

Style (Dress Land)

Vs

Union Territory Chandigarh

Civil Appeal No. 4540 of 1999

(S. Saghir Ahmad, R. P. Sethi JJ)

18.08.1999

JUDGMENT

Sethi, J. –

1. Delay condoned in SLP(C)...../99 (CC 902/99). Leave granted.

2. Sector 17 is a commercial centre in Chandigarh, the city beautiful of India which is also the capital of Punjab and Haryana, the two most prosperous States of the country. Shopkeepers of this commercial centre are aggrieved of the enhancement of the rent of their leased premises from Rs. 2,671/- to Rs. 14,000/- per month which, according to them, is irrational, unwarranted by law and arbitrary being 600 per cent increase. The shops under their occupation are stated to have been initially leased out to them at a paltry rent of Rs. 525/- with effect from 10th May, 1968. Whereas the respondent Union Territory have steadily enhanced the rent from time to time, the appellants herein have unsuccessfully put all types of hurdles conceivable under the present legal system.

3. Almost admitted facts leading to the filing of the present appeals are that the appellants were leased commercial premises in Sector 17 of Chandigarh in or about the years 1963-64. However, formal lease deeds were executed between the Lessor and the Lessees in May, 1968 on payment of monthly rent of Rs. 525/- per mensem in advance by the 19th day of the month for which it fell due. The lease was initially for a period of five years from the date of the grant which could be terminated by the Lessor by giving one month's advance notice in writing to the Lessees. The lease was renewable only once for another term of five years with 20% increase in the rent reserved under the deed. In the event of non payment of the rent on the due date or breach or non observance by the Lessee of any of the conditions of the lease deed, it was lawful for the Lessor, notwithstanding the waiver of any previous cause or right for re-entry, to terminate the lease and enter into and upon the building or any part thereof and to re-possess, retain and enjoy the same and in that event the Lessee was not entitled to the refund of lease money or any part thereof or to any compensation whatsoever on account of such resumption. After the expiry of the initial period of 10 years, the rent of the leased premises was increased to Rs. 2,671/- per month with effect from 1.3.1982. Being aggrieved by the increase of rent, the Lessees filed writ petitions in the High Court of Punjab & Haryana in which their plea was not accepted and a Division Bench of the High Court vide its judgment dated 4th August, 1988 held that there was no evidence to show that the enhanced rent was, in any way, unreasonable or arbitrary. The Court further observed, "in fact we had a feeling that this is much lower than the fair payable rent in respect of such premises". However, as by then the Lessees had agreed to pay the enhanced rent with effect from 1st March, 1982 till the end of February, 1991, the Court set aside the orders of termination of their leases which had been passed on their failure to pay the enhanced rent. The petitions were disposed of holding :

"The result would be that he shall be deemed to continue to be lessee under the Estate Administration. We shall now execute a lease deed agreeing to pay rent as aforesaid. The rent shall be revisable for the period from March 1, 1991 as per the existing rules of the Estate Administration. The arrears for the period of March 1, 1982 till July 31, 1988, shall be paid on or before September 30, 1988 and the rent for the month of August, 1988 shall be paid on or before the 10th of September, 1988 and for the month of September 1988, it shall be paid on or before the 10th October, 1988 and for every subsequent month on or before the 10th of each subsequent month."

4. After the expiry of the period prescribed by the High Court, the Lessees were allowed to remain in possession but were slapped with a notice on 19th August, 1992 intimating them to renew the lease subject to enhancement of rent from Rs. 2,671/- to Rs. 14,000/- with effect from 1.3.1992 pending decision of the Chandigarh Administration for the intervening period i.e. 1.3.1991 to 29.2.1992 for the increase of rent at enhanced rates which was intimated to be binding upon the Lessees as and when increased. The Lessees were called upon to renew fresh lease deeds in favour of the respondents containing the terms and conditions detailed therein.

