

(1990) 07 BOM CK 0063
In the Bombay High Court
Case No : Writ Petition No. 137 of 1984

Estate Officer, Cantonment Board

APPELLANT

Vs

Rup Ram and Another

RESPONDENT

Date of Decision : 25-07-1990

Acts Referred:

Cantonments Act, 1924 — Section 108, 109, 11, 110, 111

General Clauses Act, 1897 — Section 3(31)

Public Premises (Eviction of Unauthorised Occupants) Act, 1971 — Section 2, 7

Citation : (1991) 1 BomCR 363

Hon'ble Judges : M.G. Chaudhari, J

Bench : Single Bench

Advocate : B.B Lakhkar, for D.G. Lathkar, for the Appellant; P.M. Bakshi, for the Respondent

Judgement

M.G. Chaudhari, J.—This writ petition filed under Article 227 of the Constitution of India, raises the important question as to whether the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, applies to the premises of Aurangabad Cantonment Board. The learned advocate for the petitioner, Shri Lakhkar, argued that the provisions of the aforesaid Act do apply to such premises. As against that, Shri Bakshi, learned advocate appearing for respondent No. 1 argued that the provisions of the Act do not apply to the premises of the Cantonment Board.

2. Briefly stated, the relevant facts leading to this petition, are as follows:-

The premises in dispute are described as House No. 792, belonging to the Aurangabad Cantonment Board, situated within the limits of Aurangabad Cantonment, which is a defined cantonment u/s 3 of the Cantonments Act, 1924. Respondent No.1-Rup Ram is an officer in the Defence Services, Government of India, and has been in occupation of these premises on monthly payment of rent. For brevity's sake, Aurangabad Cantonment Board will hereinafter be referred to as "the Board". The Public Premises (Eviction of Unauthorised Occupants) Act,

1971, will be referred to as "the Public Premises Act". The Cantonments Act, 1924, will be referred to as "the Cantonments Act." In the present petition, the Cantonment Board, Aurangabad, is the petitioner. The person against whom the proceedings are taken in respect of the premises in dispute is the first respondent, who hereinafter will be referred to as "the respondent."

3. The petitioner-Board, issued a Show Cause Notice dated 19th July, 1978 to the respondent under the provisions of the Public Premises Act, calling upon him to show cause as to why an order of eviction should not be passed against him under the provisions of the said Act in respect of the premises in his occupation. The said notice was replied by the respondent on 31st July, 1978. It is not necessary to refer to the grounds raised in the reply. In pursuance of the aforesaid notice, an enquiry was made by the Executive Officer of the Cantonment Board acting as Estate Officer under the provisions of the Public Premises Act, and he passed an order of eviction against the respondent on 7th March, 1981 under the provision of the said Act.

4. Aggrieved by the aforesaid eviction order, the respondent filed an appeal to the District Judge, Aurangabad, being Miscellaneous Appeal No. 65 of 1981. The said appeal was allowed by the learned Joint Judge, Aurangabad by his judgment and order dated 25th September, 1983. The learned Joint Judge set aside the eviction order and quashed the entire proceedings as being without jurisdiction. He took the view that since the Cantonments Board is a local authority within the meaning of section 2(e), the provision of the said Act were not applicable to the premises by virtue of the provisions contained in sub-clause (2)(ii) of section 2(e) of the said Act. The learned Joint Judge did not record any findings on merits of the case. The Estate Officer of the Cantonment Board has challenged the said judgment and order of the learned Joint Judge in this petition.

5. Shri Lakhkar, learned Counsel for the petitioner-Board, firstly argued that the objection to the jurisdiction of the Estate Officer was not initially raised by the respondent and it was raised only after the remand of the proceedings at an earlier stage, and, therefore, the learned Joint Judge was to right in allowing the appeal on the ground. There is no substance in the argument because the question of jurisdiction goes to the root of the matter and can be raised at any stage.

6. Shri Lakhkar next argued that the Cantonment Board is a corporation within the meaning of sub-clause (2)(ii) of clause (e) of section 2 of the Public Premises Act, and therefore, the Act is clearly applicable to these premises. In this connection, he submitted that the Cantonment Board is established under a Central Act and it is controlled and owned by the Central Government, and, therefore, it is a corporation and not a local authority. He referred to section 11 of the Cantonments Act, which provides for incorporation of Cantonment Board, to contend that the Board assumes the character of a corporation. In his submission, the definition of "local authority" contained in the General Clauses Act would have no application. Thus, according to the learned Counsel, the

Estate Officer had jurisdiction to pass the order of eviction under the Public Premises Act and the learned Joint Judge was in error in holding otherwise.

