
(1978) 01 CAL CK 0037
In the Calcutta High Court

Sukumar Banerjee

APPELLANT

Vs

Chairman, Cal. Improvement Trust and Others

RESPONDENT

Date of Decision : 06-01-1978

Acts Referred:

Constitution of India, 1950 — Article 226, 32

Specific Relief Act, 1963 — Section 9

West Bengal Government Premises (Tenancy Regulation) Act, 1976 — Section 3

Citation : 82 CWN 392

Hon'ble Judges : Manas Nath Roy, J

Bench : Single Bench

Advocate : Kashikanta Moitra and Utpal Bhattacharya, for the Appellant; Kanan Kumar Ghosh and Satindra Mohan Mukherjee, for the Respondent

Final Decision : Allowed

Judgement

Mr. Justice Manas Nath Roy

1. The Calcutta Improvement Trust (hereinafter referred to as the said Trust), is the owner of an Industrial Housing Estate at Christopher Road, Calcutta. Flat No.5 in Block II of the said Estate was admittedly allotted in September, 1954 to the petitioner, at a rental of Rs.19/- per month on the basis of an Agreement executed in the prescribed form at the direction of the said Trust in favour of the Estate's Officer of the said Trust, who is now known as Estate's Manager.

2. The said agreement, amongst others contains stipulations for the payment of agreed rent for each Calendar month, on or before 12th of the month, for which it is due and the tenancy could be terminated on 15 days notice on either side expiring with a month's notice. There is a further stipulation that the tenant should agree to abide by the Rules appended to the agreement and those Rules would also form part of the agreement in question. The said Rules disclosed that the concerned flats were designed for persons of moderate income and were not built for profit. A less than economic rent has been fixed to make them available to such persons and the tenants would be selected with some care. The said

rules lay down further, the rights and obligations of the tenants and has not either mentioned any other scheme under which the tenancy was created or how or under what circumstances the stipulated rent could be enhanced.

3. After duly occupying the tenancy in question for a long time, a notice dated 27th January 1972, was received by the petitioner for producing in the office of the said Estate's Manager, a certificate from his present employer stating the exact employment he holds and his total monthly salary for the purpose of proving his eligibility for direct tenancy in respect of the flat. He was further informed that if his wage limit was Rs.350/- per month, he should be allowed to retain the concerned flat after giving a direct tenancy till his wages would reach Rs.500/- per month and only on payment of an additional charge of 10% of the income exceeding Rs.350/- per month.

4. Such action on the part of the authorities of the said Trust has been impeached in this rule. The petitioner has contended amongst others that since he held a direct tenancy under the said calling for additional information and a direction to pay higher rent was improper and unauthorized, apart from being without jurisdiction, a bi-trary and motivated. It is further contended that the action was ultra vires the Calcutta Improvement Trust Act, 1911. Further, it appears that thereafter, another notice dated 8th February 1974 was received by the petitioner, informing him that if the informations as were asked for by the earlier letter do not reach within a stipulated time then he would be evicted with the co-operation of the police in terms of section 157 of the Calcutta Improvement Trust Act, 1911, which is to the following effect:

157" (1)

The Commissioner of Police and his subordinates shall be bound to co-operate with the Chairman for carrying into effect and enforcing provision of this Act.

(2) It shall be duty of concerning police who is subordinate to the Commissioner of Police (i) to communicate without delay to the proper officer or servant of the particular any information which he receives a design to commit or of the Commission of any offence against this Act or any rule made herein, and (ii) to assist the Chairman or any officer or servant of the particular reasonably demanding his aid for the lawful exercise of any power vesting in the Chairman or any such officer servant under this Act or any such rules".

5. On receipt of the aforesaid communication, the petitioner duly informed the authorities of the said Trust that the terms of the tenancy agreement, some particulars, whereof have been mentioned hereinbefore, could not be changed unilaterally by the said Trust or its Officers and as such he was not obliged to produce the income certificate and the particulars of the exact nature of employment. The petitioner has further produced a rent receipt, duly issued by the resident care-taker of the Estate's Department of the said Trust for the month of March, 1974 viz., the month in which the present Rule was obtained, for the purpose of showing that the relationship of landlord and tenant under the

Act still subsisted between him and the said Trust. He further contended that it was absurd on the face of the records and illegal too on the part of the said Trust to ask for the information as mentioned above. He has alleged that the respondents concerned, for the purpose of suiting their own convenience, interest and object have taken recourse to the action as mentioned hereinbefore, not only for the purpose of harassing him but such action on their part was a prelude to have him evicted with police help u/s 157 as aforesaid, without taking recourse to the ordinary law of the land relating to landlord and tenant and after giving a go by to the stipulations in the agreement itself.

