Shri Bhagwan and Another

Vs

Ram Chand and Another

Civil Appeal No. 764 of 1964

(CJI P. B. Gajendragadkar, Raghuvar Dayal, V. Ramaswami – I JJ)

01.03.1965

JUDGMENT

GAJENDRAGADKAR, C.J.-

The short question of law which arises in this appeal by special leave is whether the revisional order passed by the State Government of Uttar Pradesh under s. 7-F of the Uttar Pradesh (Temporary) Control of Rent and Eviction Act, 1947 (hereinafter called the Act), is rendered invalid by reason of the fact that before passing the said order, the State Government did not hear the two respondents, Ram Chand and Kailash Chand, who were affected by it. This question arises in this way. The respondents are the present tenants of the premises bearing municipal No. 863, situated at Jumna Kinara Road, Agra, commonly known as Putaria Mahal. Their predecessors were let into possession as tenants by the appellants, Lala Shri Bhagwan and Shrimati Gopal Devi, on an agreement that they would pay a monthly rent of Rs. 58-4-0 and that the tenancy would commence from the Sudi 1 of each Hindi month and end on Badi 15 of the next month. The two appellants applied to the Rent Controller and Eviction Officer (hereafter called the Officer), under s. 3 of the Act for permission to file a suit in ejectment against the predecessors-in-interest of the respondents. The Officer granted permission by his order passed on September 1, 1951. The respondents then moved the Additional District Magistrate, who had been authorised by the District Magistrate to hear appeals against the decision of the Officer. The appellate authority declined to confirm the permission granted to the appellants and remanded the case to the Officer for a fresh hearing. On re-hearing the matter, the Officer changed his view and rejected the appellant's application for permission on August 9, 1952. The appellants then moved the appellate authority again and prayed that the original order granting permission to them to sue the respondents should be restored. On December 9, 1952, the appellate authority ordered that permission should be granted to the appellants for suing the respondents in ejectment. The respondents then moved the Commissioner of Agra in revision. On February 4, 1953, the revisional authority allowed the revisional application and set aside the appellate order granting permission to the appellants. That took the appellants to the State Government under s. 7-F of the Act. On May 7, 1953, the State Government directed the Commissioner to revise his order on the ground that it thought that the need of the appellants was genuine. Acting in pursuance of this direction, the Commissioner passed an order on July 28, 1953, by which he cancelled his previous order and confirmed the order passed by the appellate authority, granting permission to the appellants to sue the respondents in ejectment. This order was clearly the result of the direction issued by the State Government under s. 7-F of the Act. After this order was passed, the appellants sued the respondents in ejectment in the court of the Civil Judge, Agra.

The claim made by the appellants for ejectment of the respondents was resisted by them on several grounds, and on the contentions raised by the respondents, the trial court framed six issues. One of

the issues was whether the permission granted to the appellants to sue the respondents was valid. It is with this issue that we are concerned in the present appeal. The trial Judge found in favour of the appellants on this issue and recorded his conclusion in their favour even on the other issues which had been framed by him. In the result, the trial court passed a decree in favour of the appellants on August 31, 1957. The respondents challenged this decree by preferring an appeal in the court of the First Additional Civil Judge, Agra. In their appeal, they disputed the correctness of the findings recorded by the trial court on all the issues, including the issue about the validity of the sanction obtained by the appellants before filing the present suit. The appeal court confirmed all the findings recorded by the trial Judge, with the result that the respondents' appeal was dismissed, on the 30th May, 1959.

The respondents then went to the Allahabad High Court by way of second appeal. The learned single Judge of the said High Court, who heard the said appeal, was called upon to consider the question as to whether the permission granted to the appellants was valid. That, in fact, was the only issue which was raised before him. The other issues which had been found in favour of the appellants were not raised before the learned Judge. On the issue as to the validity of the sanction obtained by the appellants, the learned Judge came to the conclusion that the said sanction was invalid inasmuch as the State Government in exercising its authority under s. 7-F of the Act, had not given an opportunity to the respondents to be heard. He took the view that in exercising its authority under s. 7-F, the State Government was required to decide the matter in revision in a quasi-judicial manner and it was absolutely essential that the principles of natural justice should have been followed by the State Government before reaching its decision and an opportunity should have been given by it to the respondent to place their case before it.

