
(2004) 08 AP CK 0054
In the Andhra Pradesh High Court
Case No : CRP No. 487 of 2004

Satesh Jain Oswal

APPELLANT

Vs

Singareni Collieries Co. Ltd.

RESPONDENT

Date of Decision : 27-08-2004

Acts Referred:

Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 — Section 32, 4

Citation : (2004) 6 ALD 188 : (2004) 6 ALT 594

Hon'ble Judges : S.R.K. Prasad, J

Bench : Single Bench

Advocate : I. Aga Reddy, for the Appellant; J. Prabhakar, for the Respondent

Final Decision : Dismissed

Judgement

S.R.K. Prasad, J.—This civil revision petition is directed against the judgment, dated 25-9-2003, passed in C.M.A. No. 7 of 2002, on the file of the Senior Civil Judge, Peddapalli, whereunder, the learned Senior Civil Judge, dismissed the appeal, confirming the Order, dated 5-3-2002, in R.C.C. No. 21 of 1997 on the file of the Rent Controller-cum-Junior Civil Judge, Peddapalli.

2. The petitioner herein is the tenant and the respondent herein is the landlord.

3. The Tenant approached the Rent Controller-cum-Junior Civil Judge, Peddapalli, u/s 4 of A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960, for fixing fair rent in respect of Quarter No. 7, Sector-II, 5 Incline, Super Bazar Area, Godavarikhani.

4. The respondent herein has contended that the learned Rent Controller has no jurisdiction to entertain the petition and the Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1968 only applies but not under the provisions of A.P. Buildings (Lease, Rent and Eviction) Control Act for fixation of fair rent.

5. Thereupon, the learned Rent Controller has fixed fair rent at Rs. 1, 235/- per

month from 1-4-1996 inclusive of consumption charges. Having not been satisfied with the adjudication of the matter, the tenant approached the Appellate Authority in C.M.A. No. 7 of 2002 on the file of the Senior Civil Judge, Peddapalli. The Appellate Authority, after finding that the Andhra Pradesh (Lease, Rent and Eviction) Control Act, 1960 is applicable, dismissed the appeal holding that the rent fixed 1.75 per sq. foot is reasonable. Aggrieved by the same, the tenant once again approached this Court by way of this civil revision petition.

6. The short point that arises for consideration is:

Whether the Rent Controller has jurisdiction to entertain the petition, and whether the fair rent has been fixed in accordance with law ?

7. I slate at the very outset that though the Revision Petitioner has been inducted into the premises by the respondent, the documentary evidence and necessary files have not been placed either before the Trial Court or before the Appellate Authority. It is the respondent, who wanted to raise the rent in accordance with the G.O. Ms. No. 35, dated 27-2-1997. It is the demand made by the respondent which has given rise to file the case. The particulars, namely, as to the date of inducting the tenant in the premises, the terms on which he has been inducted and the quantum of rent paid, are not available. In the notice issued by the respondent seeking enhancement of rent, the petitioner was described as a tenant. As can be seen from Ex.P-2, the revision-petitioner was allowed to continue for more than twenty years. What is urged before this Court by the respondent company is that there were continuous licenses and hence, the Rent Control Act had no jurisdiction. The respondent itself refers in the demand notice treating the petitioner as a tenant. The license has not seen the light of the day. The terms of license are not put forth. When the respondent failed to show that the petitioner is continuing as a licensee, both the Courts below have given a concurrent finding that the premises occupied by the petitioner is only under a rental agreement but not under a license. This Court will not interfere with the findings arrived at by the first appellate Court that the petitioner has been inducted as a tenant in the premises and not as a licensee.

8. Before proceeding further, it is necessary to determine whether the Rent Control Act has got jurisdiction in such lease entered into with the petitioner by the respondent-Company owned by the Government?

9. Section 32(a) of A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960, reads as follows:

"32. Act not to apply to certain buildings :-The provisions of this Act shall not apply-

(a) to any building owned by the Government"

(b)

10. So, it is clear, from a reading of the above said section that the provisions of

Rent Control Act do not apply to any building owned by the Government.

