

(1968) 08 BOM CK 0005

In the Bombay High Court

Case No : Spl. Civil Application No's. 1023, 1129, 1418 and 1890 of 1964 and Civil Application No. 2376 of 1964

Laxminarayan Temple, Kothure

APPELLANT

Vs

Laxman Mahadu Chandore by his legal representatives and Others

RESPONDENT

Date of Decision : 23-08-1968

Acts Referred:

Bombay Tenancy and Agricultural Lands (Amendment) Act, 1956 — Section 10, 10A, 11, 13, 27
Bombay Tenancy and Agricultural Lands Act, 1948 — Section 32R, 88B, 88B(1), 88B(2)
Bombay Tenancy and Agricultural Lands Rules, 1956 — Rule 52
Constitution of India, 1950 — Article 19(1), 19(5), 20, 226, 227

Citation : AIR 1970 Bom 23 : (1969) 71 BOMLR 197 : (1970) ILR (Bom) 1289 : (1969) MhLj 476

Hon'ble Judges : Tarkunde, J;Deshpande, J

Bench : Division Bench

Advocate : G.H. Guttal and V.M. Limaye, for the Appellant; N.S. Shastri, S.C. Pratap, Asst. Govt. Pleader, V.H. Gumaste, Govt. Pleader, for A.G. P.E. Mulay, for V.V. Divekar and J.G. Pradhan, for the Respondent

Judgement

Tarkunde, J.—These four petitions have given rise to common questions relating to the interpretation of the proviso to Sub-section (1) of Section 88B of the Bombay Tenancy and Agricultural Lands Act, 1948 and the constitutional validity of the said proviso and of Sections 32 to 32R of the said Act in so far as these provisions affect agricultural lands belonging to religious denominations. In order to appreciate the questions raised and the arguments advanced on either side, it would be enough to notice the facts involved in one of these petitions.

2. In Special Civil Application No. 1129 of 1964 the petitioners are the trustees of a public trust whose object is to maintain a Hindu temple and to continue the worship of the deity installed therein. The trust was created as early as in 1845. The trust owned an agricultural land in a village in the Nasik District. The first respondent was the tenant of the land from before 1957. The Bombay Tenancy

and Agricultural Lands Act, 1948 (hereinafter referred to as "the Bombay Tenancy Act") which applied to this land was extensively amended by Bombay Act XIII of 1956. The amending Act added Sections 32 to 32R to the parent Act with the object of transferring the ownership of agricultural lands-from landlords to tenants. Subject to certain exceptions with which we are not concerned, tenants became owners of the lands in their possession from the tillers" day, which was the 1st of April 1957. By the same amending Act Section 88B was also added to the parent Act. Clause (b) of Sub-section (1) of Section 88B, along with the proviso to that Sub-section, is in the following terms:

"Section 88B(1). -- Nothing in the foregoing provisions except Sections 3, 4B, 8, 9, 9A, 9B, 9C, 10, 11A, 11, 13 and 27 and the provisions of Chapters VI and VIII in so far as the provisions of the said Chapters are applicable to any of the matters referred to in the sections mentioned above, shall apply -

(b) to lands which are the property of a trust for an educational purpose, a hospital, Panjarapole, Gaushala or an institution for public religious worship;

.....

Provided that --

(i) such trust is or is deemed to be registered under the Bombay Public Trusts Act, 1950, and

(ii) the entire income of such lands is appropriated for the purposes of such trust"

Sub-section (2) of Section 88B, which was added by a subsequent amendment in 1961, runs as follows:--

""Section 88B(2). -- For the purposes of this section, a certificate granted by the Collector, after holding an enquiry, that the conditions in the proviso to Sub-section (1) are satisfied by any trust shall be conclusive evidence in that behalf."

The public religious trust in the present case was registered under the Bombay Public Trusts Act, 1950, on 28th March 1958. Thereafter the petitioners applied in 1962 to the Assistant Collector for an exemption certificate under Subsection (1) (b) and Sub-section (2) of Section 88B. The application was opposed by the present respondent No. 1 on the ground that he had become owner of the land on the tillers" day (1st April 1957) prior to the date on which the trust was registered under the Bombay Public Trusts Act and that the land was, therefore, not entitled to the exemption claimed by the petitioners. The Assistant Collector upheld this contention and rejected the application filed by the petitioners. From this order the petitioners approached the Maharashtra Revenue Tribunal in revision. The Revenue Tribunal rejected the revision application, but on a different ground. It held that the trust was not registered on 1st August 1956 when section 88B came into force and that the land was, therefore, not entitled to the exemption claimed by the petitioners. The petitioners have approached this Court for a writ or direction under Articles 226 and 227 of the Constitution

for quashing the above orders of the Assistant Collector and the Maharashtra Revenue Tribunal.

