SUPREME COURT OF INDIA

Smt. Leelabai Gajanan Pansare

Vs

The Oriental Insurance Co. Ltd

Civil Appeal No.5136 of 2008 (Arising out of SLP(C) No. 5855/07)

(S.H. Kapadia and B. Sudershan Reddy)

20/08/2008.

JUDGMENT

S. H. KAPADIA, J.

Civil Appeals arising out of S.L.P.(C) Nos. 5855/07 and S.L.P. (C) No. 16237/08:

1. Leave granted.

2. Applications for interventions are allowed.

3. An important question of law regarding interpretation of Section 3(1) (b) of the Maharashtra Rent Control Act, 1999 is involved in the present appeal, namely:-

"Whether a Government Company falls within the compendious expression "any public sector undertakings or corporation established by or under any Central or State Act" in Section 3(1)(b) of the Maharashtra Rent Control Act, 1999 ("Rent Act" in short)."

4. For the sake of convenience we may state the facts of the case in SLP (C) No. 5855/07 in the case of Leelabai Gajanan Pansare & Ors. v. Oriental Insurance Company Ltd. & Ors.

Facts:

5. Appellants-landlords had let out the suit-premises admeasuring 3214 sq. ft. (approx.) in Thane to Oriental Insurance Company Ltd. ("OIC" for short). The rent was Rs. 10,000/- per month. Vide notice dated 15.4.2002 under Section 106 of the Transfer of Property Act, appellant terminated the tenancy of the said Company. On failure of OIC to vacate the premises, they instituted a suit for eviction. OIC took the plea that it is not covered under Section 3(1)(b) of the Rent Act as it was "a protected tenant" under the said Rent Act, 1999 and, therefore, could not be evicted. In the said suit, the landlord pleaded that OIC is a Public Sector Undertaking and/or Corporation having a total paid up share capital of more than Rs. 1, 00, 00,000.

6. OIC resisted the suit by filing its written statement inter alia contending that it is neither a PSU nor a Corporation; that it was not exempted under Section 3(1)(b) of the Rent Act; that it was neither a bank nor a PSU, nor a foreign mission, nor MNC and nor a public limited company having paid up share capital of more than Rs. 1,00,00,000. According to OIC, it was a Government company carrying on its own insurance business and that the premises let to it stood fully protected by the provisions of the Rent Act as they did not fall in any of the categories mentioned in Section 3(1)(b) of the said Rent Act.

7. By Judgment and Order dated 9.7.2004 in Special Civil Suit No. 202/03 the trial court held that OIC is a Government company under Section 617 of the 1956 Act over which the GOI has overall control qua insurance business. The trial court further held that OIC stood established as a subsidiary of GIC that came into existence in 1972 pursuant to nationalization of General Insurance. According to the trial court since OIC is a Government company under Section 617 of the 1956 Act and since GOI has overall control over its functioning, it is entitled to protection from eviction by the landlords under Section 3(1)(a) which gives protection to premises let to the Government or local authority or to premises taken on behalf of the Government. In other words, according to the trial court, since GOI exercises deep and pervasive control over the respondent company herein, the said premises occupied by it were entitled to protection under the second part of Section 3(1)(a). According to the said Judgment and Order dated 9.7.2004 the said suit stood dismissed by the trial court.

8. Aggrieved by the dismissal of the suit by the trial court, appellants herein preferred an appeal being FA No. 1245/04. By the impugned judgment dated 20.12.2006, the Bombay High Court held that exempted premises under Section 3(1)(b) of the Rent Act, 1999 are PSUs but not Government Companies incorporated under the Companies Act, 1956. It was further held that a Government Company stands in a different category and by the very absence of the words "Government Company" in Section 3 (1)(b) it is clear that the Legislature did not intend their exemption from the protection under the said Rent Act, 1999 consequently, the High Court dismissed FA No. 1245/04 filed by the appellants. Hence, this civil appeal. Contentions:

9. The basic ground of challenge in this civil appeal that the High Court having held that OIC is the PSU had erred in holding that a Government Company stood under a separate category which is absent in Section 3(1)(b) and thus continues to enjoy protection of the said Rent Act. According to the appellants, this amounts to judicial legislation by the High Court as the High Court has read into Section 3(1)(b) the words, namely, "except Government companies". According to the appellants, by such exclusion of Government companies from the PSUs, the High Court has excluded a large number of PSUs from the purview of Section 3(1)(b), which is not the intention of the Legislature. This, according to the appellants, is contrary to the legislative policy and such interpretation defeats the very purpose of Section 3(1)(b) of the Rent Act. According to the appellants, in the alternative, in any event, OIC is a public limited company having a paid up share capital of rupees more than one crore and, therefore, in any event, the said company would fall in the second part of Section 3(1)(b) which denies to such public limited companies the protection of the said Rent Act, 1999.

