

(1957) 03 PAT CK 0024

In the Patna High Court

Case No : Misc. Judicial Case No. 203 of 1956

Jadunandan Yadav

APPELLANT

Vs

R.P. Singh and Another

RESPONDENT

Date of Decision : 21-03-1957

Acts Referred:

Administration of Evacuee Property (Central) Rules, 1950 — Rule 14, 14(4)
Administration of Evacuee Property Act, 1950 — Section 12, 26, 27, 4, 56
Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947 — Section 11, 4, 5, 8
Constitution of India, 1950 — Article 14, 254, 254(2)
Government of India Act, 1915 — Section 107(2)

Citation : AIR 1958 Patna 43 : (1957) 5 BLJR 520

Hon'ble Judges : Ramaswami, C.J.; Raj Kishore Prasad, J

Bench : Division Bench

Advocate : Arun Chandra Mitra, for the Appellant; Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Ramaswami, C.J.—In this case the petitioner, Jadunandan Yadav, has obtained a rule from the High Court calling upon the respondents to show cause why a writ in the nature of certiorari should not be issued to call up and quash the order of the Assistant Custodian, dated the 22nd of September, 1955, enhancing the rent of the disputed house to Rs. 150/- per month, and also the order of the Custodian, dated the 22nd of December, 1955, dismissing a revision petition against the order of the Assistant Custodian.

2. The petitioner is the proprietor of a business known as "Janta Hotel" which is situated in a portion of holding No. 143, Circle No. 24, of the Patna Municipal Corporation. The owner of the holding was Musammat Chand Tara, wife of Noor Mohammad, and she let out the disputed portion of the holding to the petitioner on a monthly rent of Rs. 70/- which was later on raised to Rs. 75/- per month inclusive of municipal taxes. In October, 1949, Musammat Chand Tara was declared an evacuee and her properties were declared as evacuee property.

Later on the Assistant Custodian issued notice against the petitioner to show cause why the rent should not be enhanced. The petitioner showed cause and on the 22nd of September, 1955, the Assistant Custodian enhanced the rent of the holding to Rs. 150/- per month in addition to municipal taxes. The order of the Assistant Custodian is in the following terms.

"Inspected the premises. The house is situated on Govind Mitra Road near Patna General Hospital. The house contains 3 living rooms on the upper storey and 6 rooms, 2 verandahs, and one show room on the ground floor. This is a pucca double storied building with a compound with all amenities of light and pipe. This is spacious enough and adequately ventilated. Considering these and the fact that it is located in the heart of town and in a commercially important place, the rent of Rs. 75/- is rather low. The rent is enhanced to Rs. 150/-per month (Rupees one hundred and fifty) in addition to latrine and water taxes, with effect from today."

The petitioner took the matter in revision to the Custodian, but the revision application was dismissed on the 22nd of December, 1955. The order of the Custodian in revision is annexure "C" to the application. Later on the petitioner applied to the Rent Controller u/s 5 of Bihar Act III of 1947, praying for fixation of a fair rent, but the Rent Controller dismissed the application on the ground that Bihar Act III of 1947 was not applicable to buildings the ownership of which had vested in the Custodian of Evacuee Property under Central Act XXXI of 1950.

3. It is necessary at this stage to refer in chronological sequence to the relevant statutes, The Bihar Buildings (Lease, Rent and Eviction) Control Act, 1947 (Bihar Act III of 1947) was enacted by the Bihar Legislature in order to regulate the letting of buildings and to control the rent of such buildings and to prevent unreasonable eviction of tenants. The Act received the Governor-General's assent on the 15th of January, 1947. This Act has undergone several amendments.

The Act has been amended by the Bihar Buildings (Lease, Rent and Eviction) Control (Amending and Validating) Act, 1949 (Bihar Act VII of 1950) the Adaptation of Laws and Orders, 1950 Bihar Act V of 1951, Bihar Act XXXVIII of 1951, Bihar Act V of 1953, Bihar Act IV of 1954, and lastly Bihar Act XVI of 1955. Bihar Act XVI of 1955 introduced several important amendments to the original Act. This amending Act received the assent of the President on the 26th of June, 1955. Section 4 of Bihar Act III of 1947, as amended, states.