3. In support of the petition two submissions were made by Mr. Guttal who appeared on behalf of the petitioners. Mr. Guttal argued, in the first place, that the aforesaid proviso to Sub-section (1) of Section 88B, according to its correct interpretation, does not require that the trust in question should have been registered either on the 1st of August 1956 when Section 88B came into force or on the day on which the tenant of the land was to become the owner thereof and that the requirement of the proviso is fulfilled if the trust was, or was deemed to be, registered under the Bombay Public Trusts Act at any time before the application for exemption was filed. If this argument is not accepted. Mr. Guttal submitted in the alternative that Sections 32 to 32R of the Bombay Tenancy Act, in so far as they apply to agricultural lands belonging to public religious trusts, are invalid as they violate the fundamental right guaranteed by Article 26(c) of the Constitution.

4. Before dealing with the first of these submissions, we must observe that we had initially some doubt on whether the word "trust" in clause (b) of Section 88B(1) of the said Act and in the proviso to that Sub-section is confined to trusts for educational purposes or whether it extends to trusts for a hospital, a Panjarapole, a Gaushala or an institution for public religious worship. It is possible to construe clause (b) of Section 88B(1) so as to confine the word "trust" to a trust for an educational purpose. So interpreted, clause (b) of Section 88B(1) would apply to lands which are (i) the property of a trust for an educational purpose, (ii) the property of a hospital, (iii) the property of a Panjarapole, (iv) the property of a Gaushala and (v) the property of an institution for public religious worship. If clause (b) is so interpreted, the word "trust" in the proviso would also be restricted to a trust for an educational purpose. Such an interpretation, however, conflicts with Rule 52 of the Bombay Tenancy and Agricultural Lands Rules, 1956, made under the Act, which says that "A trustee in charge of a trust for an educational purpose, a hospital, Panjarapole, Gaushala or an institution for public religious worship claiming exemption under Sub-section (1) of Section 88B may make an application in writing to the Collector within whose jurisdiction all or most of the pieces of land belonging to the trust are situated for the grant of a certificate for the purpose of Section 88B." Since there is an ambiguity in the meaning of clause (b) of Section 88B(1) and the proviso thereto, it is permissible to refer to the rules made under the Act for ascertaining the correct meaning of these provisions. We accordingly find that the word "trust" in the said provisions is not confined to a trust for an educational purpose and that it covers trusts for other purposes mentioned in clause (b), including a trust for an institution for public religious worship.

5. In support of his first submission Mr. Guttal argued that the requirement of registration under the Bombay Public Trusts Act, which is found in the said proviso to Sub-section (1) of Section 88B, is merely a procedural requirement

and that, therefore, the proviso should not be so interpreted as to render that requirement a pre-condition for acquiring the right of exemption which has been granted by Clause (b) of Section 88B(1). We would have readily accepted this argument of Mr. Guttal if it were consistent with the terms of clause (b) of Section 88B(1) read with the proviso. Clause (b) grants exemption to the properties of certain types of trusts and the proviso lays down two conditions for the acquisition of the exemption, the conditions being firstly, that the trust must be or must be deemed to be registered under the Bombay Public Trusts Act and, secondly, that the entire income of the property is appropriated for the purposes of the trust. A trust is not entitled to the exemption till it fulfils the two requirements mentioned in the proviso. It must follow that the trust in the present case was not entitled to exemption u/s 88B till 28th March 1958 when it was registered under the Bombay Public Trusts Act. Before that date, however respondent No. 1 had already become the owner of the land by virtue of the provisions contained in Sections 32 to 32R of the Act, It must follow that the petitioners cannot get exemption in respect of a land which had ceased to be the property of the trust on the date on which the trust became entitled to claim that exemption.

6. We are, however, unable to accept the view of the Maharashtra Revenue Tribunal that the trust ought to have been a registered trust on 1st August 1956, on which date Section 88B came into force, in order, that its land may be entitled to exemption under that section. There is nothing in the terms of clause (b) of Section 88B(1) which requires its operation to be confined to the properties of those trusts which were already in existence when Section 88B came into force. The exemption granted by Section 88B is not confined to the operation of Sections 32 to 32R of the Act, but extends to the operation of several other provisions of the Act. A trust may be created after Section 88B came into effect and still the lands of the trust would be entitled to the exemption given by that section. A trust, however, cannot claim an exemption under that section in respect of lands which had already become the property of its tenants before the right of exemption was acquired by the trust. That is why the trust in the present case, having become entitled to claim exemption u/s 88B for the first time on 28th March 1958, cannot get exemption in respect of a land which had gone into the ownership of respondent No. 1 on 1st April 1957.