5. Feeling that the enhanced rent was illegal, unfair, arbitrary and uncalled for, the lessees of the shops in Sector 17 filed various writ petitions in the High Court of Punjab & Haryana at Chandigarh. One set of such petitions Nos. 10520-21 of 1996 entitled Dr. Sahib Singh & Sons v. Chandigarh Administration were disposed of vide judgment Annexure P-4 upholding the right of the Union Territory Chandigarh to enhance the rent with appropriate directions needed in the peculiar facts and circumstances of the case. Contending that their cases were different than Sahib Singh's matter, the appellant herein insisted for a fresh hearing and a separate judgment. The prayer was accepted and the Division Bench vide its detailed judgment dated 19th December, 1997 dismissed the petitions but in the circumstances directed that if the appellants convey their consent to the terms and conditions incorporated in the impugned notices within three months, the respondents may renew the lease granted to such of the appellants subject to their paying the arrears of rent within six months. The respondents were entitled to charge appropriate interest on the amount of arrears of rent between 1.3.1992 to the date of the stay orders obtained by them from the High Court. For the period during which the payment of the rent at the rates specified in the impugned notices remained stayed by the Court, the appellants were directed to pay interest @ 18% per annum. The amount of interest was required to be paid by the appellants within six months from the date of the judgment. Thus, all such appellants who failed to pay arrears along with interest within the time specified in the judgment were to forfeit their right to remain in possession of the properties leased out to them and the respondents in that event were declared to be absolutely free to recover possession thereof in accordance with law. The Court directed the respondents to take urgent steps to enhance the rent of other similar properties situated in Sector 17 regarding which the complaints were made by the appellants on the plea of discrimination. It may be noticed that by the time the High Court delivered the judgment in the case of the appellants, this Court had dismissed the SLP (C) No. 18466 of 1997 which was filed against the judgment in Sahib Singh's case, by order dated 29th September, 1997. To protract the litigation further, the appellants filed Review Petitions before the High Court praying therein to reconsider the matter or at least absolve the appellants of their liability to pay the interest as awarded by the main judgment. The Review Petitions were also dismissed on 17th July, 1998. Immediately after the pronouncement of the orders in review petitions, the counsel for the appellant made a statement that his clients were prepared to pay the amount of interest for which he wanted some time. He requested for the grant of six months time for the purpose but the Court allowed three months time in the interests of justice.

6. These appeals are directed against the main judgment of the High Court dated 19th December, 1997 and the orders in Review Petitions dated 17th July, 1998.

7. It is contended that the impugned judgment and order is against law, without jurisdiction and the result of arbitrary exercise of powers. Learned counsel who appeared for the appellants have vehemently argued that admittedly in the absence of the rules, required to be framed under the Capital of Punjab (Development & Regulation) Act, 1952, the respondent Administration had no jurisdiction to enhance the rent. Alternatively, conceding that such power existed, they have argued that the exercise of power has been unfair and arbitrary. It is submitted that the respondent being the regulator and dispenser of special services and provider of large number of benefits including the granting of leases are required to act fairly and reasonably. The discretion of the respondents even if assumed is not unlimited and that the respondents cannot give or withhold leases in its arbitrary discretion or at its sweet will. It is further submitted that the High Court was not justified in awarded the interest for the period of stay granted by it in the cases filed by the appellants.

8. There is no dispute that Capital of Punjab (Development & Regulation) Act, 1952 (hereinafter referred to as 'the Act') being Punjab Act No. 27 of 1952, is applicable to the city of Chandigarh with effect from 1968. The Act was enacted at a time when the construction of a new capital of the then Punjab at Chandigarh was in progress. It was considered necessary to vest the State Government with a legal authority to regulate the sale of building sites and to promulgate building rules on the lines of municipal bye-laws so long as a properly constituted local body did not take over the administration of the city. Section 3 of the Act provides :

3. "Power of Central Government in respect of transfer of land and buildings of Chandigarh. - (1) Subject to the provisions of this section, the Central Government may sell, lease or otherwise transfer, whether by auction, allotment or otherwise, and land or building belonging to the Government in Chandigarh on such terms and conditions as it may, subject to any rules that may be made under this Act, think fit to impose.

(2) The consideration money for any transfer under sub-section (1) shall be paid to the Central Government in such manner and in such instalments and at such rate of interest as may be prescribed.

(3) Notwithstanding anything contained in any other law for the time being in force, until the entire consideration money together with interest or any other amount, if any, due to the Central Government on account of the transfer of any site or building, or both, under sub-section (1) is paid, such site or building, or both, as the case may be, shall continue to belong to the Central Government."