"4. Enhancement of rent of buildings. Notwithstanding anything contained in any agreement or law to the contrary, it shall not be lawful, for any landlord to increase, or claim, any increase in, the rent which is payable for the time being in respect of any building except in accordance with the provisions of this Act."

Section 5 deals with the procedure for the determination of fair rent of buildings in occupation of tenants.

Section 5 states:

"5. Determination of fair real of buildings in occupation of tenants. (1) when, on application by the landlord or by the tenant in possession of a building or otherwise, the Controller has reason to believe that the rent of that building is low or excessive, he shall hold a summary inquiry and record a finding.

(2) If, on a consideration of all the circumstances of the case, including any amount paid by the tenant by way of premium or any other like sum in addition to the rent the Controller is satisfied that the rent of the building is low or excessive, he shall determine the fair rent for such building."

Section 8 enumerates the principles which the Controller should consider in determining fair rent. Section 8(1) states as follows:

"8. Matters to be considered in determining fair rent. (1) (a) For the purposes of this Act, the fair rent of a building shall be determined as for a tenancy from month to month.

(b) The fair rent of a building in respect of which a municipal assessment has been made, shall for each month be one tenth of the amount of such assessment and the landlord shall not be entitled to recover from the tenant in addition to the amount, any municipal rates taxes or cesses in respect of such building except in accordance with the provisions of Section 8 A.

(c) In determining the fair rent of any other building u/s 5 or 6, the Controller shall have due regard to the prevailing rates of rent in the locality for the same or similar accommodation in similar circumstances at any time during the twelve months preceding the first day of November, 1941, and to the increased cost of repairs, and, in the case of a building which has been constructed after that date, also to any general increase in the cost of site and building construction:

X X X X"

Section 11 relates to the eviction of tenants. Section 11(1) states:

"11. Eviction of tenants: (1) Notwithstanding anything contained in any contract or law to the contrary but subject to the provisions of the Industrial Disputes Act, 1947 (Act XIV of 1947), and to those of Section 12, where a tenant is in possession of any building, he shall not be liable to eviction therefrom except in execution of a decree passed by the Court on one or more of the following grounds:

(a) for breach of the conditions of the tenancy, or for sub-letting the building or any portion thereof without the consent of the landlord, or if he is an employee of the landlord occupying the building as an employee, on his ceasing to be in such employment;

(b) Where the condition of the building has materially deteriorated owing to acts of waste by, or negligence or default of, the tenant, or of any person residing

with the tenant or for whose behaviour the tenant is responsible;

(c) Where the building is reasonably and in good faith required by the landlord for his own occupation or for the occupation of any person for whose benefit the building is held by the landlord;

X X X X X (d) Where the amount of two months' rent lawfully payable by the tenant and due from him is in arrears by not having been paid within the time fixed by contract or, in the absence of such contract, by the last day of the month next following that for which the rent is payable or by not having been validly remitted or deposited in accordance with Section 33; and

(e) in the case of a tenant holding on a lease for a specified period, on the expiry of the period of the tenancy."

I shall now refer to the Administration of Evacuee Property Act, 1950 (Central Act XXXI of 1950) which received the President's assent on the 17th of April, 1950. This Act was passed in order to make provision for the administration of the evacuee property and for certain other connected matters.

The Act was amended by the Amending Act LXVI of 1950 which came into force on the 7th of December, 1950. There were also other Amending Acts, namely Amending Act XXII of 1951 and Amending Act XI of 1953. The last amendment was made by Amending Act 42 of 1954, which received the President's assent on the 8th of October, 1954. Section 4 of the Act states :

"4. Act to override other laws--(1) The provisions of this Act and of the rules and orders made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any such law.

(2) For the removal of doubts, it is hereby declared that nothing in any other law controlling the rents or, or eviction from, any property shall apply, or be deemed ever to have applied to evacuee property."