7. The second and more substantial submission of Mr. Guttal was based on the fundamental right guaranteed by Clause (c) of Article 26 of the Constitution. Article 26 of the Constitution is as follows:

""Subject to public order, morality and health, every religious denomination or any section thereof shall have the right--

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law."

Mr. Guttal argued that Sections 32 to 32R of the Bombay Tenancy Act, in so far as they purported to deprive any religious denomination or any section of a religious denomination of its ownership of agricultural land; violated the fundamental right guaranteed by Article 26(c) and were invalid to that extent. When this argument was advanced by Mr. Guttal, we pointed out to him that since Clause (b) of Section 88B(1) of the Act exempts the properties of institutions for public religious worship from the operation of Sections 32 to 32R, it may not be open to the petitioners to challenge the validity of Sections 32 to 32R on the ground that they violate the petitioners' fundamental right guaranteed by Article 26(c) of the Constitution. Mr. Guttal then submitted that, if clause (b) of Section 88B(1) of the Bombay Tenancy Act is looked upon as a provision which carries into effect the intention of Article 26(c) of the Constitution, then the proviso to Section 88B(1) must be held to be violative of Article 26(c). We are thus concerned in these petitions with the constitutional validity of Sections 32 to 32R and the proviso to Sub-section (1) of Section 88B of the Bombay Tenancy Act in so far as they affect lands belonging to religious denominations.

8. The Bombay Tenancy Act, 1940, before its amendment by Bombay Act No. XIII of 1956, was included in the Ninth Schedule of the Constitution and is protected by Article 31B from any challenge on the ground that it violates any of the fundamental rights guaranteed in part III of the Constitution. No such protection, however, is available to the provisions which were introduced in the said Act by the amending Act No. XIII of 1956. In *Sri Ram Ram Narain Medhi Vs. The State of Bombay*, , the Supreme Court accepted this position but held that the amending Act No. XIII of 1956 was covered by Article 31A of the Constitution and could not be challenged on the ground of violation of the fundamental rights enshrined in Articles 14, 19 and 31 of the Constitution. Article 31A, however, does not protect a legislation from challenge on the ground of inconsistency with Article 26 of the Constitution. Sections 32 to 32R as well as Section 88B were introduced in the Bombay Tenancy Act, 1948, by the amending Bombay Act No. XIII of 1956. Mr. Guttal, therefore, argued that although an ordinary landlord is unable to challenge the provisions contained in Sections 32 to 32R on the ground that they violate his fundamental right to acquire, hold and dispose of property guaranteed to all citizens by Article 19(1)(f) of the Constitution, it is open to any religious denomination or a section of any religious denomination to challenge the said provisions on the ground that they violate its fundamental right to own and acquire movable and immovable property guaranteed by Article 26(c) of the Constitution.

9. In the *Sri Shirur Mutt* case. *The Commissioner, Hindu Religious Endowments, Madras Vs. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt.*, , the Supreme Court considered the connotation of the expression "religious denomination" in Article 26 and pointed out that the word "denomination" has been defined in the

Oxford Dictionary to mean "a collection of individuals classed together under the same name: a religious sector body having a common faith and organisation and designated by a distinctive name". Mr. Guttal argued that by this definition the Hindu community is a religious denomination, and since the trust in the present case is a Hindu religious trust, the property of the trust is entitled to the right guaranteed by Article 26(c) of the Constitution. Under Article 26(c) the right of a religious denomination to own and acquire movable and immovable property can only be restricted in the interest of public order, morality and health. The provisions of Sections 32 to 32R of the Bombay Tenancy Act, which transfer the ownership of agricultural lands from landlords to tenants, cannot be said to have been passed in the interest of public order, morality or health. The same is true of the proviso to Sub-section (1) of Section 88B which requires that a trust must be registered or be deemed to be registered under the Bombay Public Trusts Act before it can claim exemption in respect of its properties from the operation of Sections 32 to 32R of the Act. Mr. Guttal, therefore, urged that Sections 32 to 32R and the proviso to Section 88B(1) should be struck down as violative of Article 26(c) in so far as they apply to lands of religious denominations.