Sub-Section (1) of Section 3 itself authorises the Central Government to sell, lease or otherwise transfer any land or building belonging to it in Chandigarh on such terms and conditions as it may think fit to impose. Conditions for sale, lease and transfer can be regulated by rules which may be made under the Act. Section 22 of the Act authorises the Central Government to make rules for carrying out the purposes of the Act which include :

"(a) the terms and conditions on which any land or building may be transferred by the Central Government under this Act.

- (b) the manner in which consideration money for any transfer may be paid;
- (c) the rate of interest payable, and the procedure for payment of instalments, interest, fees, rents or other dues payable under this Act;
- (d) the terms and conditions under which the transfer of any right in any site or building may be permitted;
- (e) erection of any building or the use of any site;
- (f) levy of fees or taxes under section 7;
- (g) the terms and conditions for the breach of which any site or building may be resumed;
- (h) the conditions with regard to the buildings to be erected on sites transferred under this Act;
- (i) the form of notice and the manner in which notices may be served;
- (j) the form and manner in which appeals and applications under this Act may be filed and the court fees leviable on such appeals and applications;
- (k) the matters referred to in sub-section (2) of section 5;
- (l) any other matter which has to be or may be prescribed."

The combined reading of Sections 3 and 22 of the Act would indicate the existence of an obligation on the Central Government to make rules for the purposes of regulating the terms and conditions relating to the transfer of property including leasing it out. However, failure to make the rules would not render the transfer of the property made under the terms of the lease as illegal, void or inoperative. Learned counsel appearing for the appellants, after some arguments, also conceded the vesting of powers in the respondents to sell, lease or otherwise transfer the property in the Union Territory of Chandigarh subject to such conditions as it thought fit. They did not insist that the lease could not be made or the terms including the enhancement of rent could not be imposed without framing the rules. We are also of the opinion that power to transfer the property including leasing it out is authorised by Section 3 itself and its terms and conditions left to the satisfaction of the Central Government. Though, not legally obliged to make the rules, the Central Government was obliged to take steps in making the rules regulating the transfer of properties contemplating transfer of properties by the modes envisaged under the Section, for allaying apprehensions of the citizens regarding discrimination and arbitrariness. It would have been in the interests of the Central Government itself to frame the rules for infusing confidence and rationality, reasonableness and fairness in their actions. We trust and hope that the Central Government would not lose any further time in making the rules as mandated by the Section and embark upon enhancement of rent, if deemed necessary, only under such rules, as and when made for the purposes of

carrying on the objects of the Act to their logical conclusions.

9. In the absence of the rules, the action of the respondents regarding imposition of terms and conditions of the lease including the enhancement of rent is required to be fair and reasonable and not actuated by considerations which could be termed as arbitrary or discriminatory. The government cannot act like a private individual in imposing the conditions solely with the object of extracting profits from their lessees. Governmental actions are required to be based on standards which are not arbitrary or unauthorised. This Court in *Ramana Dayaram Shetty v. The International Airport Authority of India & others*, AIR 1979 SC 1629 : 1979(3) SCC 489 while agreeing with the observations of Mathew, J. held :

"We agree with the observations of Mathew, J., in *V. Punnath Thomas v. State of Kerala* AIR 1969 Ker 81 (FB) that: "The Government, is not and should not be as free as an individual in selecting the recipients for its largess. Whatever its activity, the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and capricious standards for the choice of persons with whom alone it will deal" The same point was made by this Court in *Erusian Equipment and Chemicals Ltd. v. State of West Bengal*, 1975(2) SCR 674; AIR 1975 SC 266 where the question was whether black-listing of a person without giving him an opportunity to be heard was bad ? Ray, C.J., speaking on behalf of himself and his colleagues on the Bench pointed out that black-listing of a person not only affects his reputation which is in POUNDIAN terms as interest both of personality and substance, but also denies him equally in the matter of entering into contract with the Government and it cannot, therefore, be supported without fair hearing. It was argued for the Government that no person has a right to enter into contractual relationship with the Government and the Government, like any other private individual, has the absolute right to enter into contract with any one it pleases. But the court, speaking through the learned Chief Justice, responded that the Government is not like a private individual who can pick and choose the person with whom it will deal, but the Government is still a Government when it enters into contract or when it is administering largess and it cannot, without adequate reason, exclude any person from dealing with it or take away largess arbitrarily. The learned Chief Justice said that when the Government is trading with the public, "the democratic form of Government demands equality and absence of arbitrariness.....The activities of the Government have a public element and, therefore, there should be fairness and equality. The State need not enter into any contract with anyone, but if it does so, it must do so fairly without discrimination and without unfair procedure." This proposition would hold good in all cases of dealing by the Government with the public, where the interest sought to be protected is a privilege. It must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largess, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person if pleases, but its action must be in conformity with standard or norm which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largess including award of jobs, contracts quotas, licences etc., must be confined and structured by rational, relevant and non-