It is necessary to say that Sub-section (2) was inserted by the Amending Act 42 of 1954, and Section 10 of the Amending Act expressly enacted that the sub-section shall be deemed to have retrospective effect. Section 12 of the Act grants power to the Custodian to vary or cancel leases or allotments of the evacuee property. Section 12 states :

"12. Power to vary or cancel leases or allotments of evacuee property-- (1) Notwithstanding anything contained in any other law for the time being in force the Custodian may cancel any allotment or terminate any lease or amend the terms of any lease or arrangement under which any evacuee property is held or occupied by a person, whether such allotment, lease or arrangement was granted or entered into before or after the commencement of this Act.

Provided that in the case of any lease granted before the 14th day of August, 1947, the Custodian shall not exercise any of the powers conferred upon him

under this sub-section unless he is satisfied that the lessee,

(a) has sublet, assigned or otherwise parted with the possession of the whole or any part of the property leased to him, or

(b) has used or is using such property for a purpose other than that for which it was leased to him, or

(c) has failed to pay rent in accordance with the terms of the lease.

Explanation -- In this sub-section "lease" includes a lease granted by the Custodian and "agreement" includes an agreement entered into by the Custodian.

(2) Where by reason of any action taken under Sub-section (1) any person has ceased to be entitled to possession of any evacuee property, he shall on demand by the Custodian surrender possession of such property, to the Custodian or to any person duly authorised by him in this behalf.

(3) If any person fails to surrender possession of any property on demand under Sub-section (2), the Custodian may, notwithstanding to the contrary contained in any other law for the time being in force, eject such person and take possession of such property in the manner provided in Section 9."

The argument on behalf of the petitioner is that Sections 4 and 12 of the Administration of Evacuee Property Act are repugnant to the provisions of Sections 4, 5, 8 and 11 of Bihar Act III of 1947 as subsequently amended and under Article 254(2) of the Constitution the provisions of the Bihar Act would prevail. It was pointed out that Bihar Act III of 1947 was amended by Bihar Act XVI of 1955 which received the President's assent on the 26th of June, 1955. It was argued that the amendment of Central Act XXXI of 1950 made by Act 42 of 1954 came into force on an earlier date namely the 8th of October, 1954, and in these circumstances the provisions of Bihar Act III of 1947, as amended by Act XVI of 1955, would take precedence and would override the inconsistent provisions of the Central law. The argument is based upon the language of Article 254(2) of the Constitution which is in the following terms :

"254. (2) Where a law made by the Legislature of a State specified in Part A or Part B of the First Schedule with respect to one of the matters enumerated in the Concurrent List contains any provision 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."

I am unable to accept the argument as correct. If there is any inconsistency between the law passed by the Parliament and the law passed by the State Legislature, the general rule is that the law of the Parliament shall prevail. That is

the meaning of Article 254(1) of the Constitution which is in the following terms :

"254. (1) If any provision of a law made by the Legislature of a State is repugnant to any provision of 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.""

It is clear that in the hierarchy of legislation a higher place is accorded to the laws introduced by Parliament, and Article 254(1) enacts that if a law is passed both by the Legislature of the State and by Parliament with regard to any matter in the Concurrent List, and if there is a repugnancy between the provisions of the two laws, the law of the Parliament shall prevail.

This is subject to Clause (2) of Article 254 which has already been quoted. But Article 254(2) applies only to a case where the law made by the State Legislature with respect to one of the matters in the Concurrent List, contains any provision repugnant to the earlier law made by Parliament with respect to the same matter. The question, therefore, arises whether Bihar Act in of 1947, as subsequently amended, is a law with respect to the same subject-matter as Central Act XXXI of 1950 enacted by the Parliament.

In my opinion, the Central Act and the Bihar Act are laws made with regard to different subject matters enumerated in the Concurrent List and, therefore the provisions of Article 254(2) have no application to this case. It has been pointed out by a Full Bench of this Court in Mangtulal and Another Vs. Radha Shyam and Another, , that Bihar Act III of 1947, as subsequently amended, was made by the State Legislature acting in exercise of its powers under Items 6, 7 and 13 of the Concurrent List.

The title of the Bihar Act is "An Act to regulate the letting of buildings and the rent of such buildings and to prevent unreasonable eviction of tenants therefrom in the Province of Bihar. "The preamble of the Act also employs language to a similar effect. On the contrary the subject-matter of Central Act XXXI of 1950 is entirely different. That was an Act made by the Parliament in exercise of its powers under Items 27 and 41 of the Concurrent List.

