspect into which we were required to go.

For the purpose of this appeal once it is held that the Public Premises (Eviction. Of Unauthorised occupants) Act, 1971 is intra vires the Parliament, no further issue between the parties survive because no other contention was raised before the Division Bench of the High Court and also in this appeal under Article 136 of the Constitution, no other issue can be canvassed. It is, therefore, not necessary, in my opinion, to consider whether the provisions of 1971 Act even if intra vires would prevail upon the provisions of the State legislation. Hence, for the purpose of this appeal it is

unnecessary to express any view on the amplitude and scope of Article 254 of the Constitution.

Indu Bhusan Bose v. Rama Sundari Devi & Anr., [1970] 1 SCR 443 is a decision of five learned Judges of this Court affirming the Calcutta view which held that the legislation in question in that case was to be found in Entries 6, 7 & 13 of List III of the 7th Schedule of the Constitution and neither in Entry 18 of II Schedule nor in Entry 3 of II Schedule of the Constitution. It rejected the Bombay view expressed in ,4. C. Patel v. Vishwanath Chadda, ILR 1954 Bom. 434. Respectfully, it has to be taken that the legislation in question must be understood in its pith and substance and so understood the Act in question in the instant case, is in respect of transfer of property other than agricultural land and, as such, falls in Entry 6 of List III of the 7th Schedule to the Constitution. It is clear from the said decision and the subsequent decision reaffirming the same view in V. Dhanapal Chettiar v. Yesodai Ammal, [1980] 1 SCR 334 that the subject-matter of housing accommodation and control thereof falls within the purview of concurrent list. In that view of the matter, it cannot in my opinion, be canvassed that the 197 1 legislation in question was beyond the competence of the legislature.

With these observations I agree with respect with my learned Brother that the appeal should be dismissed without any order as to cost S. RANGANATHAN, J. The first appellant is a private limited company. The company is occupying a portion of premises No. 18, Russel Street, Calcutta. The premises belong to the United Commercial Bank, a statutory corporation constituted under the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970. The appellant company claims to be the tenant of the Bank but this is not admitted by the respondent Bank. The Bank alleges that the appellant company, when somewhat differently constituted, had been allowed to occupy a portion of the Bank's premises as licensee in consideration of certain accountancy and secretarial services which it was required to render to the Bank. It appears that sometime in 1975 the respondent Bank issued a notice of eviction to the appellant company under Section 13(6) of the West Bengal Premises Tenancy Act, 1956 (hereinafter referred to as 'the 1956 Act'). Subsequently, however, the Bank issued a notice dated 4.2.1977 to the appellants under the Public Premises (Eviction of Unauthorised occupants) Act, 1971 (hereinafter referred to as 'the 1971 Act'), which is an Act of Parliament. The appellants thereupon filed a writ petition in the Calcutta High Court being Matter No. 676 of 1978. Though several contentions appear to have been raised in the writ petition, the judgment of the Division Bench of the Calcutta High Court dated 12th February, 1987, (which is the one presently under appeal) records that "the only question which has been mooted and agitated before us is whether the impugned Act which provides for eviction of unauthorised occupants from public premises to the extent it has been extended to premises belonging or taken on lease by a corporation established by or under a Central Act and owned or controlled by the Central Government is ultra vires as it was beyond the legislative power of the Parliament to extend the applicability of the said Act to such premises." Though the appellants are interested only in denying the legislative power of Parliament in so far as it purports to extend the applicability of the 1971 Act to premises belonging to or taken on lease by what may be described as public sector corporations, the contention as urged is somewhat broader. The argument goes to the extent of urging that only the State legislatures, and not Parliament, is competent to legislate on the topic of landlordtenant relationships in respect of land and buildings. This has been the principal contention addressed to us by Dr. Chitale appearing on behalf of the appellants.

The 1971 Act received the assent of the President on 23rd August, 1971 but it is deemed to have come into force on the 16th day of September, 1958 for certain 'historical' reasons which are not relevant for our purposes. The Act provides for the eviction of 'unauthorised occupants from public premises and for certain incidental matters. S. 2(c) defines premises' to mean 'any land or any part of a building and to include garden, grounds and outhouses appurtenant to the building or fittings affixed thereto'. The expression 'public premises' has been defined in Section 2(e) of the Act. This definition is in three parts. Sub- clause (1) of clause (e) takes in premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government, as well as premises placed by that Government under the control of either House of Parliament for providing residential accommodation to the members of the staff of the Secretariat of either House of Parliament. Sub-clause (3) of clause (e) takes in premises belonging to certain local authorities in the Union Territory of Delhi. Sub-clause (2) of clause (e) brings in premises belonging to or taken on lease by, or on behalf of, various kinds of bodies, such as Universities, Institutes of Technology, Board of Trustees of Major Port Trusts and the Bhakra Management Board. It takes in any premises belonging to or taken on lease by, or on behalf of, a Government company or its subsidiary. It also takes in-and this is what we are concerned with here-premises of "any corporation (not being a company as defined in section 3 of the Companies Act, 1956 or a local authority) established by or under a Central Act and onwed or controlled by the Central Government". There is no dispute that the premises in question in the present appeal is "public premises" within the meaning of the Act.

The Act contemplates the appointment of an Estate officer who is a high placed officer of the Government or of the relevant statutory authority in respect of public premises controlled by that authority. The Act enables the Estate officer to call upon "unauthorised occupants" of public premises (meaning persons occupying such premises without authority or continuing in occupation after the authority to do so has expired or has been determined for any reason) to show cause why they should not be evicted and to proceed to evict them, if need be, after considering the cause, if any, shown by the persons concerned in response to a notice served on them. It also contains powers to remove unauthorised constructions, demolish unauthorised constructions, dispose of property left on public premises by unauthorised occupants, require payment of rent or damages in respect of public premises and so on. An order passed by the estate officer, under the provisions of the Act, is appealable, the appellate authority being the District Judge or such other judicial officer of not less than 10 year's experience as a District Judge and subject to the above right of appeal, the orders passed by the estate officer are final. Section 15 bars the jurisdiction of Courts to entertain any suits or proceedings in respect of, inter alia, the eviction of any person who is in unauthorised occupation of public premises. This, broadly, is the outline of the 1971 Act. Before proceeding to deal with the contentions urged before us, it is necessary to refer to two more enactments, which have a bearing on the topic of discussion before us.

It has been mentioned earlier that the Bank had served a notice on the appellants under the 1956 Act. This Act, which received the H assent of the President on 30th March, 1956, is on the pattern of the lease and rent control legislation prevalent in various States. It regulates, inter alia, the matter of eviction of tenants of buildings situated in Calcutta and certain important cities and localities of the State where there is scarcity of housing accommodation. It is not necessary to set out the provisions of this Act except one. Under the second proviso to section 1(3) the Act is not to apply to (a) any

premises belonging to any local authority,

(b) any premises belonging to or requisitioned by Government and (c) any tenancy created by Government in respect of any premises taken on lease by Government. The premises in the present case does not fall within any of these categories and, according to the appellants before us, the provisions of 1956 Act were squarely applicable and should have been resorted to by the Bank for evicting them. This is one.

The other relevant statute is the West Bengal Public Land (Eviction of Unauthorised occupants) Act, 1962, (hereinafter referred to as 'the 1962 Act'). This legislation is on the same pattern as the 1971 Act, a pattern which appears to have been in existence in various States, conferring special powers on statutorily named officers to evict unauthorised occupants of public premises. The definitions of 'land', 'public land' and 'unauthorised occupation' contained in sections 2(2), 2(7) and 2(8) are so wide as to leave no doubt that the premises belonging to the Bank would be within the scope of the said Act and that proceedings for eviction of the appellants could also be initiated by the Collector under that Act. It thus appears that the procedure for the eviction of the petitioners will be governed by the 1971 Act as well as either or both of the State Acts and the question is, which of these will prevail? The appellants urge that a legislation of this type will fall within the legislative field exclusively open to the State legislatures and that the 1971 Act is ultra vires Parliament in so far as it purports to affect the appellants' rights.