11. The word Government is defined u/s 2(v) of the Rent Control Act which reads as follows :

"Government" means the State Government.

12. An interpretation has to be given to the words "State Government". So, it is clear that the Rent Control Act does not apply to buildings of such Government i.e., "State Government" and it has no application to the buildings owned by the State Government. Unfortunately, it is not mentioned in the said section that the State Government includes instrumentality of the State Government or companies or Central Government. In view of the words "State Government" mentioned in the definition given under the Rental Control Act, it cannot be extended to the instrumentality of the State Government or to Central Government or its Companies. No doubt, it creates a big anomaly, but it is not for this Court to fill up lacuna in the statute. It is for the Legislature to take note of and provisions are amended, and exemption is granted to the buildings of Central Government as well as instrumentality of State Governments. They have to be brought within the purview of the exemption of the Rent Control Act as mentioned u/s 32 of the Rent Control Act.

13. It is stated in B. Rajkumar Patra Vs. Union of India (UOI) and Others, , as follows:

"3. There is no dispute that in the tender notice there was a categorical stipulation that after 2.30 p.m. on the appointed date, no tender would be received under any circumstances whatsoever. Admittedly, Laguna did not submit the tender within the appointed time. In fact, its tender was not opened at 3.00 p.m., along with the other tenders. Mr. Jayanta Das appearing for Opposite Party No. 3 contended that conceding that Opposite Party No. 2 was an instrumentality of the State, acceptance of the tender in the instant case of Laguna could not be challenged on the ground that there had been any infraction of the clause in the tender notice. In the counter-affidavit, it has been indicated at length and Counsel for Opposite Party No. 3 has reiterated before us the same to the effect that the representative of Laguna came from Calcutta to submit the tender along with the requisite draft for purposes of security. The train by which the representative travelled ran unusually late on the day and, therefore, within the time stipulated in the tender notice, the representative could not reach the destination and present the tender. An enquiry about the correctness of this allegation was made and on being satisfied that the delay in the circumstances was beyond the control of the representative, the tender was accepted. This reasoning does not at all appeal to us. Whatever may have been the reason, the clear stipulation was that no tender after the appointed time would be received. Since Opposite Party No. 3 had decided to invite tenders and the procedure usually followed in public offices had been adopted, there was no justification for the OSCOM to deviate from the normal method and take upon itself the

responsibility of accepting a tender which did not satisfy the clear requirement of the notice. Delayed arrival of the train could not constitute a justification in the face of the terms of the tender notice to accept the tender furnished beyond time.

The next question for consideration is whether the Indian Rare Earths Limited is an instrumentality of the State. This question has been examined in three recent decisions of the Supreme Court, the first being the case of *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*, . That was a case where the International Airport Authority of India set up under the International Airport Authority Act, 43 of 1971, had invited tenders from registered second class hoteliers having at least five years" experience of putting up a second class restaurant and two snack bars at the International Airport at Bombay for a period of three years. The latest point of time up to which the tenders could be submitted was stipulated in the notice and tenders were to be opened half an hour after the optimum point of time set for receiving tenders. There were six tenders received in response to the tender notice. One of the conditions was five years" experience as second class hotelier. The International Airport Authority entered into correspondence with Respondent No. 4 and on certain facts being disclosed accepted the tender. This acceptance was challenged by filing a writ application which was dismissed in the High Court on merit. The Supreme Court did not agree with the High Court but ultimately did not interfere in view of the delay and other equitable considerations. The Court found that the test of eligibility laid down in the tender notice was an objective test and not a subjective one and as a fact the fourth respondent did not have the requisite qualification. The Court pointed out (at p. 1642):

"Now, obviously where a corporation is an instrumentality or agency of Government, it would, in the exercise of its power or discretion, be subject to the same constitutional or public law limitations as Government. The rule inhibiting arbitrary action by Government which we have discussed above must apply equally where such corporation is dealing with the public, whether by way of giving jobs or entering into contracts or otherwise, and it cannot act arbitrarily and enter into relationship with any person it likes as its sweet will, but its action must be in conformity with some principle which meets the test of reason and relevance."