10. The learned Government Pleader, who appeared for the Advocate General (to whom notice had been issued under Order XXVII-A of the Civil Procedure Code), argued that the fundamental rights guaranteed by Article 26 are subordinate to the provisions contained in clause (2) of Article 25, that sections 32 to 32R of the Bombay Tenancy Act fall within the scope of Sub-clause (a) of clause (2) of Article 25, and that these sections of the Bombay Tenancy Act cannot therefore be held to be violative of Article 26(c). In order to appreciate this argument, it is necessary to notice the relevant part of Article 25. which is as follows:

"25(1) Subject to public order, morality and health and to other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law --

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice; (b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus." According to the learned Government Pleader, Sections 32 to 32R of the Bombay Tenancy Act regulate or restrict a secular activity and are, therefore, immune from challenge on the ground that they violate the right to own and acquire movable and immovable property guaranteed to religious denominations by Article 26(c).

11. We do not see any merit in this argument. Clause (1) of Article 25 guarantees equally to all persons the right freely to profess, practise and propagate religion, and clause (2) (a) of that Article provides that the right so guaranteed will not affect a law which regulates or restricts any secular activity

associated with religious practice. Ownership of agricultural lands can hardly be regarded as an "activity", secular or otherwise, and in any case, supposing it were an activity, it is clearly not associated with any religious practice. Sections 32 to 32R of the Bombay Tenancy Act cannot, therefore, be held to fall within the ambit of Clause (2) (a) of Article 25. Moreover, there is no reason to suppose that Article 26(c) is subordinate to the provisions of Article 25(2) or vice versa. The right to own and acquire movable and immovable property guaranteed to religious denominations by Article 26(c) has no direct connection with religious practice and it is with religious practice that clause (2) of Article 25 is concerned. There being no conflict between Article 26(c) and Article 25(2), there is no question one being subordinate to the other.

12. In support of his argument mentioned above, the learned Government Pleader placed reliance on certain observations of the Supreme Court in *Sri Venkataramana Devaru and Others Vs. The State of Mysore and Others*, . In that case the Supreme Court held that Article 26(b) of the Constitution must be read subject to Article 25(2)(b). Article 26(b) guarantees to every religious denomination the right "to manage its own affairs in matter of religion". Article 25(2)(b), on the other hand, allows a law to be made for "the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus." There is a clear conflict between these two provisions and it was in respect of this conflict that the Supreme Court observed that Article 26(b) must be read subject to Article 25(2)(b). There is, however, no conflict between Article 26(c) and any part of Article 25, and, as stated above, there is no reason to hold that either of them is subordinate to the other.

13. There is, however, another ground which has persuaded us to hold that the right to own and acquire property which has been guaranteed to every religious denomination by Article 26(c) is not violated by Sections 32 to 32R and the proviso to Section 88B(1) of the Bombay Tenancy Act. It appears to us that the scope and the meaning of Article 26(c) are determined by the context in which Article 26 appears in Part III of the Constitution and the purpose which that Article is intended to subserve. Whereas Articles 19 to 22 appear in Part III of the Constitution under the heading "'Right to Freedom", Articles 25 to 28 have been given the heading "Right to Freedom of Religion". Moreover, the particular heading of Article 26 is "Freedom to manage religious affairs." Article 19(1)(f) guarantees to all citizens the right to acquire, hold and dispose of property. Every religious denomination in the country or any section thereof would be composed mostly, if not wholly, of citizens of India. The right of a religious denomination to acquire, hold and dispose of property is, therefore, guaranteed by Article 19(1)(f) of the Constitution. The right to own and acquire movable and immovable property guaranteed by Article 26(c) is a different right, being a part of the freedom to manage religious affairs which is guaranteed by Article 26. In our judgment, Article 26(c) means that every religious denomination or any section thereof shall enjoy the same right in respect of ownership and acquisition of property as is available to members of the general public and that this right of

religious denominations or sections thereof shall not be restricted except in the interests of public order, morality and health. In other words, Article 26(c) ensures that the State shall not deny to any religious denomination or any section thereof the right which is available to Other individuals or groups of individuals to own and acquire property, except where that right is required to be restricted for safeguarding or promoting public order, morality or health.