It will be convenient, at this stage, to set out all the relevant entries in the Seventh Schedule of the Constitution that may have a bearing on the discussion before us along with the corresponding entries under the 7th Schedule to the Government of India Act, 1935. These are:

CONSTITUTION List I-Union List	1935 ACT List I-Federal List
ENTRY 3 Delimitation of cantonment areas, local self-government in such areas, the consti- tution and powers of cantonment authorities, the regulation of house accommodation in such areas, and the delimitation of such areas.	ENTRY 2 Naval, military and air force works;
including the control of rents in such areas.	ENTRY 10
ENTRY 32 Property of the Union and the revenue therefrom, but as regards property situated in a State* * * subject to or otherwise provide.	Works, lands and buildings vested in, or in the possession of, His Majesty for the purposes of the Dominion (not being naval, military or air force works), but? as regards legislation by the Province, in so far as Parliament by law always to Provincial legislation, save in so far as

Dominion law otherwise provides, and, as regards property in an Acceding State held by virtue of any lease or agreement with that State, subject to the terms of that lease or agreement.

ENTRY 43: Incorporation7 regulation and winding up of trading corporations, including banking, insurance and financial corporations hut not including co-operative societies.	ENTRY 33: Corporations, that is to say, the incorporation, regulation and winding-up of trading corporations, including banking, insurance and financial corporations, but not including corporations owned or controlled by an Acceding State and carrying on business only within that State or co-operative societies, and of corporations, whether trading or not, with objects not confined to one unit, but not including universities.
ENTRY 44: Incorporation, regulation and winding up of corpora-tions, whether trading or not, with objects not confined to one State, but not including universities.	
LIST II--STATE LIST	LIST II--PROVlNClAL LIST
ENTRY 18:	ENTRY 21:

Land, that is to say, rights Land, that is to say, rights in or over land, land tenun in or over land, land tenures, including the relation of including the relation of landlord and tenant, and the landlord and tenant, and the collection of rents; transfer collection of rents; transfer, and alienation of agricultural alienation and devolution of land; land improvement a agricultural land; land agricultural loans; improvement and agricultural colonization. loans; colonization; courts of Wards; encumbered and attached estates; treasure trove.

List 111--CONCURRENT LIST	LIST 111--CONCURRENT LIST
ENTRY 5:	ENTRY 7:

Marriage and divorce; infants, Wills, intestacy, and succession, and minors; adoption; wills save as regards agricultural intestacy and succession; land.

joint family and partition;

all matters in respect of which parties in judicial proceedings were immedia-

tely before the commencement of this Consti-

tution subject to their personal law.

ENTRY 6:	ENTRY 8:

Transfer of property other than agricultural land; registration of deeds and documents.	Transfer of property other than agricultural land; regis- tration of deeds and documents.
ENTRY 7:	ENTRY 10:
Contracts, including part ship, agency, contracts of carriage, and other special forms of contracts, but not	Contracts, including partnership, agency, contracts of carriage, and other special forms of contracts,but not including
including contracts relating	contracts relating to agricultural land.

to agricultural land.

One thing may be made clear at the outset. The present argument may not have been open to the appellants if the premises of the bank could be said to be premises belonging to the Union Government. In that case, the legislation to the extent it governs such premises can be said to fall under entry 32 of List I as one covering the "property of the union". Though, the premises being situated in Calcutta, any legislation under that entry in regard thereto would be subject to State legislation, the State legislation can only govern "save in so far as Parliament by law otherwise provides". Parliament having provided otherwise by the 1971 Act, that Act will, it can be said, prevail over the 1956 and 1962 Acts. It is, however, common ground before us that though the Bank is a corporation wholly owned and controlled by the Government, it has a distinct personality of its own and its property cannot be said to be the property of the Union. The position, indeed, is beyond the pale of controversy after the decisions of this Court in Bacha. F.Guzdarv. C. r. T., [1955] 1 S.C.R. 876; State Trading Corporation of India Ltd. v. C.T.O.,[1964] 4 S.C.R. 99; A.P. State Road Transport Corporation v. I.T.O. [1964] 7 S.C.R. 17; Heavy Engineering Mazdoor Union v. State, [1969] 3 S.C.R. 995; Vidarbha Housing Board v. I. T. O.,[1973] 92 I.T.R. 430 and Western Coalfields Ltd. v. Special Area Development Authority, [1982] 2 S.C.R. 1. It is, therefore, not possible for the respondents to support the legislation, qua the premises in question, under Entry 32 of List I.

Entry 32 of List I being out of the way, Dr. Chitale, appearing on behalf of the appellants, contends that the legislation squarely falls under Entry- 18 of List II. He points out that judicial decisions have given the word `land' in Entry 18 a very wide interpretation so as to comprehend not only land of all types-rural or urban, agricultural or non-agricultural, vacant or built up-but also `buildings' put up thereon. Since the entry specifically includes the relationship of landlord and tenant, there can be no doubt that tenancy legislations pertaining to land and buildings derive their authority from Entry 18. He referred in this context inter alia, to Manohar v. C. Desai, AIR 1951 Nag 33; A. C. Patel v. Vishwanath Chadda, ILR 1954 Bom 434, Raman Doss v State, AIR 1954 ALL 707; Darukhanawala v. Khemchand, ILR 1954 Bom. 546; M. Karuna v. State, AIR 1955 Nag. 153; Kevalchand v. Dashrathlal, I.L.R. 1956 Nag. 618; Sukumar Dutta v. Gauriskanker, [1964] 69 CWN 833; Raval & Co. v. Ramackandran, AIR 1967 Mad. 57 and a detailed and comprehensive judgment of Parekh J. in Elliot Waud and Hill P. Ltd. v. L.I.C., [1980] Bom. C.R. 590 Which we are informed is pending consideration on appeal, before a Full Bench of the Bombay High Court. We do not, however, propose to discuss these cases at length firstly, because there is a contrary line of decisions also vide Mangtulal v. Radheshyam, AIR 1953 Pat. 14; Milap Chand v. Dwarakadas, AIR 1954 Raj. 252; Nawal Mal v. Nathu Mal, AIR 1962 Raj 193, Rama Sundari v. Indu Bhushan, AIR 1967 Cal 355; L.S. Nair v. Hindustan Steel Ltd., AIR 1980 M.P. 106 and Bapalal & Co. v. Thakur Das, AIR 1982 Mad. 309 and

the judgment presently under appeal and secondly, because a question as to the interpretation of Entry 18 (or its predecessor, Entry 21 of the Provincial List under the Government of India Act, 1935, (hereinafter referred to as 'the 1935 Act') had arisen before the Federal Court and the Privy Council and some of the above judgments have also been considered in certain earlier decisions of this Court. It would, therefore, be appropriate to refer to these decisions:

(1) The earliest of the decisions relevant in this context is the decision of the Federal Court in United Provinces v. Atiga Begum, [1940] F.C.R. 110. That case was concerned with the interpretation of Entry 21 of List II in the Seventh Schedule to the Government of India Act, 1935. It raised the issue of the validity of the United Provinces Regularisation of Remissions Act (14 of 1938). In view of an unprecedented fall in the prices of agricultural produce, the United Provinces Government directed a remission in the rents payable by tenants to their landlords. But this remission was declared by the High Court to be unauthorised and inoperative as being in contravention of the provisions of the Agra Tenancy Act, 1926. The Provincial Legislature, therefore, passed the impugned Act which precluded any question as to the validity of the orders of remission being raised in courts. This Act was held by a Full Bench of Allahabad High Court to be ultra vires the Legislature. The Provincial Government appealed to the Federal Court. The Federal Court held that the legislation was clearly governed by Entry 21. The learned Chief Justice observed:

> "The subjects dealt with in the three legislative lists are not always set out with scientific definition. It would be practically impossible for example to define each item in the Provincial List in such a way as to make it exclusive of every other item in that List, and Parliament seems to have been content to take a number of comprehensive categories and to describe each of them by a word of broad and general import. In the case of some of these categories such as "Local Government", "Education", "Water", "Agriculture" and "Land", the general word is amplified and explained by a number of example or illustrations, some of which would probably on any construction have been held to fall under the more general word, while the inclusion (of) others might not be so obvious. Thus "Courts of Wards" and 'treasure-trove' might not ordinarily have been regarded as included under the head "Land", if they had not been specifically mentioned in item no 21. I think, however, that none of the items is to be read in a narrow or restricted sense and that each general word should be held to extend to all ancillary or subsidiary matters which can fairly and reasonably be said to be comprehended in it. I deprecate any attempt to enumerate in advance all the matters which are to be included under any of the more general descriptions; it will be sufficient and much wiser to determine each case as and when it comes before this Court. "

The Court then proceeded to hold that, if the Provincial Legislature could legislate in respect of collection of rents, it must also have the power to legislate with respect to any limitation on the power of a landlord to collect rents, that is to say, with respect to the remission of rents as well as to their collection.

(2) The next decision, on certain observation in which Dr. Chitale placed considerable reliance is that of the Privy Council in Megh Raj v. Allah Rakhia, AIR 1947 PC 72. In that case the question was whether the Punjab Restitution of Mortgaged Lands Act, an Act of the Punjab Legislature, was void as being ultra vires of the Punjab Legislature. The Act applied to mortgagees in possession of certain lands. The expression 'land' was defined as "land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture" and included, inter alia, "the sites of buildings and other structures on such lands." The object of the impugned Act was the relief of mortgagors by giving them restitution of the mortgaged premises on conditions more favourable than those under the mortgage deed and by providing for a procedure before the Collector which was more summary than that before the ordinary Courts. The contention before the Privy Council, on behalf of the Punjab Province, was that the provisions of the impugned Act were traceable to item 21 supplemented, it need be, by item 2 of the Provincial Legislative List of the 1935 Act. The appellants, on the other hand, contended that the impugned Act went beyond the limits of the Legislative powers of the Province under list II and could not be supported by invoking the powers of the Province under List III (i.e. Entries 4, 7, 8 and 10 corresponding to Entries 13, 5, 6 and 7 of List III under the Constitution). It was pointed out that certain provisions of the impugned Act were repugnant to the provisions of the Indian Contract Act and the Code of Civil Procedure. The Judicial Committee came to the conclusion that the legislation was clearly covered by Entry 21 in List III. In so holding, they observed:

> "The key to item 21 is to be found in the opening word "land". That word is sufficient in itself to include every form of land, whether agricultural or not. Land indeed is primarily a matter of provincial concern. The land in each Province may have its special characteristics in view of which it is necessary to legislate, and there are local customs and traditions in regard to land holding and particular problems of provincial or local concern which require provincial consideration. It would be strange if the land in a province were to be broken up into separate portions some within and some outside the legislative powers of the province. Such a conflict of jurisdiction is not to be expected. Item 21 is part of a constitution and would on ordinary principles receive the idest construction, unless for some reason, it is cut down either by the terms of Item 21 itself or by other parts of the constitution which has to be read as a whole. As to Item 21 "land", the governing word is followed by the rest of the item, which goes on to say, "that is to say". These words introduce the most general concept- "rights in or over land." "Rights in land" must include general rights like full ownership or leasehold or all such rights. "Rights over land" would include easements or other collateral rights, whatever form they might take. Then follow words which are not words of limitation but of explanation or illustration, giving instances which may furnish a clue for particular matters; thus there are the words "relation of landlord and tenant and collection of rents." These words are appropriate to lands which are not agricultural equally with agricultural lands. Rent is that which issues from the land. Then the next two sentences specifically refer to agricultural land, and are to be read with item 7, 8 and 10 of List

3. These deal with methods of transfer or alienation or devolution which may be subject to federal legislation but do not concern the land itself, a sphere in which the provincial and federal powers are con-

current, subject to the express exception of the specific head of agricultural land which is expressly reserved to the provinces. The remainder of Item 21 specifies important matters of special consequence in India relating to land. The particular and limited specification of agricultural land proves that "land" is not used in Item 21 with restricted reference to agricultural land but relates to land in general. Item 2 is sufficient to give express powers to the provinces to create and determine the powers and jurisdiction of Courts in respect of land, as a matter ancillary to the subject of item 21.

It is next necessary to consider the terms of the impugned Act, which it is said is ultra vires of the Province, and compare them with the terms of the constitution just quoted. But before that is done, it may be observed that there is no express provision in the constitution referring by name to mortgages, though mortgages are of particular importance in India as a subject of ordinary business life and of litigation and of legislation. But a constitution does not generally deal with particular transactions or types of transactions, and mortgages of land would, in their Lordships' judgment, as a matter of construction, properly fall under Item 21 in so far as they are mortgages of land, though in certain aspects they include elements of transfer of property and of contract. But they form a type of transaction which may properly be regarded as sui generis, incidental to land and included within Item 21 except in so far as they fall within Items 8 and 10 of List 3 which again contain an express exception in the case of agricultural land. Their Lordships cannot accept the view that so important a subject as mortgages was left out of the Constitution and merely left to the Governor General's powers under s. 104, Constitution Act as a residual subject. So far as land at least is concerned, Item 21 would include mortgages as an incidental and ancillary subject. The impugned Act, as already explained, has the main purpose of giving relief to mortgagors by enabling them to obtain restitution of the mortgaged lands on terms less onerous than the mortgage deeds require. It is limited to existing mortgages of land as defined in s. 3, effected prior to 8.6.1901. That definition restricts it to land "occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture". The addition of the word "pasture" has been relied on as extending the scope of the Act beyond agriculture, but pasture is certainly "land" within Item 21 or Item 3. It may have been mentioned ex abundanti cautela but in any case it is sufficiently allied to agriculture generally to be treated as a species of agricultural land or at least as land occupied or let for purposes subservient to agriculture and as such within the general scope of an Act dealing with agricultural land. Section 3 of the Act goes on, it is true, to give a number of specific types of land which are included, but they are all governed by the controlling words of sub.s.(1) which limits the whole Act to agricultural land in the sense already stated. Thus head (b) of sub s (1) of s. 3, must be read as referring to an estate or holding in

> the only class of land with which the Act deals. The same is true of all the other heads in the sub-section, dues, rent, water rights, occupancy, trees, all come within the category of rights in or over land within Item 21 List 3, and all are governed by the same controlling reference to agriculture or agricultural purposes. This reading of the section is supported by the qualification of trees as trees standing on such land, that is agricultural land. Section 7 and 8 of the impugned Act embody its main substantive provisions for the refief of mortgagors and need not be repeated here. The rest of the Act deals with ancillary matters like procedure which fall within the powers given by Item 2 and also by Item
>
> 21. If, as their Lordships think, the impugned Act is limited to agricultural land, items, 7, 8 and 10 of List III do not affect the position at all since agricultural land is excluded in these entries. But, in any event, the Act does not deal with wills or transfer of property at all; it does certainly deal with mortgages but, as their Lordships have already stated, mortgage though not expressly mentioned in the Constitution, are properly to be classed not under the head of contracts, but as special transactions ancillary to the entry of "land"

