

(2010) 02 BOM CK 0059
In the Bombay High Court
Case No : Writ Petition No. 7136 of 2009

Areva T and D India Ltd.

APPELLANT

Vs

Mr. R. Govindrajan and Others

RESPONDENT

Date of Decision : 10-02-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 18 Rule 1
Evidence Act, 1872 — Section 101, 102, 103, 106, 58
Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 4, 4(2), 5, 7, 7(3)

Citation : (2010) 3 ALLMR 140 : (2010) 2 BomCR 535

Hon'ble Judges : Roshan Dalvi, J

Bench : Single Bench

Advocate : K. Presswalla and R.M. Pardiwala, instructed by Mulla and Mulla and CBC, for the Appellant; V.Y. Sanglikar, for the Respondent

Final Decision : Dismissed

Judgement

Roshan Dalvi, J.

I. Rule. Rule is made returnable forthwith.

2. The Petitioner is an occupant of a part of the Ground Floor and the 1st Floor of Magnet House at Ballard Estate, Mumbai, which is owned by Respondent No. 1. Respondent No. 2 disputes the tenancy. Respondent No. 2 claims that its tenant was one Alstom Ltd. (Alstom) and the Petitioner is the sub-tenant of Alstom under the sub-tenancy illegally created without the permission and consent of Respondent No. 2. Respondent No. 2, therefore, contends that the Petitioner is an unauthorised occupant of the aforesaid premises. Since that is the Public Premises, Respondent No. 2 has initiated proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (the PP Act) , upon giving show cause notice to the Petitioner as to why the Petitioner cannot be evicted therefrom.

3. To show that the Petitioner is not an unauthorised occupant and not a sub-tenant of Alstom, the Petitioner has produced before the Court documents since its inception relating to the title of Respondent No. 2 and the lease created by Respondent No. 2.

4. Under a Deed of Lease dated 26.3.1965, the predecessor-in-title of Respondent No. 2 granted a lease to General Electric Company of India Pvt. Ltd. (GEC) . It is the Petitioner s case that GEC changed its name to GEC Alstom India Limited. It thereafter changed its name to Alstom and finally to the name of the Petitioner. Respondent No. 2 was informed of the change from time to time. The last change is the most material because the Petitioner claims that it continues to be the tenant of Respondent No. 2 under the original assignment of 1965 pursuant to the change in name of Alstom to that of the Petitioner, informed to Respondent No. 2 on 27.9.2005. Respondent No. 2 wrote to the Petitioner that it noted the change of name on 3.10.2005 and permitted the Petitioner to put up the sign boards showing the change of name at the entry of the building. On 4th October 2005, Respondent No. 2 wrote to the Petitioner that it noted the change of name in its policies. On 28th December 2005, Respondent No. 2 called upon the Petitioner to show it the reasons for the change of name, to inform whether Alstom had ceased to exist and to explain its relationship with Alstom. On 1st March 2006, the Petitioner replied to the said letter setting out in detail the requisitions called for by Respondent No. 2. On 23rd March 2006, Respondent No. 2 sought to discuss the market rent of the premises with the Petitioner, to which the Petitioner replied on 2nd May 2006. On 21st August 2006, Respondent No. 2 terminated the lease of the Petitioner. On 22nd April 2008, Respondent No. 2 filed an application for eviction and claimed damages. On 15th October 2008, Respondent No. 1 issued a notice, inter alia, upon the Petitioner to show cause why the Petitioner should not be evicted from the premises. It sets out the grounds of eviction. A separate notice was also issued on the same day u/s 7(3) of the PP Act in respect of arrears of rent and interest thereon. The Petitioner has filed its Written Statement showing cause against the notice before Respondent No. 1. The parties filed their respective documents and gave inspection thereof to one another. Respondent No. 1 called upon the Petitioner to lead its evidence first. It is that order that the Petitioner has challenged in this Writ Petition.