7. Shri Bakshi, learned Counsel for the respondent, on the other hand, submitted that, although the Cantonment Board is a body corporate incorporated under the provisions of the Cantonments Act, it is not a Corporation within the meaning of section 2(e)(2)(ii) of the Public Premises Act, but, that, it is a body corporate having the features of a local authority, and thus, it is outside the purview of the provisions of the Public Premises Act by reason of the very same definition on which reliance is placed by Shri Lakhkar.

8. In order to appreciate the rival submissions of the learned Counsel, it will be necessary to set out the relevant provisions of law, in so far as they are material for deciding the question on hand.

Section 2(e) of the Public Premises Act, 1971 reads thus:

"(e) "Public Premises" means

(1) any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government, and includes any such premises which have been placed by that Government, whether before or after the commencement of the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980, under the control of the Secretariat of either House of Parliament for providing residential accommodation to any member of the staff of the Secretariat;

(2) any premises belonging to, or taken on lease by, or on behalf of/-

(i)

(ii) any Corporation (not being a Company as defined in section 3 of the Companies Act, 1956 (1 of 1956), or a local authority) established by or under a Central Act and owned or controlled by the Central Government. (underlines supplied).

Section 11 of the Cantonments Act reads, thus;

"11. Incorporation of Cantonment Board:

Every Board shall, by the name of the place by reference to which the cantonment is known, be a body corporate having perpetual succession and a common seal with power to acquire and hold property both movable and immovable and to contract and shall, by the said name, sue and be sued."

9. The definition of "Public Premises" contained in the Public Premises Act thus excludes certain categories of premises from the applicability of the provisions of the said Act. Sub-clause (ii) of Clause (2) of section 2(e) excludes, "a local authority" from the applicability of the Act, and, therefore, premises belonging to a local authority will not be covered by the provisions of the Act. The central question, that, therefore, arises is whether notwithstanding section 11 of the Cantonments Act, would the Cantonment Board be a local authority? According

to clause (31) of section 3 of the General Clauses Act, 1897.

"Local Authority" means,

"a Municipal Committee, District Board, Body of Court Commissioners or other authority legally entitled to or entrusted by the Government with the control or management of a Municipal or Local Fund."

The Statement of Objects and Reasons of the Cantonments Act clearly stipulates that the Act was meant to municipalize the Government of the Cantonments, which contain a substantial civil population, and, further that the funds of the Cantonment shall vest in the Cantonment authority and shall be administered as a local fund. See *Dr. J. Malik v. Cantonment Board, Delhi Cantt.* 1983 (2) AIRCJDelhi 700. That is also clear from the recommendations of the committee appointed by the Government of India in pursuance of whose recommendations, the Cantonments Bill was brought forward. Among the main features of the Bill, it was proposed to take power to municipalize the government of those cantonments, which contain a substantial civil population, having no connection or dependence upon the military administration. The Cantonment Board to be established was to be municipal in character and essentially a local self-government body. The Cantonment authorities were to have separate legal person capable of suing and being sued in their own name; and of making contracts. They were also to be empowered to make bye-laws to govern local matters of administration, which required different treatment in different Cantonment. The Cantonment fund was to be local fund vested in the Cantonment authority. The Cantonment Board, when constituted was to consist of a proportion of elected representatives of the civil inhabitants of the Cantonment. The local governments were to have power of superintendence and control over cantonment affairs and military authorities were to retain only certain special powers in matters affecting health, welfare and discipline of troops. (See Gazette of India 1923 (V), Page 220). The select Committee, in its report, agreed with these recommendations and made certain further recommendations, which are not material for the present purpose, and in furtherance thereof, the Cantonments Act, was enacted. A glance at various provisions of the Cantonments Act would show that consistently with the objects for which the Act was enacted, these provisions have been made for investing powers in the Board, which clothe the Board with the characteristics of a local authority within the meaning of clause (31) of section 3, of the General Clauses Act. Thus, the Cantonment Board is a local authority.