(3) The next decision of this court to which our attention is drawn is the decision of this court in Atma Ram v. State of Punjab, [1959] (Suppl. 1) SCR 748. The poini in controversy in this decision was the constitutional validity of the Punjab Security of Land Tenures Act (10 of 1953) as amended by Act 11 of 1955, which sought to provide for the security of land tenure and other incidental matters. The impugned Act admittedly dealt with holdings as defined in the Punjab Revenue Act, 1887. It limited the area which might be held by a land owner for the purpose of self cultivation and released surplus area to be utilised for resettling ejected tenants. Section 18 conferred upon tenants the right to purchase from the land owners the lands held by them and thus themselves to become the land owners at prices which would be below the market value. The land owners affected by the impugned Act contended that under Entry 18 of List II of the Seventh Schedule to the Constitution the State Legislature was incompetent to enact a law limiting the extent of land to be held by a land owner and that the provisions of the impugned Act contravened their fundamental rights. On the question of the legislative competence the Court made the following observations:

> "At the outset, it is necessary to deal with the question of legislative competence, which was raised on behalf of some of the petitioners, though not on behalf of all of them. This argument of want of legislative competence goes to the root of the impugned Act, and if it is well-founded, no other question need be gone into. It has been argued that Entry 18 of List II of the Seventh Schedule to the Constitution, should not be read as authorising the State Legislature to enact a law limiting the extent of the land to be held by a proprietor or a landowner. Entry 18 is in these words:"
>
> " 18. Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans; colonization."

> "It will be noticed that the Entry read along with Art. 246(3) of the Constitution, has vested exclusive power in the State to make laws with respect to "rights in or over land, land tenures including the relation of landlord and tenant .. ". The provisions of the Act set out above, deal with the landlord's rights in land in relation to his tenant, so as to modify the landlord's rights in the land, and correspondingly, to expand the tenant's rights therein. Each of the expressions "rights in or over land" and "land tenures", is comprehensive enough to take in measures of reforms of land tenures, limiting the extent of land in cultivating possession of the land-owner, and thus, releasing larger areas of land to be made available for cultivation by tenants.
>
> Counsel for some of the petitioners who challenged the legislative competence of the state Legislature, were hard put to it to enunciate any easily appreciable grounds of attack against Entry 18 in List II of the Seventh Schedule. It was baldly argued that Entry 18 aforesaid was not intended to authorise legislation which had the effect of limiting the areas of land which could be directly held by a proprietor or a land-owner. It is difficult to see why the amplitude of the words "rights in or over land" should be cut down in the way suggested in this argument."

In support of its conclusion, the Court referred to the decisions United Provinces v. Mst. Atiqa Begum, [1940] FCR 110 and Megh Raj v. Allah Rakhia, AIR 1947 PC 72.

4. We may next refer to the decision in Manaklal Chhotalal v. M.G. Makwana & Ors. [1967] 3 SCR 65. The question here arose in the context of the Bombay Town Planning Act. A scheme drafted by the Ahmedabad Municipal Corporation after following the procedure prescribed under the Act was sanctioned by the State Government. As a result of this the petitioners were allotted a much smaller extent of land than they originally owned within the city of Ahmedabad and they were also directed to pay certain sums as their share of contribution. The petitioners challenged the competence of the State Legislature to enact the legislation in question. The Court upheld the legislation by reference to Entry 18 of List II as well as Entry 20 of List III ("Economic and Social planning"). Reviewing the provisions of the Act in question, the Court came to the conclusion that the legislation in question could be said to be a legislation in regard to land. Various aspects dealt with in the Act, according to the Court, could be considered to deal with land and accordingly, competence of the State Legislature to enact the measure in question could be found in Entry 18.

5. Indu Bhusan Bose v. Rama Sundari Devi, [1970] 1 SCR 443 is a decision of five Judges of this Court and was rendered on an appeal from the Calcutta case cited earlier. The question for consideration was whether the act of a rent controller in fixing fair rent for certain premises within the cantonment area of Barrackpore was valid. The claim of the respondent-owner was that the appellant was not entitled to the protection of 1956 Act since "regulation of house accommodation including the control of rents" in cantonment areas was the subject matter of Entry 3 of the federal list under the 1935 Act. The State legislature, it was therefore argued, could not competently extend the 1956 Act (applicable in other parts of the State) to the cantonment areas. This plea was upheld. However, one of the contention raised on behalf of the appellants was that the power of Parliament under Entry 3 of List I does not extend to regulating the relationship between landlord and tenant as

that power vests in the State Legislature either under Entry 18 of List II or Entries Nos. 6, 7 and 13 of List III. In support of this contention reliance was placed on a decision of the Bombay High Court in A.C. Patel v. Vishwanath Chada, ILR 1954 Bombay 434, referred to earlier. In that case, the Bombay High Court was concerned with the applicability of the Bombay Rent Restriction Act (No. 57) of 1947 to contonment areas. The Court first expressed the opinion that Act was referrable to Entry 21 of the List II of the 1935 Act. Relying upon the English Interpretation Act applicable to interpret the 1935 Act, the Court held that the word 'land' in that entry would include buildings also so as to confer jurisdiction on the Provincial Legislature to legislate on relations between landords and tenants of buildings. Then the Court expressed the view that the legislation could not be said to be one dealing with house accommodation. The Supreme Court was, however, clear that the legislation was covered by the language of Entry 2 of the Federal List. However, appropos the first aspect of the High Court's decision, the Supreme Court observed:

> "We have felt considerable doubt whether the power of legislating on relationship between landlord and tenant in respect of house accommodation or buildings would appropriately fall in Entry 21 of List II of the Seventh Schedule to the Government of India Act, 1935, or in the corresponding Entry. 18 of List II of the Seventh Schedule to the Constitution. These Entries permit legislation in respect of land and explain the scope by equating it with rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents. It is to be noted that the relation of landlord and tenant is mentioned as being included in land tenures and the expression "land tenures" would not, in our opinion, appropriately cover tenancy of buildings or of house accommodation. That expression is Only used with reference to relationship between landlord and tenant in respect of vacant lands. In fact,. leases in respect of non agricultural property are dealt with in the Transfer of Property Act and would much more appropriately fall within the scope of Entry 8 of List III in the Seventh Schedule to the Government of India Act read with Entry 10 in the same List or within the scope. Entry 6 of List III in the Seventh Schedule to the Constitution read with Entry 7 in the same list leases and all rights governed by leases, including the termination of leases and eviction from property leased, would be covered by the field of transfer of property and contracts relating thereto. However, it is not necessary for us to express any definite opinion in this case on this point because of our view that the relationship of landlord and tenant in respect of house accommodation situated in cantonment areas is clearly covered by the Entries in List I. In the Constitution, the effect of Entry 3 of List I is that Parliament has exclusive power to make laws in respect of the matters contained in that Entry, notwithstanding the fact that a similar power may also be found in any Entry in List II or List III. Article 246 of the Constitution confers exclusive power on Parliament to make laws with respect to any of the matters enumerated in List I, notwithstanding the concurrent power of Parliament, and the State Legislature, or the exclusive power of the State Legislature in Lists III and II respectively. The general power of legislating in respect of relationship between landlord and tenant exercisable by the State Legislature either under Entry 18 of List 11 or Entries 6 and 7 of List 111 is subject to the overriding power of Parliament in respect of matters in List I, so that

> the effect of Entry 3 of List I is that, on the subject of relationship between landlord and tenant insofar as it arises in respect of house accommodation situated in cantonment areas, Parliament alone can legislate and not the State Legislature .. In the view, we are unable to affirm the view of the Bombay High Court in A. Patel's case, which is based on the interpretation that Entry ' in List I of the Seventh Schedule to the Government to India Act only permitted laws to be made for requisitioning of property, acquiring of property and allocation of property only."