5. The order is passed essentially under the proceedings that commenced pursuant to the show cause notice issued u/s 4 of the PP Act. Section 4 of the PP Act runs thus:

4. Issue of notice to show cause against order of eviction. (1) If the estate officer is of opinion that any persons are in unauthorised occupation of any public premises and that they should be evicted; the estate officer shall issue in the manner hereinafter provided a notice in writing calling upon all persons concerned to show cause why an order of eviction should not be made.

(2) The notice shall-

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises,-

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not earlier than seven days from the date of issue thereof; and

(ii) to appear before the estate officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.

Under the section, the Petitioner is called upon to show cause why an order of eviction should not be made against it. For that purpose, it requires the Petitioner to appear before Respondent No. 1 with the evidence which it may intend to produce in support of the cause shown by it. The Petitioner must, therefore, set out in its evidence why it is not in unauthorised occupation of the premises tenanted to it and why it cannot be evicted therefrom. For that purpose, the Petitioner must produce all the evidence which the Petitioner might desire to show cause against the order of eviction. Consequently, this section lays down the procedure to be followed in the hearing which is contemplated upon the notice which is issued for the order to be passed by Respondent No. 1. The section, therefore, specifically shows by the specific procedure laid down therein that it is only the unauthorised occupant, such as the Petitioner, who would require to produce evidence once a notice is issued u/s 4 of the PP Act.

6. It may be mentioned that just as the Petitioner has shown its history by the chronology of events and dates cited above, about how it came into being from its predecessor-in-title who was the original lessee of Respondent No. 2 under the Lease Deed dated 26.3.1965 to show how the Petitioner is not a sub-lessee of Alstom, but a tenant itself by virtue of the change of name of the Petitioner from time to time, the Petitioner must show before the Estate Officer these aspects by leading evidence.

7. Since the Petitioner has to show cause under the express mandate of the special legislation, it must prove that it is not an unauthorised occupant by whatever evidence it might have. For the purpose of leading evidence, Respondent No. 1 is required to follow the procedure u/s 5 of the PP Act. The procedure for the eviction of unauthorised occupant is set out in Section 5. Section 5 of the PP Act runs thus:

5. Eviction of unauthorised occupants.-(1) If, after considering the cause, if any,

shown by any person in pursuance of a notice u/s 4 and any evidence produced by him in support of the same and after personal hearing, if any, given under Clause (b) of Sub-section (2) of Section 4, the estate officer is satisfied that the public premises are in unauthorised occupation, the estate officer may make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order, by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises.

(2) If any person refuses or fails to comply with the order of eviction on or before the date specified in the said order or within fifteen days of the date of its publication under Sub-section (1), whichever is later, the estate officer or any other officer duly authorised by the estate officer in this behalf may after the date so specified or after the expiry of the period aforesaid, whichever is later, evict that person from, and take possession of the public premises and may, for that purpose, use such force as may be necessary.

This is a special procedure under the special enactment. It is a summary procedure. All that the Estate Officer is required to see is the cause shown and the evidence produced. He is required to give a personal hearing to the occupant and if he is satisfied that the occupant is in unauthorised occupation of the public premises, he is required to pass an order of eviction.

8. The evidence for showing what the Petitioner has claimed in the Petition must necessarily be by documentary evidence. That evidence would constitute various facts specially within the knowledge of the Petitioner. The burden of proving those facts would, therefore, lie only upon the Petitioner u/s 106 of the Indian Evidence Act, 1872 (Evidence Act). Section 106 of the Evidence Act runs thus:

106. Burden of proving fact especially within knowledge.- When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

9. It may further be mentioned that indeed the lease in this case was executed not in favour of the Petitioner but in favour of GEC, which, by virtue of successive changes in name, is now shown to be the Petitioner. It is, therefore, indeed a fact that GEC, which is the lessee mentioned in the Deed of Assignment dated 26.3.1965, is not carrying on business in that name but is carrying on business in its changed name which has been changed from time to time, a fact to the special knowledge of GEC, which it alone can prove. Besides the name of GEC having been changed lastly to the name of the Petitioner, the tenant/sub-tenant/occupant now occupying the premises is admittedly in some other name. Prima facie, therefore, the name of the lessee is different from the name of the occupant. It may be that the lessee and the occupant are the same legal person. However, Respondent No. 2 cannot be imputed with special knowledge of that fact unless its lessee shows to it the change in name and, therefore, the changed

name of the Company; it being that of the Petitioner, must be shown by none other than the Petitioner.