It appears that this question had been considered by Division Benches of the Allahabad High Court in the past and the consensus of judicial opinion appears to have been in favour of the view that the revisional order which the State Government is authorised to pass under s. 7-F, is not a quasi-judicial order but is a purely administrative order, and so, it is not necessary that the State Government should hear the parties before exercising its jurisdiction under the said section. The learned single Judge was persuaded by the respondents to consider whether the said decisions were right and he came to the conclusion that the view taken in the said decisions was not right. The judgment delivered by the learned single Judge shows that he had reached this conclusion on re-examining the question in the light of some decisions of this Court to which his attention was invited. After he had reached this conclusion and had dictated a substantial part of his judgment, his attention was drawn to a decision of this Court in Laxman Purshottam Pimputkar v. State of Bombay and others [[1964] I. S.C.R. 200], which was then not reported. The learned Judge considered the blue print of the judgment to which his attention was invited and thought that the said judgment confirmed the view he had already taken about the nature of the proceedings and the character of the jurisdiction contemplated by s. 7-F. Having held that the State Government was bound to give an opportunity to the respondents to place their version before it, before it exercised its authority under s. 7-F, the learned Judge naturally came to the conclusion that the impugned order passed by the State Government under s. 7-F was invalid, and that inevitably meant that under s. 3 of the Act, the suit was incompetent. In the result, the second appeal preferred by the respondents was allowed and theappellants' suit ordered to be dismissed. In the circumstances of the case, the learned Judge directed that the parties should bear their own costs throughout. It is against this decision that the appellants have come to this Court by special leave; and so, the only point which falls for our decision is whether the revisional order passed by the State Government under s. 7-F, without giving an opportunity to the respondents to place their case before it, is rendered invalid.

When a legislative enactment confers jurisdiction and power on any authority or body to deal with the rights of citizens, it often becomes necessary to enquire whether the said authority or body is required to act judicially or quasi-judicially in deciding questions entrusted to it by the statute. It sometimes also becomes necessary to consider whether such an authority or body is a tribunal or not. It is well-known that even administrative bodies or authorities which are authorised to deal with matters within their jurisdiction in an administrative manner, are required to reach their decisions fairly and objectively; but in reaching their decisions, they would be justified in taking into account considerations of policy. Even so, administrative bodies may, in acting fairly and objectively, follow the principles of natural justice; but that does not make the administrative bodies tribunals and does not impose on them an obligation to follow the principles of natural justice. On the other hand, authorities or bodies which are given jurisdiction by statutory provisions to deal with the rights of citizens, may be required by the relevant statute to act judicially in dealing with matters entrusted to them. An obligation to act judicially may, in some cases, be inferred from the scheme of the relevant statute and its material provisions. In such a case, it is easy to hold that the authority or body must act in accordance with the principles of natural justice before exercising its jurisdiction and its powers; but it is not necessary that the obligation to follow the principles of natural justice must be expressly imposed on such an authority or body. If it appears that the authority or body had been given power to determine questions affecting the rights of citizens, the very nature of the power would inevitably impose the limitation that the power should be exercised in conformity with the principles of natural justice. Whether or not such an authority or body is a tribunal, would depend upon the nature of the power conferred on the authority or body, the nature of the rights of citizens, the decision of which falls within the jurisdiction of the said authority or body, and other relevant circumstances. This question has been considered by this Court on several occasions. In the Associated Cement Companies Ltd., Bhupendra Cement Works, Surajpur v. P. N. Sharma and another [[1965] 2 S.C.R. 366], both aspects of this matter have been elaborately examined, and it has been held, adopting the view expressed by the House of Lords - in Ridge v. Baldwin and others [L.R. [1964] A.C. 40] that the extent of the area where the principles of natural justice have to be followed and judicial approach had to be adopted, must depend primarily on the nature of the jurisdiction and the power conferred on any authority or body by statutory provisions to deal with the questions affecting the rights of citizens. In other words, in that decision this Court has held that the test prescribed by Lord Reid in his judgment in the case of Ridge [L.R. [1964] A.C. 40] affords valuable assistance in dealing with the vexed question with which we are concerned in the present appeal.