The Court then proceeded to consider the decision in Darukhanawala v Khemchand, ILR 1954 Bom 544; Kewalchand v. Dashrathlal, ILR 1956 Nag. 618; Babu Jagtanand Sri Satyanarayanji ILR 40 Patna at 625 and expressed the view that all these cases had placed a narrow interpretation on the expression "regulation of house accommodation" used in the relevant entry of the Union List. Having said this, the Court concluded:

> "On the other hand, the Rajasthan High Court in Nawal Mal v. Nathu Lal, ILR II Rajasthan 421; held that the power of the State Legislature to legislate in respect of landlord and tenant of buildings is to be found in Entries, 6, 7 and 13 of List lll of the Seventh Schedule to the Constitution and not in Entry 18 of List ll, and that power was circumscribed by the exclusive power of Parliament to legis- late on the same subject under Entry 3 of List I. That is also the view which the Calcutta High Court has taken in the judgment in appeal before us. We think that the decision given by the Calcutta High Court is correct and must be upheld."

(6) Dr. Chitale also placed considerable reliance on Union of India v. Valluri B. Chaudhary, [1979] 3 SCR 802 which dealt with the validity of the Urban Land (Ceiling & Regulation) Act, 1976. Counsel for the appellant relied, in particular, upon the procedure adopted by Parliament in enacting this piece of legislation. The legislatures of eleven States considered it desirable to have a uniform legislation enacted by Parliament for the imposition of a ceiling on urban property for the country as a whole. They passed resolutions under Art. 252(1) of the Constitution authorising Parliament to legislate on this topic. Parliament, accordingly, enacted the Urban Land (Ceiling and Regulation) Act, 1976. In the first instance, the Act covered the eleven States which had passed the above resolutions. Subsequently, the Act was adopted by resolution passed by the legislatures of six more States. The primary object and purpose of the Act was the imposition of a ceiling on vacant land in 'urban agglomerations', the acquisition by the Government of such land in excess of the prescribed ceiling, the regulation of construction of buildings on such land and matters connected therewith. All this was done with a view to prevent the concentration of urban land in the hands of a few persons and speculation and profiteering therein, and with a view to bring about an equitable distribution of land in urban agglomeration to subserve the common good in furtherance of the Directive Principles enunciated in Art. 39(b) and (c) of the Constitution. The controversy before the Court turned mainly on the construction of Articles 251 and 252 of the Constitution and certain allied questions. Dr. Chitale, however, laid em phasis on three important aspects of this legislation and decision. The first was the language of the resolutions passed by the States in this context, which appear to have been on the same lines and one of which is set out in the judgment. They contained the following paragraphs:

> "Whereas this Assembly considers that there should be a ceiling on Urban Immovable Property And whereas the imposition of such a ceiling and acquisition of urban immovable property in excess of that ceiling are matters With respect to which Parliament has no power to make law for the State except as provided in Articles 249 and 250 of the Constitution of India"
>
> (underlining added) The second was the preamble to the legislation in question.

After setting out the long title to the Act and the object and purpose of the legislation in terms already described, the preamble to the Act contains the following para:

> "And whereas Parliament has no power to make laws for the State with respect to the matters aforesaid except as provided in Articles 249 and 250 of the Constitution."

The third was the following passage from the judgment:

> "We are afraid this contention cannot be accepted. It is not disputed that the subject matter of Entry 18 List II of the Seventh Schedule i.e. land covers 'land and buildings' and would, therefore, necessarily include vacant land. The expression 'urban immovable property' may mean 'land and buildings' or 'buildings or land'. It would take in lands of every description i.e. agricultural land, urban land or any other kind and it necessarily includes vacant lands."
>
> (underlining added) Stopping here for a brief review of the above decisions, it will be seen that except for Indu Bhushan's case which will be discussed later, the other rulings are not helpful in deciding the issue before us. Atiqa Begum and Atma Ram concerned a legislation that clearly pertained to land-in fact, land governed by systems of land tenure prevalent in the States of Uttar Pradesh and Punjab. In Allah Rakhia, the impugned Act was limited to agricultural land and, since the items in the concurrent list excluded such land, was covered by Entry 21. In Maneklal, the legislation primarily concerned land, though not agricultural land, for, as observed in State v. Peter, [1980] 3 SCR 290 at p. 292, "land is at the base of all development". It is not quite certain that the provisions of the Act also affected buildings, but if indeed any buildings were affected, that was only incidental. As pointed out by the Court, the primary target of the legislation was only urban land, the ways and means of developing it and proper utilisation of land situate within the municipal limits.

These decisions no doubt establish two propositions: (1) The opening word 'land' in entry 18 is not restricted to agricultural land as are the latter portions of it. It would cover all types of land-rural or urban, agricultural or non- agricultural, vacant fallows or pastures. (2) The words which follow 'land' only make it clear that the legislative entry takes in not merely the tangible immovable property one normally describes as land but also all kinds of intangible rights or interests, in or over, land in the broad sense explained above. The phrases which follow the words "rights in or over land" in the entry are illustrative and are not restrictive. They only make it clear that the legislative entry

takes in not merely the tangible immovable property one describes as land but also all kinds of intangible rights or interests, in or over, land in the broad sense explained above. But none of the decisions contain any support for the further proposition that the legislative entry should be so interpreted as to cover houses and buildings as well as the relationship of landlord and tenant in regard thereto or the collection of rents therefrom. We are unable to agree with Dr. Chitale that this further proposition emerges from the decision in Union of India v. Valluri B. Chaudhary, [1979] 3 SCR 802. The Urban Land Ceiling Act also was a legislation primarily intended to deal with vacant lands. If one scans the provisions of the Act it is clear that the theme of the Act was only to place a ceiling on vacant lands in cities or what we call urban agglomerations and to ensure equitable distribution of such urban vacant lands. The pith and substance of the legislation was with regard to urban land and its provisions in respect of buildings were incidental to the main objective of the urban land ceiling. In this context, it is perhaps not without significance that as against the proposal of the States for a ceiling on 'urban immovable. property' Parliament restricted the legislation to vacant land. In the light of these circumstances the declaration in the preamble to the Act is basically correct that the pith and substance of the legislation was 'land' and this is exclusively within the State's legislative domain by virtue of Entry 18 of List II. We do not also agree with the counsel that the passage extracted from the judgment reflects a decision of the Court that land includes 'lands and buildings'. It proceeds on a concession to that effect. That apart, the context of the above observation is also interesting. The Court was dealing with a contention that the resolution of the States had authorised Parliament to impose a ceiling on urban immovable property and that the legislation imposing a ceiling on urban land was on a different subject and thus contrary to the resolution. The Court, rejecting this argument, pointed out that since 'urban immovable property' was a wider expression which also included 'land', there was no contradiction between the resolution and the legislation. It is in this context that a reference, on admission, regarding the scope of Entry 18 finds a place in the passage. Neither was the scope of the entry in issue in the case nor can the isolated sentence, on admission, be treated as a decision by the court.