10. It may further be mentioned that the fact of the change of name of the lessee to that of the present occupant, the Petitioner, is an admitted fact. The Lease Deed of 1965 is admitted. The fact that the Petitioner and not GEC in that name is now occupying the premises is also admitted. Admitted facts need not be proved u/s 58 of the Evidence Act. Section 58 runs thus:

58. Facts admitted need not be proved. No fact need to be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings.

Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

Consequently, Respondent No. 2 cannot be called upon to prove that the actual occupant is the Petitioner it is admitted that the Petitioner is the occupant. Respondent No. 2 cannot also be called upon to prove that the original lease was in favour of GEC the Petitioner admits that fact and has itself produced the relevant evidence being the Lease Deed.

11. Similarly for leading evidence the question of who has the right to begin should also be seen. Who has the right to begin is laid down under Order XVIII Rule 1 of the CPC (CPC). Order 18 Rule 1 runs thus:

1. Right to begin. The plaintiff has the right to begin unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

12. In this case, the Petitioner admits the aforesaid facts which would be contended by Respondent No. 2. The Petitioner has to show the additional facts alleged by the Petitioner as set out in this Petition and which are cited above to show that Respondent No. 2 is not entitled to the relief which he seeks from Respondent No. in terms of the order of eviction. Consequently, the Petitioner would have the right to begin. For that purpose, therefore, the complainant or the Public Authority who owns the premises is not even called upon to produce any evidence. Consequently, that Public Authority cannot be called upon to lead evidence first.

13. The Petitioner contends that the burden of proof is on the party who desires a particular judgment as to the legal right which the party claims. Mr. Presswala on behalf of the Petitioner, therefore, argued that it is for Respondent No. 2 to prove those facts alleged by Respondent No. 2 to show that the Petitioner is in unauthorised occupation consequent upon the burden of proof. What is burden of

proof is set out in Section 101 of the Evidence Act. Section 101 with its illustrations runs thus:

101. Burden of proof. - Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations

(a) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(b) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts, and which B denies, to be true.

A must prove the existence of those facts.

Mr. Presswalla would contend that because Respondent No. 2 alleged that the Petitioner was in unauthorised occupation, the burden lies on Respondent No. 2 to prove that fact. This argument suffers from a fundamental error. In the first place, this elementary rule of evidence law is with regard to the burden of proof in civil and criminal matters. It would be required to be followed when the Civil and Criminal Procedure Codes are required to be strictly complied. It would be required to be followed when a legal right claimed by one party is denied by another in a Civil or Criminal Court. It is the general law of evidence. The law of evidence laid down under the special enactment being the PP Act is the requirement of a notice to show cause against the order of eviction and the procedure to be followed upon the cause being shown. This is the special procedure to be followed so that the general rules of evidence as well as the procedural Codes would stand substituted by that procedure.

14. Further the test of what would happen if no evidence is led, is laid down in Section 102 of the Evidence Act. Section 102 with its illustrations runs thus:

102. On whom burden of proof lies. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

Illustrations

(a) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the Will of C, B's father.

If no evidence were given on either side, B would be entitled to retain his possession.

Therefore, the burden of proof is on A.

(b) A sues B for money due on a bond.

The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.

If no evidence were given on either side, A would succeed, as the bond is not disputed and the fraud is not proved.

Therefore, the burden of proof is on B.