In Paragraph 32 of the judgment, the Court proceeded to examine whether the airport authority was an instrumentality of the State. The provisions of the statute under which the authority was set up were analysed. The purpose for which the authority has been constituted was examined. The Court found:

".I The functions of the 1st respondent are specified in Section 16: sub-section (1) provides that, subject to the rules, if any, made by the Central Government in this behalf, it shall be the function of the 1st respondent to manage the Airports efficiently and sub-section (2) casts an obligation on the first respondent to provide at the airports such services and facilities as are necessary or desirable for the efficient operation of air transport services and certain specific

functions to be performed by the 1st respondent or particularized in sub-section (3). These functions were, until the appointed date, being carried out by the Central Government but now u/s 16 they are transferred to the 1st respondent. Section 20 provides that after making provision for reserve funds, bad and doubtful debts, depreciation in assets and all other matters which are usually provided for by companies, the 1st respondent shall pay the balance of its annual net profits to the Central Government. Section 21 requires the 1st respondent to submit for the approval of the Central Government a statement of the programme of its activities during the forthcoming financial year as well as its financial estimate in respect thereof. At least three months before the commencement of each financial year and Section 24 provides that the accounts of the 1st respondent shall be audited annually by the Comptroller and Auditor General and the accounts as certified by the Comptroller and Auditor General or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded to the Central Government and the Central Government shall cause the same to be laid before both Houses of Parliament. The 1st respondent is also required by Section 25 to prepare and submit to the Central Government, as soon as may be after the end of each financial year, a report giving an account of its activities during that financial year and this report has to be laid before both Houses of Parliament by the Central Government. The officers and the employees of the 1st respondent are deemed by Section 28 to be public servants and Section 29 gives them immunity from suit, prosecution or other legal proceeding for anything in good faith done or intended to be done in pursuance of the Act or any rule or regulation made under it. Section 33 confers power on the Central Government to temporarily divest the 1st respondent from the management of any Airport and to direct the 1st respondent to entrust such management to any other person. The Central Government is also empowered by Section 34 to supersede the 1st respondent under certain specified circumstances. Section 35 gives power to the Central Government to give directions in writing from time to time on questions of policy and provides that the 1st respondent shall, in the discharge of its functions and duties, be bound by such directions. Section 36 confers rule-making power on the Central Government for carrying out the purposes of the Act and power to make regulations is conferred on the 1st respondent u/s 37. Section 39 provides that any regulation made by the 1st respondent under any of the clauses (g) to (m) of sub-section (2) of Section 37 may make it penal to contravene such regulation." In view of these special features the Court ultimately came to hold that the Airport Authority was an instrumentality of the State. So far as the present company is concerned it is not set up by a special statute. It does not have the special features, which have been highlighted in Paragraph 32 extracted above.

The next case is that of *Som Prakash Rekhi v. Union of India*, where the question for consideration was whether the Bharath Petroleum Corporation was "State" within the meaning of Article 12 of the Constitution. The majority of the

learned Judges took the view that it was and they held that it was not necessary that the legal person must be a statutory Corporation and must have power to make laws and must be created by and not under a statute. In the majority judgment, it was indicated (at P.229):

"A study of Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, (a Constitution Bench decision of this Court) yields the clear result that the preponderant considerations for pronouncing an entity as State agency or instrumentality are

- (1) financial resources of the State being the chief finding source.
- (2) financial character being governmental in essence,
- (3) plenary control residing in Government,
- (4) prior history of the same activity having been carried on by Government and made over to the new body and
- (5) some element of authority or command.

....."

All these features are not present in the case of the Company in question. There can be no doubt that the sum total effect led the learned Judges to the view that Burmah Shell was an instrumentality of the State and not some of the features by themselves would be adequate.