14. Not to accept the above interpretation of Article 26(c) would lead to several anomalies. Article 19(5) provides that the property rights guaranteed by Article 19(1)(f) may be subjected by law to reasonable restrictions "in the interests of the general public or for the protection of the interests of any. Scheduled Tribe". On the other hand, the property rights guaranteed by Article 26(c) are subject only to "public order, morality and health". Now, every restriction which is in the interests of public order, morality or health is necessarily in the interest of the general public. But every restriction which is In the interests of the general public is not necessarily in the interests of public order, morality and health. In other words, the expression "the interests of the general public" includes, but is not confined to, the interests of public order, morality and health. If we were to hold that Article 26(c) guarantees to religious denominations, independently of Article 19(1)(f), the right to own and acquire property, and that the said right can only be restricted in the interests of public order, morality and health, it would follow that the right of religious denominations to own and acquire property cannot be subjected to those restrictions in the interests of the general public which do not fall within the ambit of "public order, morality and health". Several instances can be given of the absurdities which would result from this interpretation.

15. Let us first consider restrictions on the acquisition of property. Parliament may, for the purpose of stabilizing the country's currency, authorise the Central Government to put restrictions on the acquisition of gold by any individual or group of individuals. Stability of the currency of the country, although undoubtedly in the interests of the general public, is not in the interests of ""public order, morality and health". It would follow, if our interpretation of Article 26(c) is incorrect, that Parliament cannot make a law authorising the Central Government to restrict the acquisition of gold by any religious denominations or any section thereof. To take a simpler example, it is provided by law that immovable property exceeding a certain value cannot be acquired except by a registered instrument. This requirement is a restriction on the right to acquire immovable property and is clearly in the interests of the general public. Since the restriction cannot be said to be in the interests of public order, morality or health, it cannot be imposed on the right of religious denominations to acquire immovable property. Similar instances can be given of restrictions which are imposed on the ownership of property. Municipalities are usually authorised by law to call upon the owners of dilapidated buildings to repair them or to pull them down. Such a restriction is in the interests of the general public, but is not necessarily in the interests of public order, morality and health. If our interpretation of Article 26(c) is not correct, municipalities would be unable to

call upon religious denominations to repair or pull down dilapidated buildings owned by them. Again, land legislation often authorises State Governments to take over the management of agricultural lands which are allowed to remain fallow for a number of years or to impose a regulation that a certain proportion of agricultural lands shall be utilised for the production of foodgrains. It could not have been the intention of the makers of the Constitution that the right of religious denominations to own and acquire property should not be subjected to such reasonable restrictions in the interests of the general public.

16. The interpretation which we are inclined to place on Article 26(c) finds support in the legislative history of that Article. In -the Draft Constitution of India, which had been prepared by the Drafting Committee of the Constituent Assembly, the present Article 26 figured as Article 20. Article 20 in the Draft Constitution had the heading "Freedom to manage religious affairs and to own, acquire and administer properties for religious or charitable purposes," and it ran as follows:

"20. Every religious denomination or any section thereof shall have the right--

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law."

It will be noticed that the clause "subject to public order, morality and health" was not found in Article 20 of the Draft Constitution. Now, Article 20(c) of the Draft Constitution could not possibly have been intended to mean that every religious denomination or any section thereof should have an absolute right to own and acquire movable and immovable property a right which could not be subjected to any restriction whatsoever, Clearly the intention of Article 20(c) of the Draft Constitution was that religious denominations and sections of religious denominations should not be denied the rights which were available to members of the general public in respect of ownership and acquisition of immovable property. It must follow that the addition of the clause "Subject to public order, morality and health", which now occurs in Article 26 of the Constitution, was intended to secure, in its application to Clause (c) of that Article, that no restrictions can be imposed on the right which religious denominations and sections of religious denominations have, in common with other individuals, of owning and acquiring property, except such restrictions as are in the interests of public order, morality and health.

17. We are aware that Article 26(c) has not been interpreted in any reported case in the manner we have done. But this was probably because a question like the one which we are called upon to decide did not fall for determination in any reported case. In *Raja Suryapalsingh and Others Vs. The U.P. Govt.*, , a Pull Bench of the Allahabad High Court examined the constitutional validity of the U.

P. Zamindari Abolition and Land Reforms Act, 1950. An argument was advanced on behalf of certain Waqfs and Hindu religious institutions in that case that their right to own property guaranteed by Article 26(c) was contravened by the provisions of the impugned Act. Rejecting the argument the Allahabad Full Bench observed:

"Article 26 clause (c) confers on every religious denomination the right to own and acquire property but it does no more than this, and we can see no ground for holding that it prevents, or was intended to prevent, property belonging to a religious body being acquired by authority of law."