In this case, upon the admitted aforesaid facts, if Respondent No. 2 leads no evidence (assuming that it has the right to begin and must be called upon to lead evidence first) in the absence of any other evidence, Respondent No. 2 would be entitled to succeed upon showing that the lessee is not the same as the occupant, but if upon the admission of those facts as in illustration (b) above, the Petitioner does not lead evidence to prove how only the name of the lessee has changed from time to time and how the Petitioner is the same Company under a different name, the Petitioner would never be entitled to succeed. Consequently, then In this case, the Petitioner would not be able to show cause against the notice and the Estate Officer would be enjoined to pass an order of eviction u/s 5 of the PP Act.

15. Similarly u/s 103 of the Evidence Act, the burden of proof of a particular fact lies on the person who wishes the Court to believe in its existence. Section 103 with its illustrations runs thus:

103. Burden of proof as to particular fact.- The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

Illustration

(a) A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission.

B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it.

In this case, the burden of proof that the name of the lessee has been changed from time to time lies on the Petitioner who wishes the Estate Officer to believe that it was so changed and in this case it is provided by the special enactment that the proof of that fact shall lie on him upon showing cause to the notice and tendering evidence in that behalf.

16. It is, therefore, clear that to show cause against the notice, the Petitioner must tender such oral evidence as it requires to prove the change of name and to prove that it is the original lessee albeit in a different name.

17. The parties have drawn my attention and relied upon the judgment of this Court and the judgment that came to be passed by the Supreme Court in Appeal from that case considering Sections 4, 5 and 7 of the PP Act. In the case of Nusli Neville Wadia Vs. New India Assurance Co. Ltd. and Another, and later in Appeal in New India Assurance Company Ltd. Vs. Nusli Neville Wadia and Another, , these aspects have been considered. That was the case of an occupant who was issued a notice of termination of tenancy on the ground of bona fide requirement by the owner which was the Public Authority. The Estate Officer called upon the occupant/tenant to show cause by leading evidence first. The tenant filed a Writ Petition challenging the order. This Court directed the landlord who held the public premises to lead evidence first which would be subject to cross-examination by the tenant/occupant and thereafter the tenant/occupant was allowed to lead evidence which would be subjected to cross-examination and in rebuttal the landlord was to be entitled to lead further evidence in the Appeal filed by the Authority holding the public premises. Justice S.B. Sinha, as he then was, set out the notice which was issued terminating the tenancy and claiming damages. The notice enumerated the grounds of eviction. The show cause notice also set out grounds of eviction. The grounds were that the Authority needed and required the premises for its own use, the reasoning for the requirement to occupy its own premises, the due termination of the tenancy under the notice and the fact that the occupant was a rich and wealthy industrialist who has several flats for his residence. The notices were, therefore, issued under Sections 4 and 7 of the PP Act. It was observed that the landlord would be required to establish not only the bona fide need on its part but the quantum of damages which it may be entitled to. Hence it was held in paragraph 31 of the judgment that when the application for eviction was based on such grounds which required production of positive evidence on the part of the landlord, it would be for the landlord to adduce evidence first. It was further held in paragraph 32 of the judgment that when the tenant took a defence which disclosed no prima facie case, the Estate Officer could ask the tenant to lead evidence. Consequently, the judgment observed in paragraph 36 that the procedural aspect as to who should lead evidence first would have to be determined on the basis of the issues that arise in the matter, though since the procedure is a summary one (as set out in Section 5 of the PP Act) it was held that no issues were specifically required to be framed but which were known to the Estate Officer. Consequently, in paragraph 39 of the judgment it was observed that the proceedings would not require a lengthy hearing or lengthy cross-examination and only the noticee should be given an opportunity to file an effective cause. An effective show cause, it was observed, could be filed when the eviction was sought for a specified ground and the occupant must know the particulars in relation thereto. The law, that is laid down as a general law under the PP Act, is in Section 49 of the judgment. It is held that u/s 5 of the PP Act, on a plain reading, the entire onus would be upon the noticee. It is for the noticee to show cause and adduce evidence and make oral submissions in support of his case. Hence it is held that landlord would not be required to adduce any evidence at all nor is it required to make any oral