We now come to Indu Bhushan's case. While the counsel for the respondents would have it that this ruling has concluded the present issue in their favour, Dr. Chitale contends that this is not so. He points out that the court has been careful to say that "it is not expressing any final opinion" regarding Entry 21. It has, at another place, referred to the framing of house tenancy legislation "either under Entry 18 of List II or Entries 6, 7 and 13 of List III" which also indicates that the Court had not made up its mind as to whether this type of legislation will fall under List II or List III. It is submitted also that an analysis of the Calcutta and Rajasthan decisions approved by it would show that they had not at all been considering any conflict between entries in Lists II and III and were concerned only with the interpretation of Entry 2 in List I and Entry 21 of List II. Dr. Chitale, therefore, urges that Indu Bhushan cannot be taken as a decision that house tenancy legislation cannot come under Entry 18 of List II.

We are not, however, persuaded that Indu Bhushan's case is capable of being brushed aside so easily. It is true that, ultimately, the decision in that case turned on the wider interpretation of Entry 2 of List I favoured by the Supreme Court in preference to the narrower one preferred by Bombay. Nevertheless the judgment contains a specific discussion of the terms of Entry 21. This is because the Bombay High Court had first discussed the terms of this entry and expressed an opinion

thereon. The Supreme Court considered the High Court's interpretation of the entry and disagreed therewith. The view of the Supreme Court on the entry has been set out in some detail and cannot be ignored. Not only this, in the last para of its judgment the Court has reaffirmed the earlier discussion and interpretation. We have extracted earlier this concluding para of the judgment. In our view the effect of this para cannot be explained away by trying to analyse the Calcutta and Rajasthan decisions to see what they had actually decided. The important thing is how the Supreme Court understood what the two High Courts had decided. This is set out in the two sentences of the last paragraph of the judgment, which have been underlined in the extract set out earlier. The Supreme Court then specifically affirmed this to be the correct ratio. We are, therefore, of the opinion that Indu Bhushan must be taken to have expressed a view that premises tenancy legislation in so far as it pertains to houses and buildings is referable not to entry 18 of List II but to entries 6, 7 and 13 of List III.

As pointed out by the learned Attorney General, Indu Bhushun has been understood, as above, in the subsequent decision of the Supreme Court in Jaisingh Jairam Tyagi v. Maman Chand, [1980] 3 S.C.R. 224. The decision of the larger Bench of the Supreme Court in V. Dhanpal Chettiar v. Yesodai Ammal, [1980] 1 S.C.R. 334, also re-inforces the same line of thinking. The question for consideration in this case was whether, in respect of a tenancy governed by Tamil Nadu Buildings (Lease and Rent Control) Act, it was necessary for the landlord to issue a notice under section 106 of the Transfer of Property Act terminating the tenancy before he could obtain an order of eviction against the tenant. This question was answered in the negative. In the course of its discussion the Supreme Court observed as follows:

> "Under the Transfer of Property Act the subject of "leases of Immovable Property" is dealt with in Chapter, V. Section 105 defines the lease, the lessor, the lessee and the rent. Purely as a matter of contract, a lease comes into existence under the Transfer of Property Act. But in all social legislations meant for the protection of the needy, not necessarily the so-called weaker section of the society as is commonly and popularly called, there is appreciable inroad on the freedom of contract and a person becomes a tenant of a landlord even against his wishes on the allotment of a particular premises to him by the authority concerned. Under section 107 of the Transfer of Property Act a lease of immovable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument. None of the State Rent Acts has abrogated or affected this provision. Section 108 deals with the rights and liabilities of lessors and lessees. Many State Rent Acts have brought about consider able changes in the rights and liabilities of a lessor and lessee, largely in favour of the latter, although not wholly. The topic of Transfer of Property other than agricultural land is covered by Entry 6 of List III in the Seventh Schedule to the Constitution. The subject being in the Con current List, many State Rent Acts have by necessary implication and many of them by starting certain provisions with non-obstante clause have done away with the law engrafted in section 108 of the Transfer of Property Act except in regard to any matter which is not provided for in the State Act either expressly or by necessary implication."

The above passage clearly proceeds on the view that the subject matter of housing accommodation falls within the purview of the Concurrent List. It would have strengthened the landlord's contention in Dhanpal Chettiar's case to urge that the terms of the house control legislation being traceable to List II and not to List III, the provisions of the Transfer of Property Act could not affect the same at all. If Indu Bhushan had been understood as having left the question open, it is difficult to imagine that, before the larger Bench of the Court, counsel would not have raised the issue again. The discussion and ratio of Dhanpal Chettiar fall into place only on the view that by that time it was taken as settled law that State House control legislations were referable to the legislative powers conferred by the Concurrent List.

So much in regard to precedents. But, leaving precedents aside, let us proceed to consider the terms of the legislative entry itself, treating the observations in Indu Bhushan as merely of persuasive value. We agree that entry 18 should be given as wide a constriction as possible consistent with all the other entries in all the three legislative lists. The entry deals with four main topics: land, transfer and alienation of agricultural land, land improvement and agricultural loans and colonisation. The second and third of these clearly pertain to agricultural land. Perhaps the last also does, because, usually, by colonisation we mean conversion into buildings and industrial sites of what was previously agricultural land but, may be, it is wider and includes colonisation of vacant non-agricultural land as well. Any way, as the decisions have unanimously held there is no reason why the first topic viz. land should be narrowly interpreted. It should be understood as including all types of land rural or urban, agricultural or non-agricultural, arid, cultivated, fallow or vacant. But, what is 'land'? This can be gathered from the other words of the entry which attempt a paraphrase. They say in effect that legislation in regard to 'land' will comprise of legislation in regard to three things, that is to say,

(i) rights in or over land;

(ii) land tenures, including the relationship of landlord and tenant; and

(iii)collection of rents.

In our opinion, the true import of the word 'land' can be gathered if we try to ascertain the proper interpretation and ambit of these three phrases, particularly, the first two among them, in the context of other entries in the Union List. Doing so, is it possible to interpret this entry as encompassing within its terms legislation on the relationship of landlord and tenant in regard to houses and buildings? That is the question. After careful consideration, we have reached the conclusion that the answer to this question has to be in the negative for a number of reasons:

1. As pointed out in Megh Raj, there was good reason for placing land' in the Provincial List. Land indeed is primarily a matter for provincial concern. It is well known that land in each Province had its special characteristics. There were local customs and traditions in regard to landholding and particular problems of local concern which required provincial consideration. There are no such special features that require placing buildings also in the State list. The problem of scarcity of house accommodation is a general feature all over the country thanks to India's post- independent

industrial development involving large influxes of population into towns, big and small, from the villages. Urban housing problems are almost the same throughout the country despite minor differences here and there and uniform nationwide legislation in regard thereto, atleast on same common aspects, is also a necessary desideratum. In other words, the subject is appropriate for an entry in the Concurrent List. Such a need for a uniform legislation by the Centre was felt even in respect of vacant urban land, (where unlike agricultural land, there are no special features which need varying provincial treatment) despite its being on the State List. It is all the more imperative in respect of public premises, i.e., buildings belonging to the Union or to public sector corporations which have all- India operations. It is, therefore, only appropriate that 'buildings' should be an item in the Concurrent Legislative List.