6. A further communication, on such refusal or failure of the petitioner to furnish necessary particulars, was received by him from the resident caretaker of the said Trust, being Respondent No.6, whereby he was again informed that in case of his failure to supply the necessary particulars, appropriate steps would be taken for his eviction with the co-operation of the police u/s 157 of the Act. In addition to his contentions as above, the petitioner has also contended that the authorities of the said Trust could not take recourse to section 157 of the Act for the purpose of evicting him or terminating his tenancy. He has, of course, mentioned that if at all the respondents could have his tenancy terminated in terms of the agreement in question and after following the laws relating to landlord and tenant and in other words and more particularly, he could not be evicted in the manner as has been sought to be done. He has further contended that the action to have a tenant summarily evicted, was not only void ab initio but was without jurisdiction, motivated and malafide. In any event, it has been submitted by the petitioner that the authorities of the said Trust would not be authorized to take recourse to the provisions of section 157 of the Act for evicting him and they cannot take the aid of the said section or threaten him with the consequence of eviction with the aid and assistance of the police in case of his failure as mentioned hereinbefore or even if he fails to deposit the rent. He has further submitted that the provisions of section 157 of the Act, in view of the terms thereof read and considered along with the intention of the legislature, cannot be used for eviction of a tenant in the facts and circumstances, which are peculiar to this case. He has further contended that the respondents cannot evict him with police help without going to a court of competent jurisdiction for obtaining a decree for eviction and recovery of possession under the law. It has also been contended that even if the petitioner is a trespasser, he cannot be evicted with the aid and assistance of the said section 157. The petitioner has categorically asserted to be a direct tenant and entitled to all protections of law. He has also categorically stated that he has not violated any provisions of the concerned tenancy agreement. It has also been stated by him that even if his monthly remuneration exceeds Rs.500/-, the authorities of the said Trust, in view of the subsisting agreement, would not be entitled to have the rate of rent increased. He has further alleged that already some of the tenants of the Housing Estate of the said Trust have been improperly evicted with police help and such action was taken so abruptly that those tenants could not find time to

approach any Court of Law for the necessary redress. As such, the petitioner has stated that he has become apprehensive on the threats as shown through the letters as aforesaid and that would make this application maintainable although no final order has yet been passed.

7. Mr. Moitra, appearing in support of the Rule apart from submitting on the contentions as mentioned hereinbefore, submitted further that the circuitous methods as adopted by the respondents concerned in the instant case, for having the petitioner, amongst others, evicted from their accommodation, was neither authorized under the law nor such action was bonafide too. He further placed reliance on the objects of the Act itself, which make provisions for the improvement and expansion of Calcutta by opening up congested areas, laying out of altering streets, providing open spaces for purposes of ventilation, or recreation demolishing or constructing buildings (clearing bustees, executing housing schemes and schemes for the rehousing of persons displaced by the execution of improvement scheme, acquiring land for the purposes and all works related thereto), and otherwise, submitted that in view of the intent of the legislature, as depicted through the preamble of the Act as referred to hereinbefore, taking recourse to the provisions of section 157 or the threat to have the petitioner evicted with the aid and assistance of such provisions, was absolutely unauthorized. It was also submitted by Mr. Moitra that the threat to evict the petitioner as sought to be given through and with the help of the police u/s 157 of the Act was unauthorized, void and arbitrary and in any event the provisions of the said section, in view of the preamble of the Act and in the facts of the case, could not be taken recourse to. It was also submitted by him that be it under the agreement in question or otherwise or in any event, the Respondents had acted illegally and they had no right or authority to ask for the certificate of income from the petitioner and he could not ordinarily be evicted from the tenancy in question so long he was not a defaulter or had acted contrary to the terms of the agreement and in fact the petitioner has not violated any of the terms of the agreement.