In appreciating these remarks, it must be remembered that the U. P. Zamindari Abolition and Land Reforms Act, 1950 provided for the acquisition by the State of the property rights of Zamindars. Earlier in its judgment the Allahabad Full Bench had held that acquisition of property by the State was the subject of Article 31 of the Constitution and not of Article 19(1)(f). An argument on the basis of Article 26(c) was advanced before the Full Bench on the ground that ownership of property was guaranteed under Article 26(c) but not under Article 19(1)(f). The remarks quoted above were made by the Full Bench in rejecting this argument.

18. An appeal from the above decision of the Allahabad High Court was heard by the Supreme Court along with appeals from decisions of the Patna and Madhya Pradesh High Courts in regard to the validity of the Zamindari Abolition Laws passed by the Bihar and Madhya Pradesh Legislatures. By the time these appeals (The State of Bihar Vs. Maharajadhiraja Sir Kameshwar Singh of Darbhanga and Others,) came for the decision of the Supreme Court, however, the Constitution (First Amendment) Act, 1951, had come into force, Articles 31A and 31B had been inserted in the Constitution, and the Zamindari Abolition Acts passed by the Legislatures of the three States had been included in the Ninth Schedule of the Constitution. Consequently, the provisions of the impugned Acts could not be challenged before the Supreme Court on the ground of any fundamental right guaranteed by the Constitution. What was urged before the Supreme Court on behalf of the said Waqfs and Hindu religious institutions was that the properties of these institutions were already dedicated to public purposes and could not, therefore, be acquired for a public

purpose by the State. In rejecting this argument Justice Mahajan said:

"The argument is fallacious. A charity created by a private individual is not immune from the sovereign's power to compulsorily acquire that property for public purposes. It is incorrect to say that the vesting of these properties in the State under the provisions of the Act in any way affects the charity adversely because the net income that the institutions are deriving from the properties has been made the basis for compensation awarded to them."

It is likely that the remark in the last sentence has a reference to the fact that in the impugned Acts compensation which was awarded to religious institutions for the acquisition of their property rights was at a higher rate than the

compensation awarded to ordinary Zamindars. With reference to the same contention Justice Das said in his judgment:

"I see no substance in this contention. The property belonging to the religious institutions will only change its form, namely, from immovable property into money."

19. The above decisions were followed in *Pran Krishna Kamar and Another Vs. Junior Assessor, Sibarampore and Others*, and in *Chintamani Prathihari v. State of Orissa*, AIR 1958 Ori 18, where the Courts held that acquisition by the State of property dedicated to religious endowments did not violate Article 26 of the Constitution,

20. As noticed above, the Supreme Court was not called upon to consider the scope of Article 26(c) of the Constitution while" pronouncing on the validity of the Zamindari Abolition Laws. The Allahabad. Calcutta and Orissa High Courts did consider the effect of Article 26(c) in the above cases, but they did so with reference to acquisition of properties by the State, the rights in respect of which are governed by Article 31 of the Constitution, None of the Courts were called upon to consider the general scope of the right guaranteed by Article 26(c) in the context in which that provision appears in the Constitution.

21. As held by us above. Article 26(c) means that every religious denomination or any section thereof shall have the same rights in respect of the ownership and acquisition of movable and immovable property as are available to other members of the public, and that if those rights are to be curtailed, they can be curtailed only in the interest of public order, morality and health. This interpretation necessarily implies that Article 26(c) is not violated by those provisions of law which are of general application and which do not specifically relate to the property rights of religious denominations. Sections 32 to 32R of the Bombay Tenancy Act extinguish or modify the rights of landlords in general in respect of their agricultural lands, and since these provisions do not impose any additional- restrictions on the property rights of religious denominations, they cannot be held to be violative of Article 26(c). If Sections 32 to 32R of the Bombay Tenancy Act do not violate Article 26(c), it must follow that nothing in the proviso to Section 88B(1) of the Bombay Tenancy Act can be held to be violative of that Article. We accordingly reject the challenge made on behalf of the petitioners to the constitutional validity of Sections 32 to 32R as well as the proviso to Section 88B(1) of the Bombay Tenancy Act.

22. In the result Special Civil Application No. 1129 of 1954 is dismissed. On the same grounds Special Civil Applications Nos. 1023 of 1964, 1418 of 1964 and 1890 of 1964 are also dismissed.

23. Since the questions raised by the petitioners were of considerable complexity and were not covered by any precedent, we direct that there will be no order as to costs in these Special Civil Applications.

24. Civil Application No. 2376 of 1964 is also rejected. No order as to costs.

25. Appeal and applications dismissed.