discriminatory standard or norm and if the government departs from such standard or norm in any particular case or cases, the action of the Government would be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory."

10. Even the administrative orders and not *quasi* judicial are required to be made in a manner consonance with the rules of natural justice, when they affect the rights of the citizens to the property or the attribute of the property. While exercising the powers of judicial review the Court can look into the reasons given by the Government in support of its action but cannot substitute its own reasons. The Court can strike down an executive order, if it finds the reasons assigned were irrelevant and extraneous. The courts are more concerned with the decision making process than the decision itself.

11. This Court in *Kumari Shrilekhs Vidyarthi & others v. State of U.P. & others, 1991(1) SCC 212* held that every State action, in order to survive, must not be susceptible to the vice of arbitrariness which is the crux of Article 14 and basic to the rules of law, the system which governs us, arbitrariness being the negation of the rule of law. Non-arbitrariness, being a necessary concomitant of the rule of law, it is imperative that all actions of every public functionary in whatever sphere must be guided by reason and not humour, whim, caprice or personal predilections of the persons entrusted with the task on behalf of the State and exercise of all powers must be for public good instead of being an abuse of the power. Action of renewability should be gauged not on the nature of function but public nature of the body exercising that function and such action shall be open to judicial review even if it pertains to contractual field. The State action which is not informed by reason cannot be protected as it would be easy for the citizens to question such an action being arbitrary.

12. In the instant case, the respondent Administration relied upon Memo No. 317 dated 16.3.1992 of the Executive Engineer CP Division No. 3 Chandigarh, Government of Punjab circular dated 15th May, 1996 and affidavit of Shri Krishanjeet Singh, Executive Engineer, CP Division No. 5, Union Territory, Chandigarh filed in Civil Writ No. 10521/96 to justify their action of enhancement of rent being fair and reasonable. Memo dated 16.3.1992 referred to earlier Memo No. 122 dated 3.2.1987 and the meeting held in the office of the Chief Engineer, U.T. Chandigarh on 4.3.1992. It was mentioned in the memo that the rates of rent earlier recommended had become obsolete and that the accommodation was not available to the Government on hire basis at those rates keeping in view the plinth area which had been revised for the purposes of calculating the rent of private buildings hired by the Government with effect from 1.3.1992. It was further stated in the memo that :

"The land rates already conveyed in Memo No. 122 dated 3.2.1987 shall be applicable, but the rental value will be calculated @ 3% per annum.

S.No.	Description	Rates proposed for adoption	Remarks
1.	Ground Floor	Rs. 2450.00 Sqa.	The plaint area rates.

2.	First Floor	Rs. 2250.00 P.So	
3.	Second floor and so on	Rs. 2250.00 P.So	
4.	Extra for terrace tiles/terrace flooring in rooms verandah except toilets	Rs. 63.00	
5.	Extra for glazed/spartik or equivalent tiles in flooring and dado in toilets and kitchen	Rs. 350.00	
6.	Extra for marble flooring	Rs. 900.00	
7.	Extra for teak wood joinery only alongwith brass fittings	Rs. 440.00	For door and window only.
8.	Concrete paying beyond plint area of the building	Rs. 100.00	
9.	Land scaping of grassed	Rs. 1000.00	Kanal of grassed area.

