

State Of U. P. and Others

Vs

Surain Singh

Civil Appeal No. 133 of 1972

(V. Khalid, A. N. Sen JJ)

29.03.1985

### JUDGMENT

1. The question involved in this appeal by certificate seems to be covered by the decision of this Court in Maganlal Chhagganlal (P) Ltd. v. Municipal Corporation of Greater Bombay ((1975) 1 SCR 1 : (1974) 2 SCC 402) which impliedly overrules the Full Bench decision of the Allahabad High Court in Raja Ram Verma v. State of U. P. (AIR 1968 All 369 : 1968 All LJ 595 : 1968 All WR (HC) 409) taking a view to the contrary. In the Maganlal Chhagganlal case ((1975) 1 SCR 1 : (1974) 2 SCC 402), the question was as to the validity under Article 14 of the Bombay Municipal Corporation Act, 1888 and the Bombay Government Premises (Eviction) Act, 1955 which conferred on the authorities the power to initiate eviction proceedings against unauthorised occupants of Corporation and Government premises. The majority speaking through Alagiriswami, J. disapproved the majority view in Northern India Caterers Private Ltd. v. State of Punjab ((1967) 3 SCR 399 : AIR 1967 SC 1581) and held that the statutes lay down the purpose behind them, that is, that premises belonging to the Corporation and the Government should be subjected to speedy procedure in the matter of evicting unauthorized persons occupying them. This is regarded as sufficient guidance for the authorities to take action and an indication for the officers to avail themselves of the procedure prescribed by the Acts and not resort to the dilatory procedures of the ordinary Civil Court. It was accordingly held that the Act could not be struck down on the possibility of discrimination between occupiers of the Municipal and Government properties and if it happened, the Court was not powerless. Besides, it was found that the procedure under the Acts under consideration was not so harsh or onerous as to suggest a discrimination under Article 14. In view of this, the Full Bench decision of the Allahabad High Court in Raja Ram Verma case (AIR 1968 All 369 : 1968 All LJ 595 : 1968 All WR (HC) 409), holding that the Act was ultra vires the Constitution in its entirety cannot therefore be treated as goods law. In the present case, the petition filed by the respondents in the High Court under Article 226 was allowed solely on that ground. As held by this Court in State of U. P. v. Arshad Ali Khan ((1981) 4 SCC 144), in view of the majority decision of the Court in the Maganlal Chhagganlal case ((1975) 1 SCR 1 : (1974) 2 SCC 402), the Act cannot be deemed to suffer from any constitutional infirmity. Following the course adopted in the case of Arshad Ali Khan ((1981) 4 SCC 144), we accept the appeal, set aside the impugned judgment and remand the case to the High Court for deciding the other points raised in the petition before it. We hope and trust that it would be possible for the High Court to dispose of the writ petition as expeditiously as possible; in any event, not later than two months from today. There shall be no order as to costs.

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