submissions on a literal interpretation of the section. However, since the landlord would also be required to be heard, it is further held that he would be permitted to adduce any evidence in rebuttal to the one adduced by the noticee. Consequently, the landlord would be required to be allowed to lead evidence either at the first instance or after the evidence is led by the noticee to establish its case and/or in rebuttal to the evidence led by the noticee. Consequently, in a case, such as this, it is for the noticee (the Petitioner) to show cause and adduce evidence. Thereafter if the landlord so desires, he may tender evidence in rebuttal. This is upon considering Section 101 of the Evidence Act under which the party who substantially asserts the affirmative of the issue is required to prove it and not the party who denies it. In this case, the Lease Deed and the names of the actual lessee and the occupant having been admitted, the affirmative case of change of name put up by the Petitioner, must be proved by the Petitioner. The Petitioner must, therefore, prove it by leading evidence first. This would be in keeping with speedy remedy provided under the PP Act as observed in paragraph 56 of the judgment in the case of Nusli Neville Wadia (supra).

18. The Petitioner has sought to rely upon the case of Nandini J. Shah and Jayant P. Shah Shipping Tax Counsels Vs. Life Insurance Corporation of India and Others, of the Division Bench of this Court decided after the Supreme Court decided the case Nusli Neville Wadia (supra) . That was also the case of subletting without the consent of LIC, bona fide use and of change of user. Upon the common sense principle, these facts were required to be proved by LIC, who alleged them since each of them were denied by the occupant. It was observed that the order of the Estate Officer declining to frame issues and not following strictly the provisions of the CPC was correct and could not be interfered with, if he otherwise adopted the procedure in conformity with the principles of natural justice. However, the issue relating to unlawful occupation by illegal subletting, bona fide use and change of user had to be proved by a landlord who asserted it since the tenant had denied it. Considering the judgment of this Court as well as the Supreme Court in the case of Nusli Neville Wadia (supra) , it was held that the LIC, as the landlord, must discharge the onus to prove those issues, though the Evidence Act was not strictly applicable. However, this judgment laid down at the end of paragraph 13 that exceptions set out in earlier judgments would require evidence to be led by the noticee in such cases.

19. The aspects of burden of proof and onus of proof were considered by the Supreme Court in the case of Addagada Raghavamma and Another Vs. Addagada Chenchamma and Another, . The Court had to consider a case of a party claiming to have been adopted and his right under a partition of the joint family in which he claimed right upon partition. Extensive evidence was led by both the parties. It was observed in paragraph 12 thus:

There is an essential distinction between burden of proof and onus of proof : burden of proof lies upon the person who has to prove a fact and it never shifts,

but the onus of proof shifts. The burden of proof in the present case undoubtedly lies upon the plaintiff to establish the factum of adoption and that of partition. The said circumstances do not alter the incidents of the burden of proof. Such considerations, having regard to the circumstances of a particular case, may shift the onus of proof. Such a shifting of onus is a continuous process in the evaluation of evidence.

It was further observed in paragraph 22 thus:

...but when evidence has been adduced on both sides, the burden of proof ceases to have any practical importance.

What must, therefore, be appreciated is the distinction between the burden and the onus of proof. The burden of proving authorised occupation is upon the noticee under the express mandate of the PP Act. Therefore, he has to discharge that burden. That cannot shift. For discharging that burden he must necessarily lead evidence first. If he shows the authorisation of his occupation, the onus would then shift to the landlord/public authority to show how the authorised occupation ceased to be authorised and how and when it became unauthorised. That is how the judgments in the cases of Nusli Neville Wadia (*supra*) and Nandini J. Shah (*supra*) laid down who would lead evidence followed by whom. The evidence in rebuttal would be required if the onus (not the burden) were to shift to prove something further.