The last of the cases is that of *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, . This decision is of the Constitution Bench and the question that fell for determination was whether one of the Regional Engineering Colleges located at Srinagar being one of the fifteen such colleges in the country sponsored by the Government of India, was an instrumentality of the State. The college was being managed by a society registered under the Jammu and Kashmir Registration of Societies Act, 1898. The Court pointed out that where a Corporation is an instrumentality or agency of the Government, it must be held to be an "authority" within the meaning of Article 12 of the Constitution and hence subject to the same basic obligation to obey the Fundamental Rights as the Government. Then came the question as to whether this was an instrumentality of the State, Sumptuous reference was made to the ratio of *Ramana Dayaram Shetty Vs. International Airport Authority of India and Others*, . In Paragraph 9 of the judgment, the tests for determining when a Corporation can be said to be an instrumentality or agency of Government were gathered thus:

"(1) One thing is clear that if the entire share capital of the corporation is held by Government it would go a long way towards indicating that the Corporation is an instrumentality or agency of Government.

(2) Where the financial assistance of the state is so much as to meet almost entire expenditure of the Corporation, it would afford some indication of the corporation being impregnated with governmental character.

(3) It may also be a relevant factor..... Whether the corporation enjoys monopoly status which is the State conferred or State protected.

(4) Existence or "deep and pervasive State Control" may afford an indication that the Corporation is a State agency or instrumentality.

(5) If the functions of the corporation are of public importance and closely related to Governmental functions, it would be a relevant factor in classifying the corporation as an instrumentality or agency of Government.

(6) Specifically, if a department of Government is transferred to a corporation, it would be a strong factor supportive of this interference of the corporation being an instrumentality or agency of Government". The Court then proceeded to observe:-

"If on a consideration of these relevant factors it is found that the corporation is an instrumentality or agency of Government, it would, as pointed out in the International Airport Authority's case, be an authority and, therefore, State within the meaning of the expression in Article .

In Paragraph 11 of the judgment, the Court pointed out that it was immaterial whether the. corporation is created by a statute or under a statute. The test was whether it was an instrumentality or agency of the Government and not as to how it was created.

We are inclined to think that no particular test has a predominant role to play. The cumulative effect has to be looked into. Where the functions are closely related to governmental functions and where a department of Government is transferred to a corporation or where rule-making or regulation-making power has been given which when made would regulate the conduct of the people at large are clear features in support of treating the institution as an instrumentality or agency of Government. Where, however. Government while embarking upon a commercial activity putting the entire money, exercise direct or indirect control and receive the profits-these by themselves may not be adequate to hold the institution to be an agency or instrumentality of Government. In our view the present one is of that limited type and on the facts disclosed, the Company cannot be held to be an instrumentality of Government. That being the position, petitioner cannot succeed on the allegations of contravention of the equality clause."

14. It is also stated in *Dat Pethe and Another Vs. District Collector, Ernakulam and Others*, as follows :

"4. Sri Sivaraman Nair on the other hand would contend that all the powers conferred the Rajasthan Electricity Board by statute are not vested in the