10. Section 11 of the Cantonments Act, undoubtedly, provides for incorporation of a Cantonment Board, which shall be a body corporate having perpetual succession and a common seal with power to acquire and hold property, both moveable and Immovable and to contract, and by the said name, sue and be sued. A Corporation may either be owned or controlled by the Central Government, the word "control" being synonymous with superintendence, management, or authority to direct, restrict or regulate. The Cantonment Board,

which is incorporated u/s 11 of the Cantonments Act, and functions under the control of the Central Government, would be a Corporation withing the ordinary connotation of that expression, but under the scheme of the Cantonments Act, it would also partake the character of being a local authority. That, it is also treated under the Act itself can be seen by referring to section 45 of the Act, which provides that a Board may join with any other local authority for taking a joint action in matters enumerated under that section. Although the language of that section may indicate that the Board and other local authority are two distinct bodies, yet, by necessary implication, from the duties and function which a Cantonment Board performs under the Cantonments Act, consistently with its objects, the language of the said section must be so construed as to mean that the Cantonment Board is also a local authority. It is true that under various provisions of the Cantonments Act, the Central Government does exercise control over the Board. (See sections 46, 51-A, 53, 54, 63-A, 99-A, 108, 109 and 111). In my opinion however, although the Central Government exercises control over the Cantonment Boards that does not make the Board a government owned Corporation, like the Life Insurance Corporation of India. The various chapters of the Cantonment Act deal with civic administration, such as, Chapters IV, V, VI, VII, IX, X, XI, XII, XIII and XIV. However, even if it is assumed that the Board is a Corporation because it is incorporated under the statute and is controlled by the Central Government in certain respects, nevertheless, it still assumes the character of a local authority. Having regard to the definition contained in section 2(e)(2)(ii) of the Public Premises Act, it is clear that only to the premises of a Corporation which is not a local authority that the provisions of Public Premises Act would apply. Where the Corporation is a local authority, having regard to its nature and functions, then obviously, it is excluded from the application of the provisions of the Public Premises act. The Public Premises Act essentially is a piece of legislation providing for eviction of unauthorised occupants from government lands and buildings. It therefore, follows that in regard to premises, belonging to the Government or agencies which are wholly owned and controlled by the Government, the provisions of the Public Premises Act will apply. Likewise, the premises which are specifically included in the definition of the public premises by appropriate legislature, would be governed by the said Act, such as, any University established or incorporated by any Central act; or any Board of Trustees constituted under Major Port Trusts Act; or any premises belonging to the Municipal Corporation of Delhi; or any Municipal committee or Notified committee in relation to the Union Terrioty of Delhi; or any premises belonging to the Delhi Development Authority, which are specifically included in the definition of Public Premises under the Act. In respect of other bodies, when these are local authorities, in the absence of any particular body being included in the definition of the Public Premises the Act will have no application.

11. Reference may be usefully made in this connection to the decision of the Supreme court, reported in Union of India (UOI) and Others Vs. Shri R.C. Jain and Others, , on which, strong reliance is placed by Shri Bakshi for the

respondents, to understand what constitutes a local authority. It may be of advantage to set out head-note "B" of the report, which reads, thus:

"General Clauses Act (10 of 1987),

Section 3(31)-local authority-Definition of-requisite characteristics and attributes. (Words and Phrases-local authority).

An authority, in order to be a local authority, must be of like nature and character as a Municipal Committee, District Board, or body of Port Commissioners, Possessing, therefore, many, if not all, of the distinctive features and characteristics of a Municipal Committee, District Board, or Body of Port Commissioners, but, possessing one essential feature, namely, that it is legally entitled to control and management of a municipal or local fund. The authorities must have separate legal existence as Corporate bodies. They must not be mere Government agencies, but must be legally independent entities. Next, they must function in a defined area and must ordinarily, wholly or partly, directly or indirectly, be elected by the inhabitants of the areas, Next, they must enjoy a certain degree of autonomy, with due freedom to decide for themselves questions of policy affecting the area administered by them. The autonomy may not be complete and the degree of the dependence may vary considerably, but an appreciable measure of autonomy there must be. Next, they must be entrusted by statute with such Governmental functions and duties as are usually entrusted to municipal bodies. Broadly, they may be entrusted with the performance of civic duties and functions. Finally, they must have the power to raise funds for the furtherance of their activities and the fulfillment of their projects by levying taxes, rates charges or fees. This may be in addition to moneys provided by Government or obtained by borrowing or otherwise. What is essential is that control or management of the fund must vest in the authority".