8. The answering Respondents in their return to the Rule have stated that the flat in question formed a part of the industrial scheme known as Subsidized Industrial Housing Scheme. They have mentioned that the object of the said Scheme was to provide accommodation to Industrial workers or employees getting total income or salary or wage including allowances amounting in aggregate less than Rs.350/- per month. They have also mentioned that the provisions for accommodation as aforesaid was intended and in fact is provided for at a low rent, considering the low income of the Industrial workers or employees. They have also mentioned that subsequently it was decided by the said Trust and the Government of India that the allottees of accommodations in flats under the Scheme, who would reach the said income limit of Rs.350/- per month during the occupation of the accommodation in the flats, would be given an option to continue in their respective flats up to the limit of their respective total income of Rs.500/- per month on payment of additional 10% on their

increased income and such allottees would be bound to quit and vacate their respective allotments on reaching the said limit of total income of Rs.500/- per month. It should be noted here that the aforesaid terms do not find place in the concerned agreement, particulars whereof have been mentioned hereinbefore, and on being asked, the answering Respondents could not produce the said or any such Scheme at the time of the hearing.

9. However, it has been contended by those Respondents that pursuant to the said Scheme, applications were asked for from industrial workers for allotment of flats and pursuant thereto, the petitioner on 21st April, 1954 furnished the necessary particulars of his income and by his application dated 15th September, 1954, the petitioner applied for necessary allotment of a flat with effect from 1st October 1954 in terms of the Rules containing the terms and conditions. The Respondents have stated that such application for allotment was accepted subject to further verification of the statements. They have mentioned that the petitioner declared his total income as industrial workers at Rs.73/- per month. The basic salary was Rs.42/- and he used to draw dearness allowance Rs.31/-. The Respondents have contended that subject to the necessary verification, the flat in question was allotted to the petitioner at a monthly rental of Rs.19/-.

10. The Respondents have also contended that the object and the Scheme as referred to hereinbefore and the background for the allotment of the flats was duly approved by the Board of Trustees of the said Trust and in or about July 1972, the Estates Manager concerned apprised the fact of the said approval to the petitioner amongst other allottees. It has been alleged that although the petitioner mentioned his total income including all allowances was less than Rs.350/- per month, he promised to comply with the conditions as contained in the scheme in question.

11. The fact that by the letter dated 27th July, 1972 the petitioner was asked to furnish a certificate of his exact total income or salary inclusive of allowances from the employer within 15th August 1972 and in fact that petitioner furnished a certificate dated 2nd August 1972 from his employer showing his total income at Rs.339/- per month, comprising of his basic salary of Rs.248/- and dearness allowance at Rs.91/-, is not in dispute. It has further been admitted by the Respondents that subsequently on 8th February 1974, the petitioner was asked to furnish his income certificate showing his total income for the purpose of finding out whether the income exceeded Rs.350/- per month and he was also informed that if the total income exceeded Rs.350/- per month, then he would be entitled to retain or continue to occupy the flat till his total income exceeded Rs.500/- per month, subject to the payment of 10% on his increased income. The Respondents have stated that it was also made known to the petitioner that in case he was not willing to pay the said extra amount as additional charges and on his failure to furnish his salary certificate in proof of his eligibility, he would be evicted with police co-operation u/s 157 of the Act. It has been alleged that even inspired of due receipt of such communication and his promise to furnish the

particulars as asked for, the petitioner failed, refused and neglected to furnish the required informations. The Respondents have further alleged that the income of the petitioner exceeded the limit of Rs.500/- since January 1974 and he has deliberately refrained from supplying such particulars of income with the ulterior motive of avoiding the incidence of the scheme as referred to above and on such failure a further opportunity was given to him on 5th March 1974 for the purpose of supplying the necessary informations about his income and he was once again informed that in case of non compliance steps would be taken for his eviction with police co-operation u/s 157 of the Act. The Respondents have further alleged that the petitioner had and still he has right to occupy the flat and enjoy or retain the tenancy in respect thereof on compliance with the terms as aforesaid including his obligation to furnish the necessary particulars of his income and he having failed to supply the required informations about his income, has lost or forfeited the right to use or occupy the tenancy and as such he should be deemed to be a trespasser in the flat and so could be evicted without any further notice under any law or Act and even with Police help under the said section 157. It has also been contended by the Respondents that the petitioner having crossed his income limit of Rs.500/- per month before January 1974, his tenancy came to an end automatically. It has further been stated that the petitioner having ceased to be a tenant, became a trespasser and for that was also liable to be evicted without any notice under the Transfer of Property Act or any other law and as mentioned hereinbefore even with Police help u/s 157.