Item 27 is "Relief and rehabilitation of persons displaced from their original place of residence by reason of the setting up of the Dominions of India and Pakistan." Item 41 is "Custody, management and disposal of property (including agricultural land) declared by law to be evacuee property." It has also "been pointed out by the Supreme Court in Ebrahim Aboobaker and Another Vs. Tek Chand Dolwani and Others, that the object and the scheme of the Central Act was to provide for the administration of evacuee property and "it was common ground that the property was ultimately to be used for compensating the refugees who had lost

their property in Pakistan."

I hold, therefore, that Central Act XXXI of 1950, as subsequently amended, and Bihar Act III of 1947, as subsequently amended, relate to different matters enumerated in the Concurrent List and not to the same matters and, therefore, the provisions of Article 254(2) of the Constitution have no application to this case. It follows, therefore, that the provisions of Bihar Act III of 1947 cannot prevail over or supersede the provisions of Section 4 or Section 12 of Central Act XXXI of 1950 as amended by Article 42 of 1954. The argument of learned Counsel on behalf of the petitioner on this point must fail.

4. In this connection it is necessary to examine the question whether the provisions of Sections 4 5, 8 and 11 of Bihar Act III of 1947 are repugnant to the provisions of Sections 4 and 12 of Central Act XXXI of 1950. What is the correct test of repugnancy between the two competing statutes for the purpose of applying Article 254 of the Constitution? The meaning of the expression "repugnant" has been discussed in three Australian cases. In *Attorney-General for Queensland v. Attorney-General for Commonwealth* (1909) 20 CWR 148 (C), Higgins, J. states at page 178 :

"What does "repugnant" mean? I am strongly inclined to think that no Colonial Act can be repugnant to an Act of the Parliament of Great Britain unless it involve, either directly or ultimately a contradictory proposition -- probably, contradictory duties or contradictory rights If the Federal Parliament, in pursuance of its power to acquire land, were to vest land in A, and the State Parliament were to say that it vests it in B, there would be no repugnancy within the Colonial Laws Validity Act; for the repugnancy would be between the Federal Law and the State Law, and u/s 109 of the Constitution the Federal law prevails. By Section 106, the Constitution of the State continues, but subject to the Federal Constitution. But if it is the British Parliament that vests the land in B, there is a repugnancy; and the British Act prevails."

In *Union Steamship Co. of New Zealand Ltd. v. Commonwealth*, (1925) 36 CWLR 130 (D), Issacs, J. reaffirmed this view and cited in support of his view *Beam's Government of England*, page 596, where speaking of the Colonial Laws Validity Act the learned author says :

"Accordingly repugnancy was defined to imply not diversity but conflict; that is, if there were an Imperial law and a colonial law on the same subject but with different enactments, the Imperial law must prevail."

In the same case Higgins, J. analysed the matter as follows :

"It is difficult to see any substantial distinction between inconsistent provisions and repugnant provisions in such a connection. In Section 109 of the Constitution the word "inconsistent" is used, as between a State law and a Commonwealth law; if they are inconsistent, the State law is, "to the extent of the inconsistency, invalid" But if there is any distinction, the word "repugnant" covers a narrower

ground requires a kind of direct hostility to support its application; as in Cicero Top. XII, fin.--quicquid repugnat, id ejusmodi est, Ut cohaerere nunquam possit."

The third case is Clyde Engineering Co. Ltd. v. Cowburn, (1926) 37 Com-W LR 466 (E), in which Higgins, J. observes :

"When is a law "inconsistent" with another law? Etymologically I presume that things are inconsistent when they cannot stand together at the same time; and one law is inconsistent with another law when the command or power or other provision in one law conflicts directly with the command or power or provision in the other, Where two Legislatures operate over the same territory and come into collision, it is necessary that one should prevail; but the necessity is confined to actual collision, as when one Legislature says "do" and the other says "don't"."