Let us, therefore, examine the scheme of the Act and the nature of the power and jurisdiction conferred on the State Government by s. 7-F. The Act was passed in 1947 and its main object obviously was, in the words of the preamble, to continue during a limited period powers to control the letting and the rent of residential and non-residential accommodation and to prevent the eviction of tenants therefrom. The preamble further provides that whereas due to shortage of accommodation in Uttar Pradesh it is expedient to provide for the continuance during a limited period of powers to control the letting and the rent of such accommodation and to prevent the eviction of tenants therefrom, the Act was enacted. Indeed, it is a matter of common knowledge that similar Acts have been passed in all the States in India.

Section 3 of the Act provides that "subject to any order passed under sub-s. (3), no suit shall, without the permission of the District Magistrate, be filed in any civil court against a tenant for his eviction from any accommodation, except on one or more of the following grounds". Then follow seven clauses (a) to (g) which set out the grounds on which a landlord can seek to evict his tenant even without the permission of the District Magistrate. The scheme of s. 3, therefore, is that in order

to protect the tenants from eviction, the legislature has provided that the landlords could evict their tenants only if there was proof of the existence of one or the other of the seven grounds specified by clauses (a) to (g) in s. 3(1). Having made this general provision, s. 3(1) makes an exception and enables the landlord to seek to evict his tenant even though his case may not fall under any of the seven clauses of s. 3(1), provided he has obtained the permission of the District Magistrate. In other words, if the District Magistrate grants permission to the landlord, he can sue to evict the tenant under the general provisions of the Transfer of Property Act, as for instance, s. 106. This clearly means that the District Magistrate is empowered to grant exception to the landlord from complying with the requirements of clauses (a) to (g) of s. 3(1) and take the case of the tenancy in question outside the provisions of the said clauses. That is the nature and effect of the power conferred on the District Magistrate to grant permission to the landlord to sue his tenant in eviction.

Section 3, as it was originally enacted, provided that no suit shall, without the permission of the District Magistrate, be filed in any civil court against a tenant for his eviction from any accommodation except on one or more of the grounds specified by clauses (a) to (f). Clause (g) has been subsequently added.

In 1952, clauses (2), (3) and (4) were added to s. 3 by the Amending Act 24 of 1952. It is as a result of these amendments that s. 3(1) now provides that subject to any order passed under sub-s. (3), the permission granted by the District Magistrate would enable the landlord to sue his tenant in ejectment. It is now necessary to read sub-ss. (2), (3) and (4), which are as follows :

> "(2) Where any application has been made to the District Magistrate for permission to sue a tenant for eviction from any accommodation and the District Magistrate grants or refuses to grant the permission, the party aggrieved by his order may, within 20 days from the date on which the order is communicated to him, apply to the Commissioner to revise the order."
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> "(3) The Commissioner shall hear the application made under sub-section (2), as far as may be, within six weeks from the date of making it, and he may, if he is not satisfied as to the correctness, legality or propriety of the order passed by the District Magistrate or as to the regularity of proceedings held before him, alter or reverse his order, or make such other order as may be just and proper."
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> "(4) The order of the Commissioner under sub-section (3) shall, subject to any order passed by the State Government under s. 7-F, be final."

The scheme of these three sub-sections is that the District Magistrate should first consider whether the landlord should be allowed to sue without complying with clauses (a) to (g) of s. 3(1). When he decides the question one way or the other, the party aggrieved by the decision has been given a right to apply to the Commissioner to revise the said order within the limitation prescribed by sub-s. (2). That takes the proceedings before the Commissioner, and he exercises his revisional jurisdiction and reaches his own decision in the matter. Sub-section (4) provides that the revisional order passed by the Commissioner shall, subject to the order passed by the State Government under s. 7-F, be final. That takes us to s. 7-F. Section 7-F reads thus :

> "The State Government may call for the record of any case granting or refusing to grant permission for the filing of a suit for eviction referred to in s. 3 or requiring any accommodation to be let or not to be let to any person under s. 7 or directing a

person to vacate any accommodation under s. 7-A and may make such order as appears to in necessary for the ends of justice."

As we have already indicated, the question we have to decide in the present appeal is : what is the nature of the proceedings taken before the State Government under s. 7-F and what is the character of the jurisdiction and power conferred on the State Government by it; are the proceedings purely administrative, and can the State Government decide the question and exercise its jurisdiction without complying with the principles of natural justice ?