12. It has of course been mentioned by the answering Respondents that the reference to section 157 as aforesaid, was made for apprising the petitioner about the provisions as contained therein and the extreme consequences as laid down under the law and in fact they have neither approached the Commissioner of Police nor any other Police Authority or the State of West Bengal for any help or assistance for forcibly evicting the petitioner from his flat and in fact either the Respondents or any Government or authority including the Commissioner of Police have not threatened to drive the petitioner out of the flat. They have of course contended that they had and still have the right to take recourse to the provisions of section 157 in the instant case. In view of the above, the Respondents have contended that no interference at this stage is either required or called for. Thus the Respondents have contended that this Court should not make any interference in this jurisdiction and the more so when the petitioner is guilty of suppression of material facts and he has not come with clean hands and particularly when the application is not a bonafide one. These apart, the Respondents have contended that the petitioner did not execute any agreement under the seal of the said Trust, or the tenancy was created by any agreement. They have contended that by conduct of parties, the tenancy in question was created and on the terms as included later. This part of the case of the Respondents appears to be untrue and inconsistent with the records and the conduct of the parties. If there was no such agreement as alleged, then it is very

difficult to visualize as to why, how and under what circumstances rent was admittedly accepted from the petitioner. On consideration of the records as produced and construction of them, I find that there was a duly completed and concluded contract between the petitioner and the said Trust in respect of the tenancy of the flat in question and statutory body like the said Trust should not now be allowed, in the facts and circumstances of the case, to contend that there was no agreement entered between them and the petitioner. The Respondents by their supplementary affidavit dated 1st December 1977 assured and undertook that the Estates Manager concerned would not solicit the aid of the Police unlawfully on the basis of the reference to section 157 of the Act as mentioned in the letter dated 5th March 1974. Such undertaking or assurance is practically in terms of the section itself and whatever be the decision; the same cannot fetter the rights of the said Trust to proceed in appropriate cases and to take steps in terms of the section itself.

13. The answering Respondents, through Mr. Kanan Kumar Ghosh, have further submitted that the application could not be entertained, as the same was premature. That apart, it was also submitted by them that no interference should be made, considering the conduct of the petitioner, which was not bonafide, and the more so when the infraction, if any, was one of a contract, for which a duly constituted suit would be appropriate remedy. It has also been contended that the petitioner has no legal right to retain and hold the flat in question and even if there is such right, the same is disputed and for that also this Court would not only be incompetent but must be very slow in its interference. These apart, it was contended by the Respondents that the fact that the petitioner had and has another remedy by way of a duly constituted suit would bring the case within the mischief of Article 226(3) of the Constitution of India and as such no interference should or could be made. Lastly, Mr. Ghosh referred to section 3 of the West Bengal Government Premises (Tenancy Regulation) Act, 1976, which is to the following effect:

Section: 3 Termination of tenancy - (1) Every tenancy held by a tenant in respect of a Government premises shall stand terminated upon the expiry of the period referred to in a notice to quit served upon such tenant in the prescribed manner.

(2) A tenancy in respect of a Government premises shall stand automatically terminated without any notice to quit where the tenant has, -

(i) violated the terms of the lease, or

(ii) made default in payment of rent for three consecutive months:

Provided that where the tenancy has terminated on account of default in payment of rent for three consecutive months the prescribed authority may upon application made by the tenant within such time as may be prescribed and upon deposit of all the arrears of rent together with interest at the prescribed rate, grant renewal of the tenancy in favour of the tenant:

Provided further that the prescribed authority may, on sufficient cause being shown, grant renewal of the tenancy in favour of the tenant on deposit fifty per cent. Of the arrears of rent along with the application for renewal of tenancy and direct the tenant to deposit the balance of the arrears of rent with interest on the entire amount at the prescribed rate in twelve monthly installments commencing from the month following the month of such renewal of tenancy, and if the tenant fails to deposit any such installment the tenancy so renewed shall stand automatically terminated.

Provided also that notwithstanding the termination of the tenancy the State Government or the Government undertaking, as the case may be, shall be entitled to recover all arrears of rent for the period for which the tenancy subsisted and mesne profits thereafter for so long as the tenant remained in occupation of the premises.

and submitted that since the petitioner was and is occupying a Government premises, so in terms of sub-section (2) (i) of the said section 3, he could not claim any protection in the instant case. This argument was advanced by Mr. Ghosh for supplementing his submissions that the petitioner, in the instant case, had or has no legal right or character and thus his petition would not be maintainable.