Note :

1. The amount so evolved for the building portion may be reduced by 20% and thereafter rental volume may be calculated @ 9% PA.

2. Since the rates have been made applicable w.e.f. 1.3.1992 depreciation @ 1% per year of the age of the building should be taken (only for building portion except cost of land).

II. Cost of Land

(a) Upto 1st Kanal (upto 500 sq. yards) Rs. 453.00 (Four hundred and fifty three only) P.Sq. yds.)

(b) II Kanal (501 to 1000 sq.yds.) Rs. 356.00 (Rupees three hundred and fifty six only per sq.yds.

(c) For remaining area (above 1000 sq. Rs. 227.00 (Rupees two hundred and twenty seven only per yds) Sq. Yds.)

(d) Extra for preferential plots 10%

III. Rental value for cost of land so evolved will be calculated @ 9% per annum.

(B) *For commercial purposes rent so evolved on the above rates shall be increased five times.*"

Government of Punjab circular dated 15th May, 1996 was also on the subject of periodical revision of rent of private buildings. While justifying the action of enhancement of rent and showing it to be reasonably and fairly fixed, Shri Krishanjeet Singh in his affidavit (Annexure P-5) had stated :

"The assessment at monthly rent of Rs. 14,000/- in respect of the aforesaid SCO was assessed as follows :

Covered area of SCO is 2066.62 sq. ft. which comes to 192.06 sq.meters. The cost of construction per Sq.Meter at ground floor in the year 1992 was Rs. 2450/- for such buildings. This figure of Rs. 2450/- is based on actual cost of construction of similar other type of buildings in Chandigarh. Thus, the total cost of construction of ground floor comes to Rs. 4,70,547/- (192.06 sq.mtrs x 2450/-).

SCO 51 being an old construction, the total cost of construction was reduced by 20%. After that 1% per annum depreciation was also permitted for 29 years as per the norms. The detail are given hereunder :

Total cost of construction of ground floor Rs. 470547.00

2450 x 192.06 less 20% Rs. 94109.00

Rs. 376438.00

Less 1% depreciation per Annum for 29 years Rs. 109167.00

Rs. 267271.00

3. That for the determination of the annual rent value, 9% of net cost of construction is to be taken which comes to Rs. 24054/- (9% of Rs. 267271/- = Rs. 24054/-). This figure of Rs. 24054/- represents rental value per annum, on the total cost of construction which may be market as "A". For calculating the cost of land on which aforesaid SCO has been built which has an area of 2066 sq.ft. which is equal to 229.62 sq.yards. As per letter Annexure R/A Rs. 453/- is the cost of per sq.yard which amounts to total cost of land as Rs. 104018/-. This figure has been arrived at by multiplying 229.62 sq.yards by Rs. 453/- (229.62 sq.yards x Rs. 453/-). For determine the annual rental value again we have to deduct 9% of cost of land i.e. Rs. 104018/- which is rental value per annual as Rs. 9362/-. This may be marked as "B". Thus the annual rental value of the aforesaid SCO comes to Rs. 33416/- by adding "A" and "B". For determining the rental value per month Rs. 33416/- is to be divided by 12 and we would get the rent per month which is equal to Rs. 2785/-. The aforesaid SCO being commercial this is to be multiplied by 5 times which comes to Rs. 13925/-

say Rs. 14000/-."

In the written statement filed in the petitions of the appellants, the respondent had stated :

"13. That the admitted portion of the para 13 of the writ petition calls for no comments. It is submitted that Competent Authority granted approval vide Annexure R/2 for charging the rent w.e.f. 1.3.1992 on the basis of the reassessment of rent made by the Engineering Department, Chandigarh Administration. During the year 1970 Govt. of India through Finance Secretary Memo dated 25.5.1970 informed that the market rent or the rent calculated under FR 45 with Department charges, whichever is higher is recoverable in respect of Govt. accommodation used for commercial purpose. The Finance Secretary vide letter dated 12.6.1975 approved the charging of rent at the rate of Rs. 1.10 per sq.foot in respect of shop/booths in Sector 17-E. Accordingly the lessees in Sector 17 were informed that from 1.3.1982 rent of Rs. 2671/- per month for a shop and Rs. 1090/- for a booth will be charged. Three writ petitions as already submitted (CWP No. 3581, 3582, 3583 of 1983) were filed. This Hon'ble High Court disposed of these writ petitions vide judgment annexed with this writ petition as Annexure P/3. A perusal of this judgment shows that the approval was granted for charging of the rent in respect of SCO/Booths in Sector 17-E, Chandigarh w.e.f. 1.3.1992 at the rate as contained in this letter. Thus, the figure of Rs. 14000/- per month is based on the re-assessment of rent by the Engineering Department of Chandigarh Administration. The petitioner is, thus, liable to pay this market rent.