All these tests happen to be fulfilled in the case of the Aurangabad Cantonment Board having regard to the various provisions of the Cantonments Act referred to earlier above, and, therefore, there is no difficulty in holding that it is a local authority. Consequently the provisions of the Public Premises Act will not apply to the house property situated within its limits.

12. That this is the true position in law also becomes clear from the provisions of various Rent Control Acts. The Parliament passed the Cantonments (Extension of Rent Control Laws) Act, 1957 (Act XLVI of 1957), which came into force on 18th December, 1957. The Statement of Objects and Reasons of that Act shows that the Act was enacted by the Parliament in exercise of powers conferred upon it by Article 246 of the Constitution of India, read with Entry No. 3 in the Union List (List 1-seventh Schedule), which amongst other things, refers to local self government in cantonment areas. The entry reads:

"3. Delimitation of Cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of house accommodation (including the control of rents) in such

areas....."

Section 3 of the Act empowers the Central Government to extend by notification in the Official Gazette to any cantonment, with restrictions and modifications, any enactment relating to the control of rent and regulation of house accommodation which is in force, on the date of notification in the State in which the cantonment is situated. In doing that, the Central Government would merely be adopting the State Act, with modifications, and applying it to a Cantonment Board area in exercise of delegated legislative functions. That goes to show that the topic of Rent Control was thought necessary to be regulated in a Cantonment area in the same manner in which it is regulated in other civil areas, central object being to protect the tenants from improper eviction, even in respect of premises situated in cantonment area. That obviously was felt necessary because of large population of civilian origin residing in the cantonment areas and since the municipal administration in those areas was under the charge of the Cantonment Board under the Cantonments Act and as large number of eviction cases were filed by the landlords by taking advantage of the non-existence of any Rent Control Law in the cantonment area. That shows in the cantonment area. That shows that, although a Cantonment historically was a military establishment, it was given a characteristic of being civil establishment in regard to matters which did not pertain to military affairs but largely applied to the civil population and areas within the Cantonments. That change was brought about by the aforesaid extension Act. Now, as different Rent Control Acts are applicable in various regions of the State of Maharashtra, the Central Government, by notification No. SRO-8-R dated 22nd December 1969, issued in exercise of the powers under the Cantonments (Extension of Rent Control Laws) Act, extended to all the cantonment in the State of Maharashtra, except the Cantonments of Aurangabad and Kamptee, the provisions of the Bombay Rent Control Act, 1947. Likewise, by another notification dated 8th August, 1973, the Central Government extended to the Cantonment of Aurangabad, the Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954, and in force in the State of Maharashtra, with modifications specified in that notification. The important modification that is material, has been made in section 31, whereby the existing sub-section (1) of section 31 of the Act stands substituted by another sub-section. It is necessary to notice the difference between the two sub-sections. Sub-section (1), without the modification reads :

"31. (1) : This Act shall not apply to :

- a) any house taken on lease or requisitioned by the Government.
- b) any house belonging to;
 - (i) Government.
 - (ii) Any local authority.
 - (iii) Any ward of the Court of Wards.

c)"

The modification made by the Central Government under Notification number SRO-16-E dated 8th August, 1973, published in the Gazette of India, dated 10th August, 1973, substituted this sub-section (1) in the following manner:

"31. (1) Nothing contained in this Act shall apply to :

- i) any premises withing the cantonment belonging to the Government.
- ii) any tenancy or other like relationship created by grant from the Government in respect of premises within the cantonment taken on lease or requisitioned by the Government; or
- iii) any house within the cantonment which is, or may be appropriated by the Central Government on lease under the Cantonment (House Accommodation) Act, 1923 (60 of 1923)."

That shows that the Rent Control Act was extended to the Cantonment area of Aurangabad, and, a house held or requisitioned by a local authority is no longer exempted from applicability of the Act as was the position existing till then under the original provision. Thus, the provisions of the Rent Control Act would now apply even to the premises of a local authority.

13. In terms of the modifications made under the Notification of the Central Government by the modification made in section 1 of the Hyderabad Rent Control Act, the said Act has now been extended to the Cantonment area of Aurangabad as declared u/s 3 of the Cantonments Act. In section 9, the words " The Aurangabad Cantonment Board", have been substituted for the words "the Municipal Corporation or other local body as the case may be." That section relates to determination of fair rent and provides after the modification made therein that in fixing the fair rent under the section, the Controller shall have due regard to the rental value as entered in the property tax assessment book of the "Aurangabad Cantonment Board". Likewise by the modification made in clauses (h) of section 29 of the Act, it is now the function of the Executive Officer of the Cantonment Board to furnish certified extracts from the assessment list, instead of the executive authority of a Municipal body as originally provided. These modifications made in the Hyderabad Rent Control Act, which has been extended to the Aurangabad Cantonment in exercise of the powers conferred upon the Central Government under the Cantonments (Extension of Rent Control Laws) Act, indicate that house property within Aurangabad Cantonment's limits is covered by the provisions of the Hyderabad Rent Act.