14. In support of his submissions as aforementioned, and against the submissions of the Respondents that the petitioner had or has no legal character or right for maintaining the petition, Mr. Moitra submitted that in view of the subsisting agreement and more particularly when the same has not as yet been duly determined, the petitioner would have the legal right and character of a tenant and thus to hold and enjoy the tenancy, which would be his right to property and that too so long he would not act contrary to the terms of the agreement or would violate them or any of them. It was contended by Mr. Moitra when admittedly there has been no infraction of the terms of the agreement by the petitioner and he is not a defaulter, his legal right to continue with the tenancy which is a property right, would continue and so long that right is available, the petition would be maintainable. In support of such submissions, Mr. Moitra relied on the determination of the Supreme Court in the case of (1) Bishan Das and Others Vs. The State of Punjab and Others, . In that case one R, with the permission of the State, on behalf of the joint family firm built Dharamshala, temple and shops on land belonging to the State and managed the same during his life time. The Dharamshala was built for the benefit of traveling public and the members of the public offered worship in the temple. After R's death, the petitioners, the other members of the joint family, continued the management but subsequently, the petitioners were dispossessed of the properties by an executive order passed by the S.D.O. in pursuance of directions given by the Deputy Commissioner and the management of the properties was placed in charge of the Municipal Committee. The petitioners filed a writ petition under Art. 32 of the Constitution challenging the action of the Government, and it has been

observed that:

the petitioners could not be held to be trespassers in respect of the dharamsala, temple and shops; nor could it be held that the dharamsala, temple and shops belonged to the State, irrespective of the question whether the trust created was of a public or private nature. A trustee even of a public trust can be removed only by procedure known to law. He cannot be removed by an executive fiat. A person who bona fide puts up constructions on land belonging to other with their permission would not be a trespasser, nor would the buildings so constructed vest in the owner of the land by the application of the maxim *quicquid plantatur solo solo cedit*. Hence, in respect of the dharamsala, temples and shops the State had not acquired any rights whatsoever merely by reason of their being on the land belonging to the State. If the State thought that the constructions should be removed or that the condition as to resumption of the land should be invoked, it was open to the State to take appropriate legal action for the purpose. Even if the State proceeded on the footing that the trust was a public trust it should have taken appropriate legal action for the removal of the trustee. It is well recognized that a suit under S. 92, Civil Procedure Code, may be brought against persons in possession of the trust property even if they claim adversely to the trust, that is, claim to be owners of the property or against persons who deny the validity of the trust. The State or its executive officers cannot interfere with the rights of others unless they can point to some specific rule of law which authorizes their acts. The executive action taken in this case by the State and its officers was destructive of the basic principle of the rule of law. It has also been held that the respondents had clearly violated the fundamental rights of the petitioners who were bona fide in possession by depriving them of the possession of the properties by executive orders and therefore the orders must be quashed and the respondents must be restrained from interfering with the petitioners in the management of those properties.

In support of his submissions that so long the agreement in the instant case subsists or the petitioner has not committed any breach of the same or in any event, he cannot be evicted without following the due process of law or the laws of the land. Mr. Moitra further placed reliance on the determination of the Supreme Court in the case of (2) *Lallu Yeshwant Singh etc. v. Rao Jagdish Singh & Ors.*, AIR 1968 SC 620. That was a case under Qanoon Ryotwari Gwalior State Samvat 1974 and in the facts of the same it has been observed that:

The word "trespass" in section 326 would include forcible entry and dispossession by the landlord. A landlord does commit trespass when he forcibly enters on land in the possession of a tenant whose tenancy has expired.

Under section 9 of the Specific Relief Act it is well settled that question of title is irrelevant in a suit under that section. As the structure of section 326 of Qanoon Mal, read with Section 163 of Qanoon Ryotwari, similar to section 9 of the Specific Relief Act, there is no reason why section 326 should be interpreted differently. The view that under the general law applicable to a lessor and a

lessee there was no rule or principle which made it obligatory for the lessor to take resort to Court and obtain an order for possession before he could eject the lessee is not correct.

