

Sobhagyamal

v.

Prakash Pharmaceuticals, Indore

(Supreme Court of India)

HON'BLE MR. JUSTICE S.K. DUBEY

Civil Revision No. 252 Of 1987 | 27-09-1989

(1.) This revision under S.23-E of the M. P. Accommodation Control Act, 1961 (for short, the 'Act') has been preferred by the landlord/ petitioner, aggrieved of the order dated 26-8-1987, passed in Case No.90(7) 110/ 85-86 by the Rent Controlling Authority, Indore (for short, the 'Rent Controller'), whereby the application under S.23-A(b) of the Act for eviction of the tenant/ respondent from the non-residential accommodation, has been dismissed.

(2.) The circumstances giving rise to this revision are: The petitioner/ landlord filed an application under S.23-A(b) of the Act for invoking the special jurisdiction conferred on the Rent Controller under Chapter III-A on the ground that the petitioner is a retired servant of the Life Insurance Corporation of India (for short, the 'Corporation') who falls within the definition of landlord for the purposes of Chapter III-A, as specified in S.23-J of the Act. After service of summons, the respondent/ tenant raised a jurisdictional objection; that neither the petitioner is a retired Government servant, nor is a retired servant of a Company owned or controlled either by the Central or State Government; therefore, the application of the petitioner/ landlord is not tenable. The Rent Controller, after hearing, dismissed the application holding that an employee of the Corporation does not fall within the category specified either under Cl. (i) or Cl. (ii) of S.23-J of the Act. Aggrieved of this order, the petitioner has preferred this revision.

(3.) The contention of Shri M. Dalal, learned Counsel for the petitioner, is that the Corporation is a corporate body established under (The) Life Insurance Corporation Act, 1956 (for short, the 'Corporation Act') whereby, after nationalisation of life insurance business, all such business was transferred to the Corporation, established under the Corporation Act. The preamble of the Corporation Act clearly shows that it is a controlled business of life insurance

by the Central Government. Though the Corporation has been established and constituted under Ss.3 and 4 of the Corporation Act, if one goes through the various provisions of the Corporation Act, the structure of the Corporation indicates that the Corporation is an agency of the Central Government carrying on life insurance business. Therefore, the Corporation is an authority under Art.12 of the Constitution of India; a retired servant of such a Corporation will be termed as a servant of any Government. In any case, the servant of the Corporation will be a servant of a company owned or controlled by the Central Government. Therefore, if the case does not fall under category (i), certainly a retired servant of the Corporation, under Cl. (ii) of S.23-J, is a landlord for the purposes of Chapter III-A and is entitled to approach the Rent Controller for seeking eviction of his tenant on the ground of "bona fide" requirement. Shri S.N.Sanyal, learned Counsel for the respondent/ tenant, submitted that the order of the Rent Controller is in accordance with law; a Corporation cannot be treated as a Company, unless it is incorporated under the provisions of the Companies Act, 1956 (for short, the 'Companies Act'); the Corporation can also not be said to be a Government department and a retired servant of such Corporation cannot be said to be a Government servant; therefore, neither the petitioner was a retired Government servant nor he is a retired servant of a Company owned or controlled by the Central or State Government, hence, the Rent Controller rightly rejected the application.

(4.) After hearing the learned Course, I am of the opinion that this revision has no merit and deserves to be dismissed. Indisputably, the petitioner' is a retired servant of the Corporation. For the purposes of Art.12 of the Constitution, the Corporation is an authority, created by a statute and is an instrumentality or agency of the Central Government. In relation to the Corporation the Apex Court, after considering various provisions of the Corporation Act, has settled the portion in case of Sukhdev Singh v. Bhagatram, AIR 1975 SC 1331, that the Life Insurance Corporation is State within the enlarged meaning of Art.12 for the purposes of Part III of the Constitution, but in para 67 the Supreme Court observed: "By way of abundant caution we state that these employees are not servants of the Union or the State. These statutory bodies are "authorities" within the meaning of Art.12 of the Constitution". I have also taken the view today in my Order in Second Appeal No.360/ 1984 (Tehmras Kharodi v. Tehamtan M. Thanewala) that the employees of statutory Corporation, like M. P. Electricity Board, created under Electricity (Supply) Act, 1948, are not Government servants.