Corporation, and that other decisions of the Supreme Court have practically set at rest the question, laying down that the Corporations registered under the Companies Act, or which are the creations of some statutory provisions, though may have the semblance of governmental departments, lack in the inherent characteristics and status of the State and are distinct from Government, looked at from a legal angle. Decisions relied on by Counsel for the petitioner are: Valjibhai Muljibhai Soneji and Another Vs. The State of Bombay (Now Gujarat) and Others, ; Andhra Pradesh State Road Transport Corporation Vs. Income Tax Officer, B-I B-ward, Hyderabad, and Another, ; State Trading Corporation of India Limited v. Commercial Tax Officer (1964) 2 SCA 201 = (AIR 1963 SC 1811); Dr. S.L. Agarwal Vs. The General Manager, Hindustan Steel Ltd., ; and Heavy Engineering Mazdoor Union Vs. State of Bihar and Others, . Apart from these decisions of the Supreme Court, my attention has been drawn to the decisions in Tamlin v. Hannaford (1950) 1 KB 18; Prafulla Kumar Sen Vs. Calcutta State Transport Corporation and Others, ; S.K. Mukherjee Vs. Chemicals and Allied Products, Export Promotion Council, ; R.D. Singh Vs. The Secretary, Bihar State Small Industries Corporation and Another, . The dictum laid down by the Supreme Court in all the decisions appears to be this: It may be that the investment in the Corporation is that of the Government, either of the Central or the State. The Government may have voice in the management, and even control, both administrative and financial, over the affairs of the companies or corporations; it may have the power to nominate members of the governing body and also depute officers for the day-to-day working of the concern. In spite of all these controls, a corporation cannot be considered to be a department of the Government or agent of Government; nor are their employees Government servants in the absence of any statutory provisions conferring such status on them. That a Minister appoints the members or directors of the Corporation and that he is entitled to call for information, to give directions which are binding on the directors, and to supervise the conduct of the business, of the Corporation, are certain characteristics relied on by the Government Pleader in support of his contention that the Corporation has the status of an agent of Government. I find this contention untenable."

15. Kerala High Court has dealt with all the decisions and ultimately, stated at Para 5 as follows :

"A trading activity carried on by the corporation is not a trading activity carried on by the State departmentally, nor is a trading activity carried on by a State through its agents appointed in that behalf because according to statute the Corporation has a personality of its own and this personality is distinct from that of the State or other share-holders."

In Valjibhai Muljibhai Soneji and Another Vs. The State of Bombay (Now Gujarat) and Others, , after having considered whether the contribution made by the Bombay State Transport Corporation would amount to contribution out of public revenue, the Supreme Court held as follows :

"the funds of the State Transport Corporation could not be regarded as Public Revenue, and that the Corporation itself was not a department of Government but a separate legal entity; that the State Transport Corporation was not a "local authority" as defined by Section 3(1) of the General Clauses Act, 1897;

that the acquisition impugned in the present case having been made for the benefit of a Corporation, though for a public purpose, was bad because no part of the compensation was to come out of public revenues and the provisions of Part VII of the Land Acquisition Act, 1894, had not been complied with".

As the legal status of the Corporation in contrast with the Government has been clearly drawn by the Supreme Court in these two cases, I do not think it necessary to examine in detail the other decisions cited by the Counsel for the petitioner."

16. It is clear that the Supreme Court in the aforesaid decision held that a trading activity carried on by the Corporation is not a trading activity carried on by the State departmentally, nor is a trading activity carried on by a State through its agents appointed in that behalf because according to statute the Corporation has a personality of its own and this personality is distinct from that of the State or other share-holders.

17. It is also stated in Samalkot Municipal Shops Rent Payers Association v. The Samalkot, Municipality, Samalkot 1990 (3) ALT 46, as follows:

"Under Section 3(23) of the General Clauses Act, 1897 the word Government, is defined as, "Government" or "the Government" shall include both the Central Government and any State Government. Local authorities do not fall within the meaning of the expression "Government", and the word "Government" or "the Government" cannot be interpreted to include a District Board or any such local authority."

18. The Principles laid down in the aforesaid decisions clearly indicate that the "State Government" is different from that of others namely, District Boards and local authorities and Companies. Moreover, this Corporation M/s. Singareni Colonies Limited has not been constituted under any statute, but, is a Company floated under the Companies Act. Mere owning of the Company and running the same, will not bring into the purview of the State Government. It is clearly stated by the Apex Court that the commercial activities run by Floating Companies will not by itself constitute the State Government. The Corporations, the instrumentality of the State which run the administration cannot claim any exemption under Rent Control Act since it is not mentioned under the Rent Control Act that the definition of the State Government can be extended to instrumentality of the State. Moreover, it is not the intention of the Legislature to grant exemption to Central Government because Companies owned by the State or Central Governments would have been specifically mentioned about the same. The tenant is certainly entitled to take advantage of the lacuna in the statute. I am of the considered view that in view of the principles laid down in the

aforesaid decisions, the only interpretation that can be put to the word Government is State Government and not the Companies floated by the State Government or to its Commercial Corporations.