The opinion of the majority of Judges was, however, somewhat different :

"Two enactments may be inconsistent although obedience to each of them may be possible Without disobeying the other. Statutes may do more than impose duties: they may, for instance, confer rights; and one statute is inconsistent with another when it takes away a right conferred by that other even though the right be one which might be waived or abandoned without disobeying the statute which conferred it."

Applying this test to the present case it is clear that Sections 4, 5, 8 and 11 of Bihar Act III of 1947 are repugnant to the provisions of Sections 4 and 12 of Central Act XXXI of 1950. It follows, there-fore, that Article 254(1) of the Constitution applies and the law made by Parliament shall prevail and the law made by the Bihar Legislature shall to the extent of the repugnancy be void. In other words, the provisions of Central Act XXXI of 1950 must be accorded a superior place and must take precedence over the provisions of Bihar Act III of 1947, which must be held to be void to the extent its provisions are repugnant to the Central Act.

5. In the course of his argument learned Government Pleader referred to the proviso to Article 254(2) of the Constitution, which is to the following effect :

"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."

This proviso is absent in Section 107(2) of the Government of India Act, which states :

"107(2) Where a Provincial law with respect to one of the matters enumerated in the Concurrent Legislative List contains any provision, repugnant to the provisions of an earlier Federal law or an existing Indian Law with respect to that matter, then, if the Provincial law, having been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure, has received the assent of the Governor-General or of His Majesty, the Provincial law

shall in that Province prevail, but nevertheless the Federal Legislature may at any time enact further legislation with respect to the same-matter;

Provided that no Bill or amendment for making any provision repugnant to any Provincial law, which, having been so reserved, has received the assent of the Governor-General or His Majesty, shall be introduced or moved in either chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion."

In *Attorney-General for Ontario v. Attorney-General for the Dominion of Canada* (1896) AC 343 (F) the question at issue was the nature of the power of the Dominion Legislature of Canada in relation to that of the Provincial Legislature, in a situation similar to that u/s 107(2) of the Government of India Act. It was observed by Lord Watson in that case that though a law enacted by the Parliament of Canada and within its competence would override 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 was the legal position u/s 107(2) of the Government of India Act with reference to the subjects mentioned in the Concurrent List, and now by the proviso to Article 254(2) of the Constitution the powers of the Parliament have been enlarged and under that proviso the Parliament can do what the Central Legislature could not do u/s 107(2) of the Government of India Act, and enact a law adding to, amending, varying or repealing a law of the State in the circumstances mentioned in the Article But for the reasons already stated. I hold that, neither the provisions of Article 254(2) of the Constitution nor its proviso has any application to the present case. The matter falls within Article 254(1) of the Constitution, and under the Provisions of that Article. Act XXXI of 1950, as amended by Act 42 of 1954, supersedes the provisions of Bihar Act III of 1947 as amended.

6. I shall then deal with the argument put forward on behalf of the petitioner that the provisions of Section 12 of Act XXXI of 1950 violate the guarantee of equal protection under Article 14 of the Constitution. It was submitted in the first place by learned Counsel on behalf of the petitioner that Section 12 conferred an arbitrary power upon the custodian to vary or cancel leases or allotments of evacuee property. It was argued that the power conferred upon the Custodian under this section was unfettered and absolute and it was open to the Custodian to make undue discrimination in any particular case I do not accept this argument as correct. Section 12 of the Act must be read along with Section 14 of the rules made by the Central Government under the powers conferred upon it by Section 56 of the Act. Rules 14 (1) states as follows :

"14. Cancellation or variation of leases and allotments--(1) The Custodian shall not ordinarily vary the terms of a lease subsisting at the time he takes possession of immovable property or cancel any such lease or evict a person who

is lawfully in occupation of such property under a lease granted by the lessor before he became an evacuee and not in anticipation of becoming an evacuee unless the Custodian is satisfied that the lessee has done or omitted to do something which renders him liable to eviction under any other law for the time being in force".

Rules 14 (2) and 14 (3) are to the following effect :

" "14. (2) In the case of a lease or allotment granted by the Custodian himself, the Custodian may evict a person on any ground justifying eviction of a tenant under any law relating to the Control of Rents for the time "being in force in the State concerned, or for any violation of the conditions of lease or the allotment.