In dealing with this question, we have first to examine the nature of the power conferred on the District Magistrate himself. There is no doubt that what the District Magistrate is authorised to do is to permit the landlord to claim eviction of his tenant, though he may not comply with s. 3(1), clause (a) to (g) and that clearly means that the order which the District Magistrate may pass while granting sanction to the landlord has the effect of taking away from the tenants the statutory protection given to them by the scheme of s. 3(1). A landlord can normally evict his tenant by complying with the relevant provisions of the Transfer of Property Act. Section 3(1) imposes a statutory limitation on the said power by requiring the proof of one or the other of the seven grounds stated in clauses (a) to (g) of s. 3(1), before he can seek to evict his tenant. That limitation is removed by the sanction which the District Magistrate may grant; and so, it is plain that the order which the District Magistrate passes under s. 3(2) affects the statutory rights of the tenants. That is one aspect of the matter which cannot be ignored.

The second aspect of the matter is that the party who may feel aggrieved by the order passed by the District Magistrate, is given the right to move the Commissioner in revision within the prescribed period of limitation, and this provision necessarily implies that the District Magistrate should indicate his reasons why he makes a particular order under s. 3(2). Unless the District Magistrate indicates, though briefly, the reasons in support of his final order, the Commissioner would not be able to exercise his jurisdiction under s. 3(3). How could the Commissioner consider the question as to whether the order passed by the District Magistrate is correct or is legal or is proper, unless he knows the reasons on which the said order is based ? Thus, the provision for a revisional application to the Commissioner also indicates that the District Magistrate has to weigh the pros and cons of the matter and come to a certain conclusion before he makes the order. The rule naturally imports the requirement that the parties should be allowed to put heir versions before him. The District Magistrate cannot reasonably weigh the pros and cons unless both the landlord and the tenant are given an opportunity to place their versions before him. Therefore, we are satisfied that the jurisdiction conferred on the District Magistrate to deal with the rights of the parties is of such a character that principles of natural justice cannot be excluded from the proceedings before him.

This conclusion is very much strengthened when we consider the provisions of s. 3(3). This clause specifically requires the Commissioner to hear the application made under sub-s. (2) within the specified period. This requirement positively enacts that the proceedings before the Commissioner are quasi-judicial. This clause further provides that the Commissioner has to be satisfied as to the correctness, legality, or propriety of the order under revision. He can also examine the question as to the regularity of the proceedings held before the District Magistrate. In our opinion, it is impossible to escape the conclusion that these provisions unambiguously suggest that the proceedings before the District Magistrate as well as before the Commissioner are quasi-judicial in character. Further, the revisional power has to be exercised and a revisional order has to be passed by the Commissioner to serve the purpose of justice, because the clause provides that the Commissioner may make such other order as may be just and proper. Thus, we are satisfied that when the District

Magistrate exercises his authority under s. 3(2) and the Commissioner exercises his revisional power under s. 3(3), they must act according to the principles of natural justice. They are dealing with the question of the rights of the landlord and the tenant and they are required to adopt a judicial approach.

If that be the true position in regard to the proceedings contemplated by sub-s. 3(2) and sub-s. 3(3), it is not difficult to hold that the revisional proceedings which go before the State Government under s. 7-F, must partake of the same character. It is true that the State Government is authorised to call for the record suo motu, but that cannot alter the fact that the State Government would not be in a position to decide the matter entrusted to its jurisdiction under s. 7-F, unless it gives an opportunity to both the parties to place their respective points of view before it. It is the ends of justice which determine the nature of the order which the State Government would pass under s. 7-F, and it seems to us plain that in securing the ends of justice, the State Government cannot but apply principles of natural justice and offer a reasonable opportunity to both the parties while it exercises its jurisdiction under s. 7-F.

We have already referred to the general policy of the Act. In that connection, we may mention two other sections of the Act. Section 14 provides that no decree for the eviction of a tenant from any accommodation passed before the date of commencement of this Act, shall, in so far as it relates to the eviction of such tenant, be executed against him so long as this Act remains in force, except on any of the grounds mentioned in s. 3. This section emphatically brings out the main object of the Act which is to save the tenants from eviction. That is why it prescribes a bar against the execution of the decrees which may have been passed for the eviction of tenants before the Act came into force, unless the landlords are able to show one or the other ground mentioned in s. 3.