20. The contradistinction between burden and onus of proof was further considered in the case of Anil Rishi Vs. Gurbaksh Singh, . In that case the Plaintiff claimed that the sale deed purportedly entered into by him with the Defendant was forged and fabricated. It was for the Plaintiff to prove that fact. An issue casting the burden on him was framed. It was then reframed putting the burden on the Defendant to prove that it was genuine. Repelling the reasoning of the Courts below that the Plaintiff cannot prove the negative and that it would be difficult for him to prove that fact and the Defendant would be better able to prove the document since he propounded it and had it in his possession, and considering Sections 101 and 102 of the Evidence Act, it was observed in paragraph 19 of this judgment that:

A distinction exists between a burden of proof and onus of proof. The right to begin follows onus probandi. It assumes importance in the early stage of a case. The question of onus of proof has greater force, where the question is which party is to begin.

...The elementary rule is Section 101 is inflexible. In terms of Section 102 the initial onus is always on the plaintiff and if he discharges that onus and makes out a case which entitles him to a relief, the onus shifts to the defendant to prove those circumstances, if any, which would disentitle the plaintiff to the same.

21. The extent of importance that has to be put on the onus of proof that is on a party consequent upon the burden that lies on such party to prove its claim came

to be considered by the Supreme Court in the case of State of Madhya Pradesh Vs. Bhopal Sugar Industries Ltd., . That was a case in which a tax was levied only upon persons carrying on agricultural operation in Bhopal region. It was challenged as discriminatory. The Petitioner alleged differential treatment as a similar tax was not levied upon similar agricultural operations outside Bhopal region. It was observed that the legislation can be challenged as arbitrary only if the unequal laws cannot be justified on geographical grounds imputing unequal treatment upon the applicant making out not only that he had been treated differently from others, but that he had been so treated from persons similarly circumstanced without any reasonable basis and unjustifiably. The Court also observed that the Petitioner was singularly deficient in furnishing particulars justifying the infringement. Similarly the State argued only a demurrer and did not place before the Court the evidence which would, in the very nature of things, be in its possession (upon the law in Section 106 of the Evidence Act). It was under these circumstances, observed that the Court would not be justified in dismissing the Petition on a technical view of the burden of proof. Parties were given an opportunity to lead requisite evidence which has a bearing on the issue.

22. What can be culled out as the law as a whole is that the issue in this Petition has more to do with who takes the first step. Of course, both parties would bring out the evidence in its respective possession to ultimately not only prove; but disprove the case of the other party. The question which requires to be settled is that when a show cause notice is statutorily required to be issued and answered, the noticee would be required to be evicted if she/he does not show cause. It is, therefore, a summary procedure. It is not only in his interest to show cause, but his obligation to do so. Cause can be shown in respect of immovable property only by documentary evidence. Hence such documentary evidence, which can be produced only by the noticee, would have to be produced by her/him first. It is only then, if required, that the landlord/public authority would produce the evidence she/he/it has.

23. The entire exercise is undertaken by the Petitioner only to bind time, a purpose sought to be expressly negated by the legislation.

24. Aside from the express provision in the special statute for showing cause by discharging the onus, this is the case of admission of a part of the claim of the landlord. Despite the admission, the noticee/tenant/occupant claims to be in authorised use and occupation as the tenant. Consequently, under the notice issued to show cause and lead evidence the tenant/occupant must lead evidence to prove the facts to its special knowledge which it asserts as provided by the special law.

25. Consequently, the order of the Estate Officer calling upon the Petitioner to lead evidence first is correct and does not suffer from any infirmity. It is in terms of Section 5 of the PP Act. The landlord cannot be called upon to lead evidence first. The Petitioner must lead its evidence to show cause to the notice issued upon it. The landlord/public authority may tender evidence in rebuttal, only if

necessary.

26. The Writ Petition is without any merit and is dismissed. Rule is discharged.

27. There shall be no order as to costs.