14. A moot question has been raised by Shri Lakhkar. He submits that the provisions of the Rent Control Act would cover only the relationship between the landlords of the privately owned houses and their tenants, in respect of houses that are situated within the Cantonment's limits and the position in respect of houses owned by the board itself would be different even if it is assumed that the Rent Act would apply. I do not, however, think that any difference between the

houses owned by the Board and the houses owned by private persons, is capable of being made. The Hyderabad Rent Control Act applies to all houses, irrespective of they being owned by any landlords, save and except those premises, which are covered by section 31 of the Act, meaning thereby the premises belonging to the Government or which are subject to tenancy or otherlike relationship created by grant from the Government in respect of premises within the cantonment taken on lease or requisitioned by the Government or any house within the cantonment which is appropriated by the Central Government on lease under the Cantonment (House Accommodation) Act, 1923. The Cantonment Board owns its own property by virtue of sections 108 to 111 of the Cantonments Act. Thus since the house property of the Board is not covered by the exemptions contained in section 31 of the Hyderabad Rent Control Act, the Board will stand on par with other private owners in so far as regulation of matters arising under the Rent Act is concerned in respect of its own house property as well.

15. Shri Lakhkar, however, had two further submissions to make in regard to the provisions of the Hyderabad Rent Control Act and its applicability to the houses in cantonment area. Firstly, he submitted that issuance of notification by the Central Government does not amount to amendment of the Hyderabad Rent Control Act, which is a State Act, and if it is construed as an amendment, then, according to him, the Central Government had no competence to issue the said notification as Rent Control is a State subject and not a Union subject. Secondly, he submits that the modifications introduced by the notification in section 31 of the Hyderabad Rent Control Act, did not repeal the pre-existing provisions of section 31 by reason of which the provisions of Rent Control Act do not apply to local authority; and consequently, even if it be held that the Cantonment is a local authority, the Rent Act would have no application, and, therefore, the only other law that can be applied is the Public Premises Act.

16. As far as the first proposition is concerned, the Cantonment (Extension of Rent Control Laws) Act, 1957 provides a complete answer. There can be no doubt that the subject of cantonments falls within the Union List and the Parliament is competent to pass laws relating to that subject (See Entry 3, Schedule VII to the Constitution of India). Once, therefore, this Act was passed in its wisdom by the Parliament and if the Central Government have exercised their power under that Act and issued the notification; no question of legislative competence is involved. That precisely is the reason for which the notification introduces modifications and not amendments in the State Act. The State Act is, therefore, not amended as such, or, substituted by a Central Act, but all that has been done is that in relation to a subject falling in the Union list, deriving authority from a law made by the Parliament with full legislative competence, the Central Government has provided for application of the Rent Control Acts to cantonment areas, these being under its control. Hence, the first argument of the learned Counsel must be rejected. As far as the nature of modifications is concerned, it is not necessary to go into the question as to whether they imply repeal of the original provisions of

section 31 of the Hyderabad Rent Control Act. For the present, all that is necessary is to examine the validity and scope of the modifications made in section 31 relating to Cantonment areas alone. The effect of the Notification and the modifications introduced thereunder in the provisions of the Hyderabad Rent Act in furtherance of the provisions of the Cantonment (Extension of Rent Control Laws,) Act, is that the provisions of section 31 of the Hyderabad Rent Act in relation to the Cantonment area are required to be read as modified by the Central Government. The modifications, therefore, are attracted and are applicable.

17. In this connection, reference may be gainfully made to the decision of the Supreme Court in *Indu Bhushan Bose Vs. Rama Sundari Debi and Another*, . It was held in that case that Entry No. 3, in list I of Schedule VII of the Constitution of India, read with Article 246, is not restricted to houses acquired, requisitioned or allotted for military purposes, and includes even private letting out of houses in cantonment area. It was further held that expression "regulation of house accommodation" includes regulation in all its aspects, and is not confined to allotment only. It was laid down that effect of Entry 3 is that Parliament alone can legislate, and not State Legislature, notwithstanding the fact that similar power may be found in any Entry in list II or list III. That is a complete answer to the argument of Shri Lakhkar that the notification does not affect the original provisions of section 31 of the Hyderabad Rent Control Act even in relation to Cantonment areas.