19. It is clear that there is no material to show that the petitioner was inducted as a licensee. The concurrent finding, which was given regarding the tenancy, the Rent Controller is certainly having jurisdiction insofar as the companies and properties possessed by the Company namely, the Singareni Company Limited.

20. It is also contended by the Respondent Company that the Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1968 alone is applicable to the petition schedule premises and not provision of Rent Control Act.

21. On the other hand, the learned Counsel appearing for the revision petitioner mainly laid stress on the words that unless there is an unauthorized occupation in relation to a public premises, the Act has no application. He has also placed reliance on two circumstances namely, the lease has not been terminated nor determined and when the lease is not terminated or determined it has no application to the case, since his possession cannot be said to be unauthorised. I leave the matter open, insofar as the Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, 1968, is concerned, since lease is not determined or it is not terminated. The learned Counsel for the revision petitioner relied upon a decision reported in Jain Ink Manufacturing Company Vs. Life Insurance Corporation of India and Another, .

22. The respondents Company mainly placed reliance on a decision reported in Ashoka Marketing Ltd. and another Vs. Punjab National Bank and others, , the relevant portions are as follows :

"50. On such principle of statutory interpretation which is applied to be is contained in the latin maxim: *leges posteriores priores contrarias abrogant* (later laws abrogate earlier contrary laws). This principle is subject to the exception embodied in the maxim : *generalalia specialibus non derogant* (a general provision does not derogate from a special one). This means that where the literal meaning of the general enactment covers enactment covers a situation for which specific provision is made by another enactment contained in an earlier Act, it is presumed that the situation was intended to continue to be dealt with by the specific provision rather than the later general one (Benion : Statutory Interpretation pp.433-34).

"54. The Public Premises Act is a later enactment, having been enacted on 23rd August, 1971, whereas the Rent Control Act was enacted on 31st December, 1958. It represents that later will of Parliament and should prevail over the Rent Control Act unless it can be said that the Public Premises Act is a general enactment, whereas the Rent Control Act is a special enactment and being a special enactment the Rent Control Act should prevail over the Public Premises Act. The submission of learned Counsel for the petitioners is that the Rent Control Act is a special enactment dealing with premises in occupation of

tenants, whereas the Public Premises Act is general enactment dealing with the occupants of public premises and that insofar as public premises in occupation of tenants are concerned the provisions of the Rent Control Act would continue to apply and to that extent the provisions of the Public Premises Act would not be applicable. In support of this submission reliance has been placed on the non obstante clauses contained in Sections 14 and 22 of the Rent Control Act as well as the provisions contained in Sections 50 and 54 of the said Act. On the other hand the learned Counsel for the respondents have urged that the Rent Control Act is a general enactment dealing with the relationship of landlord and tenant generally, whereas the Public Premises Act is a special enactment making provision for speedy recovery of possession of public premises in unauthorized occupation and that the provisions of the Public Premises Act, a later Special Act, will, therefore, override the provisions of the Rent Control Act insofar as they are applicable to public premises in occupation of persons who have continued in occupation after the lease has expired or has been determined. The learned Counsel for the respondents have placed reliance on Section 15 of the Public Premises Act which bars the jurisdiction of all Courts in respect of the eviction of any person who is in unauthorized occupation of any public premises and other matters specified therein. It has been submitted that the said provision is also in the nature of a non obstante clause which gives overriding effect to the provisions of the Public Premises Act. Thus each side claims the enactment relied upon by it is a special statute and the other enactment is general and also invokes the non obstante clause contained in the enactment relied upon."