2. A scrutiny of the Legislative lists would show that the Constitution uses different expressions in different places, appropriate to the context and these entries indicate an awareness on the part of the Constitution of the distinction between various kinds of property. Entries 32, 87 and 88 of List I and Entry 6 of List III use the word 'property', a word of the widest connotation, which takes in not merely land, buildings and other immovable properties but also all kinds of rights and interests in tangible and intangible properties. There are Entries 35 and 49 of List II which make specific reference to 'lands and buildings'. The expression 'land' is used, therefore, obviously where reference to land only is intended. Even the width of this expression is cut down and reference is confined only to 'agricultural land' as in Entries 47 and 48 of List II, 6 and 7 of List III and even 18 of List II. In this scheme of the entries, it would be inappropriate to interpret the word 'land' in Entry 18 as including buildings also.

3. The Bombay case, in interpreting Entry 21 of the 1935 Act, was bound to take into account the terms of s. 3 of the (English) Interpretation Act, 1889 which specifically defined 'land' in the widest sense as including all 'messages, tenements and hereditaments, houses, and buildings of any tenure". The assistance of the Interpretation Act cannot be invoked to interpret the entries in the Constitution.

4. The entry in question specifically refers to the relationship of landlord and tenant but this is in the part of the entry which reads: "land tenures including the relationship of landlord and tenant". The words "land tenures", are not followed by a comma in some of the editions though the 1935 Act and some of the other editions and text books on the Constitution have a comma in between. But this makes no difference. The words "tenant" and "tenure" have a common derivation and the expression 'tenure' no doubt comprehends within it the relationship of landlord and tenant. But this had to be specified and clarified because in India, the expression "land tenures", as pointed out in Indu Bhushan, has acquired a special significance. It connotes various types of holdings of land, involving the King or the Government, the zamindar, the inamdar and various other types of holders, lessors, sub- lessors, lessees and sub-lessees under or through them and evolved at various stages of Indian history by various rulers, nawabs and chieftains Hindu, Muslim and British- differently in different parts of the country. Sir Baden Powell has written a vast treatise on such law systems prevalent in India. The Constitution in S. 31A contains a clue that expression like "estate" and "land tenures" have a special meaning in relation to land, connoting the relationship among its owner, holder and other intermediary for the time being, be it on tenancy or otherwise and the collection of rents

therefrom. Section 31A also describes some of these relationships. The system had developed so many complications and nuances that a determined liquidation of all these special types of relationships had to be achieved by special provisions in the chapter on fundamental rights. Viewed in this background, the words "relationship of landlord and tenant and the collection of rents" cannot impart a wider meaning to the words "land" and "land tenure" used in the entry.

5. While, on the one the hand, the words in Entry 18 have to be given the widest meaning possible, it has to be borne in mind that the entries in the various lists have to be read together and construed in such a manner as to give a meaning and content to all of them. We need hardly say that the Constitution should be so interpreted as to reconcile all concerned and relevant entries (See: Hoechst Pharmaceuticals v. State, [1983] 3 S.C.R. 130 and the Dhillon case: 1972 2 S.C.R. 33. If we give the word "land" a meaning so as to include buildings and also give the words "rights in or over land" a wide interpretation as we have to, in view of the discussion and ratio in Megh Raj v. Allah Rakhia, AIR 1947 P.C. 72 this entry will be seen to cover almost all kinds of not only transfer but also alienation and devolution of, or even succession to, lands and buildings. The interpretation thus placed will affect not merely leases and, therefore, a small part of the contents of the item regarding 'transfer of property'; it will apply equally to sales, mortgages, charges and all other forms of transfer of all kinds of interests in land and buildings and this make such a substantial inroad into the scope of Entry 6 in the concurrent list as to denude it of all application except to property other than land and buildings. The word "property" used in Entry 6 will thus lose even its normal meaning not to speak of its being given the widest meaning possible appropriate to a legislative entry. It will mean that though transfer of property-other than agricultural land-is in the Concurrent List, the State will have exclusive power to legislate in respect of transfer of all property in the nature of land and buildings; in other words, for the words "transfer of property other than agricultural land", we will be substituting "transfer of property other than lands and buildings". It will mean that though wills, intestacy and succession are in item 5 of the Concurrent List, the State can legislate exclusively in respect of devolution of land and buildings of all description. It will render Entry 35 of List 11 a surplusage in so far as it refers to "lands and buildings". We do not think that such an interpretation should be favoured. The more harmonious interpretation would be that any sub-

ject matter that involves the element of transfer or alienation of any property (other than agricultural land) or of devolution (on testamentary or intestate succession) of any property or contract (other than one in relation to agricultural land) will fall in the Concurrent List and not in the State List even though it may relate to land or buildings.

6. Another feature of the entries in the Lists also lends support to our view. Reference has been made to Entry 3 of List I by which, inter alia, Parliament has been given exclusive power to enact lease and rent control legislation in cantonment areas. Entry 5 of List II is the corresponding entry regarding local self government in areas of States excluding cantonment areas. Had it been the intention to confer legislative power on the State Legislature in regard to housing and rent control accommodation in the States, one would have expected a repetition in Entry 5 of List Il or, at least, in entry 18 of List II of the words of entry 3 of List I. We do not think that the omission of those crucial words in Entry S or 18 can be attributed to more inadvertance.

7. We have earlier referred to Dr. Chitale's reference to the Urban Land Ceiling Act, 1971 and pointed out how the preamble to the Act does not support counsel's interpretation of Entry 18. We may point out, on the other hand, that quite a few (though not all) State Legislations on house and rent control (including the 1956 Act) have been enacted after obtaining the President's assent. This indicates a legislative recognition that such legislation stems from the Concurrent List and not the State List.

8. The learned Attorney General sought to derive some support for his contention also from the wording of Entry 32 of List I which deals with the 'property of the Union', an expression wide enough to comprehend all kinds of property, essentially lands and buildings. It does three things at the same time:

> (a) it enables Parliament to legislate exclusively with respect to all property belonging to the Union;
>
> (b) it, however, subjects such power, in so far as property situated within the territory of any State is concerned, to any legislation of the State in regard thereto;
>
> (c) it nevertheless authorises Parliament to provide otherwise by law.

This language is somewhat analogous to that of article 254(2) and is consistent with a special provision for an item, which, otherwise, would primarily be covered by the Concurrent List on which both Parliament and State Legislature can legislate. It may be usefully contrasted with Entries like Nos. 23 and 24 of List ll where the language of the entry clearly grants primacy to Parliamentary legislation in regard to a part of the field occupied by an entry in the State List. There is some force in this contention which, effectively, is that if land and buildings were so clearly covered by Entry 18 of List II, either the wording of entry 32 would have been made subject to List Il of Entry 18, in this regard, like nos. 23 and 24 would have been made subject to List 1.

9. It is also a relevant consideration that, while the interpretation suggested by appellants completely denies power to Parliament to legislate on the subject matter under consideration, the interpretation preferred by us does not exclude the States' power to legislate with respect to the topic. It recognises a concurrent power in Parliament and State Legislatures.

For the reasons discussed above, we are of opinion that all the legislations coming up for consideration in the present case are referable to entries in the Concurrent List and the topic of legislation is not referable to Entry 18 List II. The provisions of the 1971 Act, in so far as they are made applicable to the premises of the respondent bank are, therefore, intra vires and valid.