(5.) The submission of Shri Dalal that the Corporation is wholly owned or controlled company of the Central Government; therefore, a retired servant of the Corporation falls within the specified category of landlord under Cl. (ii) of S.23-J of the Act, has also no merit. Section 23-J(ii) reads as under:-

"23-J. Definition of landlord for the purposes of Chapter III-A. For the purposes of this Chapter 'landlord' means a landlord who is - (i) xxx xxx xxx (ii) a retired servant of a company owned or controlled either by the Central or State Government; (iii) to (v) xxx xxx xxx"

When the Legislature defined "landlord" for the purposes of S.23-J in Chapter III-A of the Act, its intent related to those persons only who fall within the said specified categories and to none else. A landlord who invokes the jurisdiction of the Rent Controller for claiming the special provisions for eviction of a tenant on the ground of "bona fide" requirement under Chapter III-A, falling in category (ii) of S.23-J, must be a retired servant of a Company owned or controlled either by the Central or State Government. The word "Company" under S.23-J(ii) of the Act carries a different meaning than that of "Corporation". The word "Company" is to be understood as a company incorporated under the provisions of the Companies Act. Though, for the purposes of Art.12 of the Constitution, it is immaterial for determination whether a Corporation is created by a statute or under a statute, there the test is whether it is an instrumentality of the State or not. But when we look to the provisions of Cl. (ii) of S.23-J, we have to give the meaning to the word "Company" as assigned and defined under Sec. 3 of the Companies Act, which means a Company formed and registered under the Companies Act, or an existing company as defined in clause (ii) of S.3 of the Companies Act.

(6.) A Corporation in its widest sense may mean any association of individuals entitled, to act as an individual. But that certainly is not the sense in which it is used in S.23-J(ii) of the Act, Corporation established by or under an Act of Legislature can only mean a body corporate, which owes its existence, and not merely to its Corporate status, to the Act. There is a clear distinction between a Corporation established by or under an Act and a body incorporated under an Act. The Apex Court in case of Sukhdev Singh v. Bhagatram (AIR 1975 SC 1331) (supra) observed the distinction as under:-

"A company incorporated under the Companies Act is not created by the Companies Act but comes into existence in accordance with the provisions of the Act. There is thus a well marked distinction between a body created by a statute and a body which, after coming into existence, is governed in accordance with the provisions of a statute."

(7.) The Corporation is also not a Government Company as defined under Sec. 617 of the Companies Act. Hence also, even though the Corporation may be wholly owned or controlled by the Central Government, it cannot, for the purposes of S.23-J(ii) of the Act, be considered to be a Company, and a retired servant of the Corporation (cannot be said to be a retired servant of a Company owned or controlled either by the Central or State Government.

(8.) A landlord, who invokes this special provision contained in Chapter III-A, must satisfy the test that he falls in any one of the specified categories of landlord under S.23-J of the Act. It may be mentioned that a Corporation may be a Company where the enactment so provides, just as in Land Acquisition Act, 1894, wherein under S.3(a) the expression "Company" means registered under the Indian Companies Act, 1890, or a body incorporated by an Act or Parliament and includes a society registered, under the Societies Registration Act, 1860, and a registered society within the meaning of the Co-operative Societies Act, 1912, and any other law relating to co-operative societies for the time being in force in any State. There, the definition of "Company" under Sec. 3(e) is in unmistakable terms that a company incorporated by an Indian law would be a Company for the purposes of the Land Acquisition Act, 1894, and in that definition, a Corporation, which is a body corporate, also falls within the expression "Company". But, like the definition in the Land Acquisition Act, there is no such definition or Explanation of the term "Company" under the Act. Therefore, the cases of the Apex Court, cited by the learned Counsel for the petitioner, have no application, as on a bare reading of S.23-J(ii), the expression "Company" would mean a company as is understood by its literal and plain meaning, a company incorporated in accordance with the provisions of the Companies Act.

(9.) It is a settled principle of interpretation that where an interpretation clause defines a word to mean a particular thing, the definition is explanatory and

prima facie restrictive; and whenever an interpretation clause defines a term to include something, the definition is extensive. The term "landlord" for the purposes of Chapter III-A has been defined giving particular meaning to specified categories, hence, the definition of "landlord" is restrictive and cannot be enlarged to include a statutory corporation in the word "Company".

(10.) In view of the above, in my opinion, the Rent Controller was right in holding that petitioner being a retired servant of the Corporation is neither a retired Government servant nor is a retired servant of a company owned or controlled by the Central or State Government; the application for eviction was rightly dismissed as not maintainable.

(11.) In the result, the revision has no merit and is dismissed with no order as to costs. Revision dismissed.