"61. The principle which emerges from these decisions is that in the case of inconsistency between the provisions of two enactments, both of which can be regarded as Special in nature, the conflict has to be resolved by reference to the purpose and policy underlying the two enactments and the clear intendment conveyed by the language of the relevant provisions therein. We propose to consider this matter in the light of this principle."

"64. It would thus appear that, while the Rent Control Act is intended to deal with the general relationship of landlords and tenants in respect of premises other than the Government premises, the Public Premises Act is intended to deal with speedy recovery of possession of premises of public nature, i.e., property belonging to the Central Government, or companies in which the Central Government has substantial interest or Corporation owned or controlled by the Central Government and certain corporations, institutions, autonomous bodies and local authorities. The effect of giving overriding effect to the provisions of the Public Premises Act over the Rent Control Act, would be that buildings belonging to Companies, Corporations and autonomous bodies referred to in Section 2(e) of the Public Premises Act would be excluded from the ambit of the Rent Control Act in the same manner as properties belonging to the Central Government, The reason underlying the exclusion of property belonging to the Government from the ambit of the Rent Control Act, is that the Government while dealing with the citizens in respect of property belonging to it would not act for its own purpose

as a private landlord but would act in public interest. What can be said with regard to Government in relation to property belonging to it can also be said with regard to companies, corporations and other statutory bodies mentioned in Section 2(e) of the Public Premises Act. In our opinion, therefore, keeping in view the object and purpose underlying both the enactments viz., the Rent Control Act and the Public Premises Act, the provisions of the Public Premises Act have to be construed as overriding the provisions contained in the Rent Control Act."

"65. As regards the non obstante clauses contained in Sections 14 and 22 and the provisions contained in Sections 50 and 54 of the Rent Control Act, it may be stated that Parliament was aware of these provisions when it enacted the Public Premises Act containing a specific provision in Section 14 barring jurisdiction of all Courts (which would include the Rent Controller under the Rent Control Act). This indicates that Parliament intended that the provisions of the Public Premises Act would prevail over the provisions of the Rent Control Act in spite of the above mentioned provisions contained in the Rent Control Act."

"66. It has been urged by the learned Counsel for the petitioner that there is no conflict between the provisions of the Rent Control Act and the Public Premises Act and that both the provisions can be given effect to without one overriding the other. In this regard, it has been pointed out that since no provisions has been made in the Public Premises Act for the termination of the lease, the provisions of the Rent Control Act can be held applicable up to the stage of termination of the lease, and thereafter, proceedings can be initiated for eviction under the provisions of the Public Premises Act. In support of this submission, reliance has been placed on V. Dhanapal Chettiar Vs. Yesodai Ammal, , wherein it has been held that in view of the special provisions contained in the State Rent Control Acts, it is no longer necessary to issue a notice u/s 106 of the Transfer of Property Act to terminate the tenancy because in spite of the said notice the tenant is entitled to continue in occupation by virtue of the provisions of the said Acts. In the said case, it has been further laid down that the relationship between the landlord and tenant continues till the passing of the order of eviction in accordance with the provisions of the Rent Act and, therefore, for the eviction of the tenant in accordance with the law, an order of the competent Court under the Rent Control Act is necessary. This would mean that in order to evict a person who is continuing in occupation after the expiration or termination of his contractual tenancy in accordance with law, two proceedings will have to be initiated. First, there will be proceedings under Rent Control Act before the Rent Controller followed by appeal before the Rent Control Tribunal and revision before the High Court. After these proceedings have ended they would be followed by proceedings under the Public Premises Act, before the Estate Officer and the Appellate Authority. In other words, persons in occupation of public premises would receive greater protection than tenants in premises owned by private persons. It could be the intention of Parliament to confer this dual benefit on persons in occupation of public premises."

"74. The appellants in Civil Appeals Nos. 2368 and 2369 of 1996 had been dispossessed from the premises in their occupation after the dismissal of their appeals by the Additional District Judge. During the pendency of these appeals interim orders were passed by this Court whereunder possession of a part of the premises was restored to the appellants. Since these appeals have been dismissed the appellants in both the appeals are directed to hand over the possession of the portion of the premises in their occupation to the respondent Bank within one month.