(3) The Custodian may cancel an allotment and evict the allottee if he is satisfied that --

(i) the allottee has secured the allotment by misrepresentation or fraud; or

(ii) the allottee is in possession of more than one evacuee property of the same kind, that is to say, more than one residential premises, more than one business premises or more than one industrial premises; or

(iii) the allottee is in occupation of accommodation which, in the opinion of the Custodian, is in excess of the requirement of the allottee; or

(iv) the allottee or any person, normally residing with him or dependant on him, has built a house or otherwise acquired residential accommodation; or

(v) the allottee or any person, normally residing with him or dependant on him has been granted by the Government a plot of land for constructing a house thereon; or

(vi) the allottee has obtained gainful employment in a place other than the place where the evacuee property allotted to him is situate; or

Provided that no allotment shall be cancelled under this sub-rule if any house by an allottee or by any person normally residing with him or dependant on him or any residential accommodation otherwise acquired by the allottee or any such person has been requisitioned by the Government.

Provided further that the Custodian shall not evict an allottee--

(a) If the allottee or a person normally residing with him or dependant on him has let out his house or other residential accommodation referred to in Clause (iv), unless the allottee has been served with a notice for a period of not less than three months;

(b) If the allottee or a person normally residing with him or dependant on him has failed to construct a house on the plot of land allotted to him, unless the allottee has been served with a notice for a period of not less than six months."

It is clear on an examination of these statutory provisions that the discretion conferred upon the Custodian is not uncontrolled or vagrant. The discretion is controlled and circumscribed by safeguards. Standards have been fixed and principles have been laid down and it is, therefore difficult to accept the argument addressed on behalf of the petitioner that there is a violation of the guarantee of equal protection of the laws under Article 14. The procedure prescribed by Rule 14 (4) is also reasonable. It is true that Section 12 does not prescribe the procedure to be followed by the Custodian in varying or cancelling the lease or allotment of evacuee property, but Rule 14 (4) states that the Custodian shall serve upon the persons concerned a notice to show cause before any order of cancellation of a lease or variation of a lease is made. Rule 14 (4) is as follows :

"14 (4) Before cancelling, or varying the terms of a lease or before evicting a lessee the Custodian shall serve the person or persons concerned with a notice to show cause against the order proposed to be made and shall afford him a reasonable opportunity of being heard."

There is also another safeguard provided by the statute against any arbitrary action taken by the Custodian. It is open to the aggrieved party to apply in revision to the Custodian u/s 26 or to the Custodian General u/s 27 against any arbitrary order made by the Assistant Custodian u/s 12 of the Act, either varying or cancelling a lease or allotment. I, therefore, reject the argument of learned Counsel on behalf of the petitioner based upon Article 14 of the Constitution.

7. It was also submitted on behalf of the petitioner that there is no reason why the tenancy under the Custodian should be treated on a different basis from the other tenancies in the State of Bihar. It was argued that there was no rational basis for classification. I do not think there is any merit in this argument. The object and the scheme of Central Act XXXI of 1950 is mainly to provide for the administration and protection of evacuee property and, as the Supreme Court has pointed out in *Ebrahim Aboobaker and Another Vs. Tek Chand Dolwani and Others*, , the property had ultimately to be used for compensating the refugees who had lost their property in Pakistan.

As I have already said, Act XXXI of 1950 was promulgated by Parliament in exercise of the powers conferred by Items 27 and 41 of the Concurrent List. Keeping in view the object and the scheme of the Act, it is obvious that there is a rational basis for the differential treatment of the tenancies under the Custodian. I reject the argument addressed on behalf of the petitioner that there is no rational basis for classification or that there has been a violation of the guarantee of equal protection under Article 14 of the Constitution.

8. For these reasons I hold that the order of the Assistant Custodian, dated 22nd of September, 1955, enhancing the rent of the holding, and the order of the Custodian, dated the 22nd of December, 1955, affirming the order of the Assistant Custodian are not vitiated by any illegality and there is no case made

out by the petitioner for the grant of a writ in the nature of certiorari. I would accordingly reject this application with costs Hearing fee Rs. 200/-

Raj Kishore Frasad, J.

9. I agree.