A similar provision is made by s. 15 in regard to pending suits. It lays down that in all suits for eviction of tenants from any accommodation pending on the date of commencement of this Act, no decree for eviction shall be passed except on one or more of the grounds mentioned in s. 3. The provision also emphasises the importance attached by the Act to the protection of the tenants from eviction. The right conferred on the tenant no to be evicted, except on the specified grounds enumerated by clauses (a) to (g) of s. 3(1), is a statutory right of great significance, and it is this statutory right of which the tenants would be deprived when the landlord obtains the sanction of the District Magistrate. That is why we think the Act must be taken to require that in exercising their respective powers under s. 3(2) and s. 3(3), the appropriate authorities have to consider the matter in a quasi-judicial manner, and are expected to follow the principles of natural justice before reaching their conclusions.

We have already indicated that the Allahabad High Court had consistently taken the contrary view and held that the functions discharged by the appropriate authorities under s. 3(2) and s. 3(3) are administrative and an obligation to follow the principles of natural justice cannot be imposed on the said authorities vide Narettam Saran v. State of U.P. [A.I.R. 1954 All. 232]. Indeed, after the learned single Judge had held in the present proceedings that the view taken by the earlier decisions of the Allahabad High Court was erroneous, a Division Bench of the said High Court considered the same question once again and re-affirmed its earlier view vide : Murlidhar v. State of U.P. [A.I.R. 1964 All. 148]. We have carefully considered the reasons given by the learned Judges when they re-affirmed the earlier view taken by the High Court of Allahabad on this point. With respect, we are unable to agree with the decision in Murlidhar's [A.I.R. 1964 All. 148] case.

In this connection, we may refer to the decisions of this Court in Laxman Purshottam Pimputkar's

[[1964] 1 S.C.R. 200] case on which the learned single Judge partly relied in support of his conclusion. In that case, this Court was called upon to consider the question whether the revisional jurisdiction conferred on the State Government under s. 79 of the Watan Act was purely administrative, and it came to the conclusion that in exercising the said revisional jurisdiction, the State Government is not acting purely as an administrative authority; its decision is judicial or quasi-judicial, and so, it is essential that the State Government should follow the principles of natural justice before reaching its conclusion under that section. The scheme of the relevant provisions of the Watan Act cannot, however, be said to be exactly similar to the scheme of the Act with which we are concerned; whereas section 3 of the Act with which we are concerned in the present appeal deals with the statutory rights conferred on the tenants, the relevant sections of the Watan Act dealt with the right of possession of the Watan property itself. That being so, it cannot be said that the decision in Laxman Purshottam Pimputkar's [[1964] 1 S.C.R. 200] case can be deemed to have overruled by necessary implication the view taken by the Allahabad High Court in regard to the nature of the power conferred on the appropriate authorities by ss. 3 and 7-F of the Act.

Before we part with this appeal, however, we ought to point out that it would have been appropriate if the learned single Judge had not taken upon himself to consider the question as to whether the earlier decisions of the Division Benches of the High Court needed to be re-considered and revised. It is plain that the said decisions had not been directly or even by necessary implication overruled by any decision of this Court; indeed, the judgment delivered by the learned single Judge shows that he was persuaded to re-examine the matter himself and in fact he had substantially recorded his conclusion that the earlier decisions were erroneous even before his attention was drawn to the decision of this Court in Laxman Purshottam Pimputkar's [[1964] 1 S.C.R. 200] case. It is hardly necessary to emphasise that considerations of judicial propriety and decorum require that if a learned single Judge hearing a matter is inclined to take the view that the earlier decisions of the High Court, whether of a Division Bench or of a single Judge, need to be reconsidered, he should not embark upon that enquiry sitting as a single Judge, but should refer the matter to a Division Bench or, in a proper case, place the relevant papers before the Chief Justice to enable him to constitute a larger Bench to examine the question. That is the proper and traditional way to deal with such matters and it is founded on healthy principles of Judicial decorum and propriety. It is to be regretted that the learned single Judge departed from this traditional way in the present case and chose to examine the question himself.

The result is, the appeal fails and is dismissed. There will be no order as to costs.

Appeal dismissed.

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