14. That in reply to the averments as contained in para 14 of the writ petition it is submitted that the shops mentioned by the petitioner in this para are not rented out by the Chandigarh Administration to the various parties. The said shops are owned by the private individuals and are further rented out to the parties mentioned in the para. But the present shop in occupation of the petitioner is rented by the Government. The market rent calculated @ Rs. 14,000/- per month in respect of ground floor of the SCO in question and in occupation of the petitioner is based on the assessment made by the Engineering Department of Chandigarh Administration and the same is justified reasonable, constitutional and as such deserves to be upheld."

The High Court examined the matter in depth and rightly concluded that the procedure adopted and made the basis for enhancing the rent could not be termed to be either arbitrary, discriminatory or unreasonable. We agree with the conclusions arrived at by the High Court and find no infirmity in the action of the respondents in raising the rate of rent on the basis of the grounds noticed by us hereinabove. Such an action is stated to have been uniformly applied with respect to all the shopkeepers similarly situated and placed. Mere inaction in respect of certain tenants could not be made the basis for setting aside the action initiated against the appellants and others. The respondents assured and the High Court rightly issued appropriate directions for initiating similar actions against those who are left out. Dealing with such a situation this Court in *Chandigarh Administration & another v. Jagjit Singh & another, 1995(1) SCC 745* has held :

"Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be.

That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the respondent-authority has passed one illegal/unwarranted order, it does not entitle the High Court to compel the authority to repeat that illegality over and over again. The illegal/unwarranted action must be corrected, if it can be done according to law - indeed, wherever it is possible, the Court should direct the appropriate authority to correct such wrong orders in accordance with law - but even if it cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to direct the respondent-authority to repeat the illegality, the Court is not condoning the earlier illegal act/order nor can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to such pleas would be prejudicial to the interests of law and will do interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law. Of course, if in case the order in favour of the other person is found to be a lawful and justified one it can be followed and a similar relief can be given to the petitioner if it is found that the petitioner's case is similar to the other persons' case. But then why examine another person's case in his absence rather than examining the case of the petitioner who is present before the Court and seeking the relief. Is it not more appropriate and convenient to examine the entitlement of the petitioner before the Court to the petitioner before the Court to the relief asked for in the facts and circumstances of his case than to enquire into the correctness of the order made or action taken in another person's case, which other person is not before the case nor is his case. In our considered opinion, such a course - barring exceptional situations would neither be advisable nor desirable. In other words, the High Court cannot ignore the law and the well-accepted norms governing the writ jurisdiction and say that because in one case a particular order has been passed or a particular action has been taken, the same must be repeated irrespective of the fact whether such an order or action is contrary to law or otherwise. Each case must be decided on its own merits, factual and legal, in accordance with relevant legal principles. The orders and actions of the authorities cannot be equated to the judgments of the Supreme Court and High Courts nor can they be elevated to the level of the precedents, as understood in the judicial world."

It is not the case of the appellants that the favour done to those whose rent has not been enhanced is legal or valid. Such an omission is also not referable to any lawful action of the respondents. The question of discrimination would arise only if it is found that the order in favour of the left over was legal and valid and that the case of the writ petitioners was similar in material respects to the case of such persons. No such allegation has been made or arguments addressed. There is, therefore, no basis for the appellants to urge the violation of Article 14 alleging discrimination against them.