18. Shri Lakhkar relies on the decision of that Supreme Court in the case of *Brij Sunder Kapoor Vs. I Additional District Judge and Others*, . He drew my attention to observations in paragraph 20 of the report. After referring to the observations of the Supreme Court in an earlier decision, wherein it was observed :

"We must, therefore, confine scope of the words "restrictions and modifications" to alterations of such a character which keep the in built policy, essence and substance of the enactment sought to be extended, intact, and introduces only such perinpheral or insubstantial changes which are appropriate and necessary to adopt and adjust it to the local conditions of the Union Territory."

It was held that these observations made it clear that though apparently wide in scope, the power of the Central Government for extension of laws is very limited one, and cannot change the basic essential structure or the material provisions of the laws sought to be extended to cantonment areas. That question does not arise here for consideration, because that would be more germane to the changes if purported to be brought in the structure of the Rent Act as enacted by the State Legislature. The decision however, lays down that:

"The further argument that, in any event, the 1976 amendments of U.P. Act 13 of 1972 will not get attracted has to be rejected on the same line of reasoning as has been indicated above. Once it is the avowed policy of Parliament that cantonment areas in a State should be subject to the same tenancy legislation as

the other areas therein, it follows that the decision involves also that future amendments in such State legislation should become effective in cantonment areas as well. In some rare case where Parliament feels that such subsequent amendments need not apply to Cantonment areas or should apply with more than the limited restrictions and modifications permitted by section 3, it is open to Parliament to legislate independently for such Cantonment areas. But the decision that, in the main, such State legislation should apply is unexceptionable and cannot be said to constitute an abdication of its legislative function by Parliament."

In my opinion, the modifications made by the notification of the Central Government in section 31 of the Hyderabad Rent Control Act, fall within the ambit of this ratio of the Supreme Court decision, and, therefore, no exception can be taken to them.

19. I am not called upon in this petition to decide as to whether the provisions of Hyderabad Rent Control Act are applicable to the premises in question, the sole question for consideration being whether the provisions of the Public Premises Act, apply. I have referred to the provisions of the Hyderabad Rent Control Act and its relevant aspects only to demonstrate that having regard to the same, it is not possible to accept the argument that the provisions of the Public Premises Act apply to the house property belonging to the Cantonment Board apart from the view already indicated above that the Cantonment Board being a local authority, the Act has no application to its house property.

20. It is true that in *S.R.B. Gaikwad Vs. The Union of India and Others*, , cited by the learned Counsel for the petitioner, a Division Bench of this Court has held that where the lease in favour of Central Government is determined and the Central Government becomes a statutory tenant under the Bombay Rent Act, the premises do not cease to be public premises within the meaning of section 2(e) of the Public Premises Act. That decision, however, is not helpful to the petitioner in this case, inasmuch as, the premises in dispute are not premises belonging to the Central Government.

21. As a result of the above discussion, I hold that the provisions of the Public Premises Act are not applicable to the premises in question, and, therefore, the proceedings taken by the Estate Officer for eviction of the respondent No. 1 and the order of eviction passed by the Estate Officer against him are void, and have been rightly quashed by the learned Joint Judge.

22. The view taken by the learned Joint Judge in this matter on this question was absolutely correct in law. However, it was being repeatedly argued by Shri Lakhkar, that the learned Joint Judge did not analyse in his judgment the various aspects of law in great detail to arrive at his conclusion. I was somewhat surprised with this repeated grievance being made when this Court was itself considering the question as a question of law, and all the arguments were open to be advanced by the learned Counsel. I find no infirmity in the reasoning given

by the learned Joint Judge in his judgment, and, if I have discussed various aspects in this judgment in great detail, it was mainly to assuage the grievance of the learned Counsel for the petitioner that a complete analysis in law should have been made by the learned Joint Judge. I concur with the conclusion recorded by the Joint Judge.

23. In the result, the order passed by the learned Joint Judge dated 28th September, 1983 is confirmed and the petition is dismissed. Rule is discharged. Although it is true that the respondent has gained time for several years since the initiation of the proceedings till today, yet as the petition is being dismissed on a question of law there will be no order as to costs.