For the purpose of further supplementing his arguments that the petitioner, even if his occupation was unauthorized or he was a trespasser, could not be evicted without following the due process of law as laid down by the respective, relevant and necessary statutes, Mr. Moitra also relied on the determinations of the Supreme Court in this case of (3) Mohanlal & Ors. v. The State of Punjab & Ors., 1970 S.C.J. 95, where it has been observed that even an unauthorized occupant can be evicted only in the manner authorized by law.

15. On the arguments as advanced, I am of the view that section 157 of the Act do empower the authorities of the said Trust to seek Police assistance but the availability of the said assistance or such assistance as mentioned in the section, must be commensurate with and in terms of the intention of the legislature as depicted through the preamble of the Act as mentioned above and not in other cases. The circumstance as mentioned there would not be applicable in the case of evidence of a tenant from a flat belonging to the housing estates of the said Trust ordinarily. The tenancy of the petitioner was governed by certain terms of the agreement and so long there is any infraction of those terms or any one of them, he could not be evicted. Such eviction again cannot be made without following or taking recourse to the ordinary laws of the land relating to landlord and tenant. In any event or in view of the matter unless there has been any infraction of the agreement as aforesaid, there would be no justification for eviction of the petitioner and also to threat his eviction with Police assistance in terms of section 157. As such the impugned order u/s 157 at this stage were unauthorized, without jurisdiction and improper. So, the impugned order containing such threat should be set aside, cancelled and quashed. It is true that where an Act confers a jurisdiction, it impliedly also grants the power of doing all such acts, or employing such means as are essentially necessary to its execution. But before implying the existence of such a power, as observed by the Supreme Court in the case of (4) The Sub-divisional Officer, Sadar, Faizabad Vs. Shambhoo Narain Singh, , the Court must be satisfied that the existence of that power is absolutely necessary for the discharge of the power conferred and not merely that it is convenient to have such a power. The authority u/s 157 viz., to ask for Police assistance would be reasonably required in terms of the intent of the statute and such assistance can be asked for in appropriate cases and circumstances. I am of the view that considering the intent of the statute, the provisions of section 157 would not be unreasonable. But the said Trust should be slow in availing of such assistance and should consider and decide first whether such assistance can be asked for in the given case, keeping in mind the intention of the statute as mentioned above.

16. Reverting back to the other arguments as advanced by Mr. Ghosh, I think the provisions of Article 226(3) of the Constitution of India would not be a bar to the

maintainability of the petition in the instant case as the steps as sought to be taken in the matter of issuing the threat for purporting to evict the petitioner through Police assistance u/s 157 of the Act, was totally unauthorized and without jurisdiction. When an action is totally without jurisdiction or unauthorized and the right of a citizen, which is in the instant case, is involved, then the provisions of Article 226(3) would not be a bar to the maintainability of an application. Thus the existence of an other remedy by way of a suit as argued by Mr. Ghose would be of no avail. These apart, I am of the view that the other argument of Mr. Ghose viz., this Court in the instant case should not make any interference because the infraction, if any, is one of a contract, is devoid of any substance because, here a statutory body has sought the assistance of the Police or has purported to take recourse to such assistance without any reason, justification and in an unauthorized manner and thus has infringed the right of the petitioner to hold his tenancy which again is his right to property. I am further of the view that the petitioner's right to hold the tenancy has been sought to be infringed or interfered with by the issue of the impugned notices u/s 157 of the Act, and when that would involve his right to hold property, his legal right has been sought to be infringed and interfered with and as such he would have a legal right and character to maintain the application and to invoke the jurisdiction of this Court under Article 226 of the Constitution. I have also not been able to find out any justification in the submission of Mr. Ghosh that the petitioner's conduct is malafide or the application as filed is a malafide one.

17. Thus the arguments of Mr. Moitra succeed and those of Mr. Ghosh fail and as such the Rule is made absolute. The impugned orders u/s 157 are set aside and quashed. Let appropriate writs be issued.

18. This order will not however prejudice or operate as a bar in the matter of exercising the powers of the said Trust in asking for necessary Police assistance in terms of section 157 of the Act in appropriate cases or circumstances and to proceed in the matter afresh for the purpose of determining the tenancy of the petitioner in accordance with law.

19. The Rule is made absolute. There will be no order as to costs.

20. Since the facts and points of law involved in the other Civil Rules Nos. 1762 (W) of 1974 to 1765 (W) of 1974 are identical to this Rule, the order which I have proposed would also govern them.