13. Regarding awarding of the interest by the High Court for the period of stay it is argued that as in Sahib Singh's case no such direction was issued, the appellants could not be burdened with the liability of paying the interest and that at the rate of 18% per annum was excessive and exorbitant. It is settled principle of law that as and when a party applies and obtains a stay from the Court of law, it is always at the risk and responsibility of the party applying. Mere passing of an order of stay

cannot be presumed to be the conferment of any additional right upon the litigating party. This Court in *Shree Chamundi Mopeds Ltd. v. Church of South India Trust Assn.*, 1992(3) SCC 1 held that the said portion of order by the court mean only that such order would not be operative from the date of its passing. The order would not mean that the order stayed had been wiped out from existence. The order of stay granted pending disposal of a case comes to an end with the dismissal of substantive proceeding and it is the duty of the Court in such cases to put the parties in the same position they would have been but for the interim orders of the Court. Again in *Kanoria Chemicals and Industries Ltd. & others v. U.P. State Electricity Board & others*, 1997(5) SCC 772 the Court held that the grant of stay had not the effect of relieving the litigants of their obligation to pay late payment with interest on the amount withheld by them when the writ petition was dismissed ultimately. Holding otherwise would be against public policy and the interests of justice. In case law *Kashyap Zip Industries v. Union of India*, 1993(64) ELT 161, interest was awarded to Revenue for the duration of stay under court's order, since the petitioners therein were found to have the benefit of keeping back the payment of duty under orders of the Court.

14. The High Court was, therefore, not wrong in directing the payment of interest on the amount of arrears of rent for the period when the stay order was obtained till the period the writ petitions were dismissed. We, however, feel that awarding of interest @ 18% per annum from the aforesaid period was on the excessive side. The respondent-authority could not be equated with private commercial institutions and conferred with an amount of compensation in the form of interest which, in the judicial parlance, may amount to penalty, despite the fact that the persons found to have jeopardised the process of law were rightly held liable to compensate the respondent-authority by way of interest. In our opinion 15% per annum interest for the aforesaid period would have been just and proper. We, however, agree with the findings of the High Court that the respondents are free to charge appropriate interest on the amount of arrears of rent between 1.3.1992 to the date when the stay orders were passed by the High Court. We are sure that in determining such rate of interest the respondent-authority would act fairly and justly.

15. In C.A. No.....of 1999 (@ SLP (C) Nos. 17894-95) filed by M/s. New Rajan Watch Company it was admitted that the lease in their case was executed on 9th April, 1990 on a monthly rent of Rs. 1090/- to be paid in advance by 10th day of every month for which it fell due. One of the terms of the lease deed was :

"The lease shall be for period of three years from the date of the grant of the lease and shall be terminable at any time by the lessor by giving one month advance notice in writing to the lessee and it shall be terminable immediately without notice by the lessor under clause 9 hereof. The lease hereby granted shall be renewable once for another term of three years on the rent as determined by the government."

The appellants in these appeals have urged that the respondents had no jurisdiction to enhance the rent during the subsistence of the lease deed for a period of three years from the date of its execution. There appears to be substance in the submission which has not been taken note of by the High Court. These appellants, however, not justified to urge that even for the period of next three years they were entitled to the renewal of lease deed on the same rent or the rent enhanced at the rate of 20% at the most. Condition No. 4 reproduced hereinabove clearly and unambiguously authorised the respondent-authority to renew the lease for another term of three years on the rent as may be determined by the Government. It is, therefore, evident that for the first period of three years commencing from 9th April, 1990 the respondent-authority was not justified in enhancing the rent of the shop leased out to M/s. New Rajan Watch Company. The enhancement of rent shall,

however, deemed to be legal, proper and valid with effect from 9th April, 1993.

16. In the circumstances, the appeals are disposed of by upholding the judgments and orders impugned except to the extent indicated hereinabove. The impugned judgments and orders shall be modified to the extent that instead of paying 18% interest for the period of stay the appellants shall be liable to pay the interest at the rate of 15% per annum. In case of M/s. New Rajan Watch Company the enhanced rent shall be deemed to be effective with effect from 9th April, 1993 and the appellants in those cases be held entitled to the payment of contractual rate of rent only for the period of three years. It is made clear that the rent of the appellants and other lessees similarly situated and placed shall not be further enhanced without the framing of rules as mandated by Section 3 read with Section 22 of the At.

17. Costs made easily.