Once it is held that the 1971 Act is intra vires Parliament, no further issue between the parties would seem to survive for consideration for, as we have already pointed out, no other contention was raised before the Division Bench of the High Court. However, there was some discussion before us as to whether the provisions of the 1971 Act, even if intra vires, would prevail against the provisions of the State legislations. In this context, Dr. Chitale invited our attention to Jain Ink Manufacturing

Co. v. LIC, [1981] 1 SCR 498 where this Court held that the provisions of the 1971 Act will prevail against the provisions of the Delhi Rent Control Act, 1956 and the Delhi Slum Areas (Improvement & Clearance) Act, 1956 on the grounds that it was both a later Act and a special Act. He submitted that the decision in the case is the subject matter of reference to a larger Bench and that we should, therefore, defer our decision in the present case to await the result of the reference. We do not think this is called for. In our opinion, that decision has no reference to the issues before us. In that case, all the three legislations were Parliamentary legislations (Delhi being a Union Territory) and the question was regarding the inter-se overlap among the three Acts touching upon the same subject matter viz. eviction of a tenant by a landlord. Here the legislations which are said to occupy this, same field are one of Parliament of 1971 and two of the State of West Bengal of 1956 and 1962, all passed in exercise of the powers conferred with respect to matters contained in the Concurrent List. The resolution of a conflict, if any, between the two will have to be in terms of Article 254 of the Constitution. This article reads:

> Inconsistency between laws made by Parliament and laws made by the Legislatures of States- (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of an existing law with respect to one of the matters enumerated in the Concurrent List, then, subject to the provisions of clause (2), the law made by Parliament, whether passed before or after the law made by the Legislature of such State, or, as the case may be, the existing law, shall prevail and the law made by the Legislature of the State shall, to the extent of the repugnancy, be void.
>
> (2) Where a law made by the Legislature of a State with respect to one of the matters enumerated in the Concurrent List contains any provisions repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then, the law so made by the Legislature of such State shall, if it has been reserved for the consideration of the President and has received his assent,. prevail in that State:
>
> Provided that nothing in this clause shall prevent Parliament from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of the State.

It will be convenient, before applying the provisions of the article to the facts of the present case, to refer to the elucidation of the scope of its provisions by decisions of this Court. In Zaverbhai Amaidas v. State, [1955] SCR 799 the question whether a provision in Central Act XXIV if 1946 as amended by the Act LII of 1950 would prevail against a provision in Bombay Act XXXVI of 1947. Both legislations were referable to the Concurrent List and the State law had been passed after obtaining the assent of the Governor General. Referring to Art. 254(2), the Court said:

> "This is, in substance, a reproduction of section 107(2) of the Government of India Act, the concluding portion thereof being incorporated in a proviso with further

> additions. Discussing the nature of the power of the Dominion Legislature, Canada, in relation to that of the Provincial Legislature, in a situation similar to that under section 107(2) of the Government of India Act, it was observed by Lord Watson in Attorney General for Outario v. Attorney General for the Dominion, (1896) A.C. 348. that though a law enacted by the Parliament of Canada and within competence would over ride Provincial legislation covering the same field, the Dominion Parliament had no authority conferred upon it under the Constitution to enact a statute repealing directly any Provincial statute. That would appear to have been the position under section 107(2) of the Government of India Act with reference to the subjects mentioned in the Concurrent List. Now by the proviso to Article 254 (2) the Constitution has enlarged the powers of Parliament. and under that proviso, Parliament can do what the Central Legislature could not under section 107(2) of the Government of India Act and enact a law adding to, amending, varying or repealing a law of the State, when it relates to a matter mentioned in the Concurrent List. The position then is that under the Constitution Parliament can, acting under the proviso to article 254(2), repeal a State law. But where it does not expressly do so, even then, the State law will be void under the provision if it conflicts with a later "law with respect to the same matter" that may be enacted by Parliament."

Later, the Court observed:

> "It is true, as already pointed out, that on a question under article 254(1) whether an Act of Parliament prevails against a law of the State, no question of repeal arises; but the principle on which the rule of implied repeal rests, namely, that if the subject-matter of the later legislation is identical with that of the earlier, so that they cannot both stand together, then the earlier is repealed by the later enactment, will be equally applicable to a question under Article 254(2) whether the further legislation by Parliament is in respect of the same matter as that of the State law. We must accordingly hold that section 2 of Bombay Act No. XXXVI of 1947 cannot prevail as against Section 7 of the Essential Supplies (Temporary Powers) Act No. XXIV of 1946 as amended by the Act no. LII of 1950."

It is sufficient to cite certain observations from one more judgment on this aspect: Hoechst Pharmaceuticals v. State, [1983] 3 SCR 130 which had to consider an alleged conflict between a provision of a State sales tax law and a provision of an order made under the Essential Commodities Act of Parliament. The case dealt with several points with which we are not here concerned. Expatiating on the scope of Article 254, the Court observed:

> "Art. 254 of the Constitution makes provision first, as to what would happen in the case of conflict between a Central and State law with regard to the subjects enumerated in the Concurrent List and secondly, for resolving such conflict. Art. 254(1) enunciates the normal rule that in the event of a conflict between a Union and a State law in the concurrent field, the former prevails over the latter. Cl. (1) lays down that if a State law relating to a concurrent subject is 'repugnant' to a Union law

relating to that subject, whether the Union law is prior or later in time, the Union law will prevail and the State law shall, to the extent of such repugnancy, be void. To the general rule laid down in cl. (1), cl. (2) engrafts an exception, viz. that if the President assents to a State law which has been reserved for his consideration, it will prevail notwithstanding its repugnancy to an earlier law of the Union, both laws dealing with a con current subject. In such a case, the Central Act will give way to the State Act only to the extent of inconsistency between the two, and no more. In short, the result of obtaining the assent of the President to a State Act which is inconsistent with a previous Union law relating to a concur rent subject would be that the State Act will prevail in that State and override the provisions of the Central Act in their applicability to the State only. The predominance of the State law may however be taken away if Parliament legis-

lates under the Proviso to cl. (2). The proviso to Art. 254(2) empowers the Union Parliament to repeal or amend a repugnant State law, either directly, or by itself enacting a law repugnant to the State law with respect to the 'same matter'. Even though the subsequent law made by Parliament does not expressly repeal a State law, even then, the State law ill become void as soon as the subsequent law of Parliament creating repugnancy is made. A State law would be repugnant to the Union law when there is direct conflict between the two laws. Such repugnancy may also arise where both laws operate in the same field and the two cannot possibly stand together."

The present case is clearly governed by the primary rule in Article 254(1) under which the law of Parliament on a subject in the Concurrent List prevails over the State law. Art. 254(2) is not attracted because no provision of the State Acts (which were enacted in 1956 and 1962) were repugnant to the provisions of an earlier law of Parliament or existing law. The fact that the 1956 Act was enacted, after being reserved for the President's assent is, therefore, immaterial. Even if the provisions of the main part of Article 254(2) can be said to be somehow applicable, the proviso, read with Article 254(1) reaffirms the supermacy of any subsequent legislation of Parliament on the same matter even though such subsequent legislation does not in terms amend, vary or repeal any provision of the State Legislation. The provisions of the 1971 Act will, therefore, prevail against those of the State Acts and were rightly invoked in the present case by the respondent Rank.

Dr. Chitale, while initially formulating his contentions, outlined an argument that the provision in the 1971 Act appointing one of the officers of the respondent bank as the Estate officers is violative of Article 14. We do not see any substance in this contention. In the very nature of things, only an officer or appointee of the Government, statutory authority or Corporation can be thought of for implementing the provisions of the Act. That apart, personal bias cannot necessarily be attributed to such officer either in favour of the bank or against any occupant who is being proceeded against, merely because he happens to be such officer. Moreover, as pointed out earlier, the Act provides for an appeal to an independent judicial officer against orders passed by the Estate officer. These provisions do not, therefore, suffer from any infirmity. In fact, Dr. Chitale did not pursue this objection seriously.

No other contention was urged. The appeal, therefore, fails and is dismissed. We would, however, make no order as to costs as it is the existence of a multiplicity of statutory provisions that enabled the appellant to come to Court.

S.L. Appeal dismissed.