23. The plea that since provisions had been made for the termination of the lease, the provisions of the Rent Control Act applicable up to the stage of termination. Therefore, the proceeding for eviction under the Provisions of Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Act, cannot be accepted.

24. It is also further observed as follows :

"69. It has been urged by the learned Counsel for the petitioners that many of the corporations referred to in Section 2(e)(2)(ii) of the Public Premises Act, like the Natinoalised Banks and the Life Insurance Corporation, are trading corporations and under the provisions of the enactments whereby they are constituted these corporations are required to carry on their business with a view to earn profit, and that there is nothing to preclude these corporations to buy property in possession of tenants at a low price and after buying such property evict the tenants after terminating the tenancy and thereafter sell the said property at a much higher value because the value of property in possession of tenants is much less as compared to vacant property. We are unable to cut down the scone of the provisions of the Public Premises Act on the basis of such an apprehension because as pointed out by this Court in Dwarkadas Marfatia and Sons Vs. Board of Trustees of the Port of Bombay, ."

"Every activity of a public authority especially in the background of the assumption on which such authority enjoys immunity from the rigour of the Rent Act must be informed by reason and guided by the public interest. All exercise of discretion or power by public authorities as the respondent, in respect of dealing with tenants in respect of which they have been treated separately and distinctly from other landlords on the assumption that they would not act as private landlords must be judged by that standard."

These observations were made in the context of the provisions of the Bombay Rents, Hotel and Lodging House Rates (Control) Act, 1947 whereby exemption from the provisions of the Act has been granted to premises belonging to the Bombay Port Trust. The consequence of giving overriding effect to the provisions of the Public Premises Act is that premises belonging to companies and statutory bodies referred to in clauses (2) and (3) of Section 2(e) of the Public Premises Act would be exempted from the provisions of the Rent Control Act. The actions of the companies and statutory bodies mentioned in clauses (2) and (3) of

Section 2(e) of the Public Premises Act will, therefore, have to be judged by the same standard."

25. The applicability of the Andhra Pradesh Public Premises (Eviction of Unauthorised Occupants) Act does not arise in this case from the fact that lease has not been terminated and his possession is not unauthorized possession. That can be determined only as and when the Landlord terminates the tenancy and approaches a Court or the concerned authority for possession and it is too premature to determine such thing.

26. Hence, I am unable to agree with the contentions canvassed by the Counsel for the respondent that only A.P. Public Premises (Eviction of Unauthorised occupants) Act alone applies. I find that both the Rent Control Act as well as A.P. Public Premises (Eviction of Unauthorised occupants) Act apply. But this is only a case of fixing the fair rent. I do not want to advert to the aspect of eviction by adverting to the several provisions of the A.P. Public Premises (Eviction of Unauthorised occupants) Act, 1968 and whether it supersedes Rent Control Act.

27. Insofar as fixing of fair rent is concerned, both Courts have given a concurrent finding. I do not find any illegality in the fixation of fair rent in view of the lacuna in the statute and the Court of Rent Control has got jurisdiction to determine the fixation of fair rent and the A.P. Public Premises (Eviction of Unauthorised occupants) Act does not debar the jurisdiction of the Court or to determine the fair rent as applicable to the A.P. Buildings (Lease, Rent and Eviction) Control Act.

28. I have already stated that there is no ground to fill up the lacuna by this Court by giving a different kind of interpretation which cannot be called upon from the Court by the State Government. It is for the Legislature to take note of it to bring about necessary amendments to the A.P. Buildings (Lease, Rent and Eviction) Control Act. Till such time, this Rent Control Act applies to the instrumentality of the State and they can work out their remedies insofar as Rent Control Act is concerned, to the extent, it is not repugnant under the Act. There is no need to interfere with the findings of fact arrived at, including the jurisdictional aspect arising under the Rent Control Act.

29. The civil revision petition is accordingly dismissed. No costs.