

(1961) 08 P&H CK 0033

In the Punjab And Haryana At Chandigarh

Case No : Regular Second Appeal No. 101-D of 1958

Amritsarin Mal

APPELLANT

Vs

The State of Punjab

RESPONDENT

Date of Decision : 21-08-1961

Acts Referred:

Delhi and Ajmer Rent Control Act, 1952 — Section 3
General Clauses Act, 1897 — Section 3(23)
Transfer of Property Act, 1882 — Section 106

Citation : (1962) 1 ILR (P&H) 187

Hon'ble Judges : Prem Chand Pandit, J

Bench : Single Bench

Advocate : Amar Nath Goyal, for the Appellant; R.S. Gheba, for the Respondent

Final Decision : Dismissed

Judgement

Prem Chand Pandit, J.—The main question argued in these second appeals (Nos. 101-D and 102-D of 1958) is whether the premises in suit, which were owned by the Pepsu State (now merged in the Punjab State) are or are not exempt from the operation of the Delhi and Ajmer Rent Control Act (Act 38 of 1952). Section 3 of Act No. 38 of 1952 is in the following words--

Section 3. Nothing in this Act shall apply--

(a) to any premises belonging to the Government ; or

(b) to any tenancy or other like relationship created by a grant from the Government in respect of the premises taken on lease, or requisitioned, by the Government.

A bare reading of this Section would show that the provisions of this Act would not apply to any premises which belong to the Government. The words "the Government" have not been defined in this Act. In order to find out the meaning of this expression, therefore, we have to look to the provisions of the General Clauses Act (Act 10 of 1897), because Act 38 of 1952 was passed by the Central

Legislature. This expression, as defined in Section 3, Sub-section (23) of Act 10 of 1897, runs as under--

"Government" or "the Government" shall include both the Central Government and any State Government.

2. Applying this definition, any property, whether belonging to the Central Government or any State Government would be exempt from the provisions of Act 38 of 1952. The property in suit, admittedly, belonged to the Pepsu State at the time of the institution of the suit and now belongs to the Punjab State. Therefore, the provisions of Act 38 of 1952 would not apply to the same and the decision of the Courts below on this point is, accordingly correct.

3. Learned Counsel for the Appellants, however, argued that since Act 38 of 1952 was passed by the Indian Parliament for the States of Delhi and Ajmer, therefore, the properties belonging only to these two States or the Central Government were exempt from the provisions of this Act. But I have already held above that the properties belonging to any State Government or the Central Government are exempt from the operation of Act 38 of 1952. There is, thus, no substance in this contention.

4. Learned Counsel then contended that since the Central Legislature had passed Act 38 of 1952 for the States of Delhi and Ajmer only, it ceased to be a "Central Act" and the definition of the expression "the Government" given in Act 10 of 1897 could not be applied.

5. Admittedly, Act 38 of 1952 was passed by the Indian Parliament. It is true that it was enacted for the States of Delhi and Ajmer only, but that did not mean that it ceased to be a "Central Act". Therefore, there is no force in this submission as well.

6. Learned Counsel then referred to a decision of the Bombay High Court in *Rampratap Jaidayal v. Dominion of India* AIR 1953 Bom. 170. But this ruling has no application to the facts of the present case. In that authority, the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, were being considered. This Bombay Act was a provincial Act and the definition of the expression "the Government" as given in Section 3(23) of Act 10 of 1897 could not be applied in that case.

7. Learned Counsel for the Appellants also argued that even if the provisions of the Delhi and Ajmer Rent Control Act, 1952, did not apply to the properties in dispute, the Courts below were in error in ordering ejectment of the Appellants on the basis of the provisions of the Transfer of Property Act, 1882, because the provisions of Section 106 of this Act did not apply to the Delhi State. According to the learned Counsel, the Plaintiffs should have brought the suits on the basis of their ownership against the Defendants, treating them as trespassers.

8. This point was neither taken in the written statement nor put in issue nor argued in any of the Courts below. It cannot, therefore, be allowed to be raised

at this stage.

9. In view of what I have said above, there is no-force in these appeals, which are hereby dismissed. But in the circumstances of these cases, however, I would leave the parties to bear their own costs throughout.