10. Shri Shyam Divan, learned senior counsel appearing on behalf of the appellants submitted that the concept of a "Government Company" is alien to the scheme of Section 3(1)(b). The legislature, according to the learned counsel, has not used the expression "Government Company" anywhere in Section 3(1)(b). There was no justification, according to the learned counsel, for the High Court to introduce the concept of Government Company when the legislature has not adverted to the said expression. According to the learned counsel, by importing the concept of "Government Company" in Section 3(1)(b), the High Court has resorted to judicial legislation, which is not permissible. According to the learned counsel, it is the function of the legislature to decide upon the entities to which Rent Act protection should be extended to and conversely the entities that may be excluded from such protection. According to the learned counsel, in enacting Section 3(1)(b), the legislature has clearly indicated that premises let to PSUs and Public Limited Companies having a paid up capital of Rs. 1,00,00,000 or more would not be entitled to protection of the Rent Act, 1999. However, the legislature did not include in Section 3(1)(b) "holding company", "subsidiary company", "sick industrial company" etc., all of which are concepts like "Government Company" that are specifically defined in the 1956 Act. Instead, the legislature employed the concept of Private Limited Companies and Public Limited Companies having a paid up share capital of Rs. 1, 00, 00,000 or more. It was submitted that although holding company or subsidiary company or sick industrial company are not expressly mentioned in Section 3(1)(b), it is not open to such entities to claim that since none of these specific expressions abovementioned are used in Section 3(1)(b), they are entitled to Rent Act protection. According to the learned counsel, a Holding company or Subsidiary company or Sick industrial company is an addition to a public limited or private limited

company having a paid up share capital of more than Rs. 1,00,00,000. According to the learned counsel, the concept of holding company, subsidiary company or a sick industrial company is additional characteristics.

11. Learned counsel next contended that Oriental Insurance Company (OIC), United India Insurance Company(UIC) as well as Bharat Petroleum Corporation Ltd. (BPCL) answers the description of a "PSU", which is understood in several statutes to include a Government Company under Section 617 of the 1956 Act. Therefore, according to the learned counsel, there is no reason why the expression PSUs as used in Section 3(1)(b) should be read to exclude OIC which is a Government Company where 100% of the shares are held by the Central Government.

12. On literal interpretation of Section 3(1)(b), learned counsel submitted that the expression "or any PSUs" as used in Section 3(1)(b) is a separate stand-alone category like, banks, foreign missions, international agencies etc.. The said expression is separated from the rest of the provision by the word `or" which is disjunctive and giving a natural meaning to the said word separates PSUs from the next expression relating to statutory Corporations. Therefore, according to the learned counsel, there is no reason why the expression `any PSUs" should be restricted to statutory corporations, particularly when the disjunctive word "or" separates the two phrases in Section 3(1)(b). In this connection, learned counsel submitted that the word PSU is not specifically defined in the Rent Act. It is not defined in the 1956 Act. Learned counsel submitted that under Rules of Procedure and Conduct of Business in Lok Sabha under Chapter XXVI there is reference to Constitution of Parliamentary Committees. Rule 312A refers to functions of "Committee on PSUs" specified in the Fourth Schedule. Item 5 of Part I of the Fourth Schedule (List of Public Undertakings) refers to the Life Insurance Corporation of India (LIC) whereas Part II of the same Schedule refers to Public Undertakings which are Government Companies under the 1956 Act. That, every Government Company whose annual report is placed before Parliament under Section 619A of the 1956 Act falls in part II of the Fourth Schedule which refers to List of Public Undertakings. According to the learned counsel, OIC, UIC and BPCL are Government Companies, therefore, they fall in Part II of the Fourth Schedule to the Rules of Procedure and Conduct of Business in the Lok Sabha. Learned counsel further pointed out that even, according to the annual reports/financial statements of OIC, the said undertaking is a PSU. Learned counsel submitted that the above Business Rules indicate Legislative Understanding of the word PSU to include Government Companies.

13. On the question of purposive interpretation, learned counsel submitted that in Malpe Vishwanath Acharya and ors. v. State of Maharashtra and anr. (1998) 2 SCC 1 the Supreme Court held that the provisions of the Bombay Rents, Hotel and lodging House Rates Control Act, 1947 ("1947 Act") relating to the determination and fixation of standard rent on account of inflation and price rise could no longer be considered to be reasonable and, therefore, provisions in the Bombay Rent Act, namely, Section 5(10), 18 and 19 dealing with the definitions of "standard rent" and prohibition and receipt of premium were liable to be struck down as unreasonable and arbitrary. Learned counsel submitted that following the said judgment of this Court a Joint Committee was constituted by the Maharashtra Legislature to evolve a package which was done and which consisted of nominal increase in the standard rent, legalization of receipt of premium by the landlords which

was earlier prohibited under the 1947 Act and the expansion of Section 3(1)(b) by which entities enumerated therein were to loose protection of the said Rent Act. According to the learned counsel, but for the said package the above provisions of the 1947 Act were liable to be struck down. In the circumstance, learned counsel submitted that the legislative scheme adopted by the legislature to protect the Rent Act from the vice that was recognized in the case of Malpe Vishwanath Acharya (supra) hinges upon Section 3(1)(b) being interpreted in a fair manner. According to the learned counsel, should the scope of Section 3(1)(b) be restricted by excluding Government companies as done by the impugned judgment of the High Court then the larger objective of the legislature would stand defeated and the standard rent provisions under the Rent Act (1999 Act) would be rendered vulnerable. According to the learned counsel, the golden thread which runs through Section 3(1)(b) of the Rent Act is the economic criteria. In this connection, learned counsel submitted that each of the entities mentioned in Section 3(1)(b) are cash- rich entities. These entities are tenants paying rent to the landlords. These entities, according to the learned counsel, are excluded from the Rent Act protection, particularly when with the passage of time, the landlords were not able to maintain their property and, consequently, these properties became dilapidated for want of maintenance on account of poor return on their investments and on account of increase in taxes and price rise. According to the learned counsel, the Report of the Joint Committee indicates that it had taken into account all the above factors, including the judgment of this Court in Malpe Vishwanath Acharya (supra) and, accordingly, gave a package of the above three items enumerated above including Section 3(1)(b) so that maximum number of poor tenants would continue to get protection with the exclusion of those tenants who have the paying capacity. Therefore, according to the learned counsel, when PSUs, as understood by Parliament, the Reporting Ministry and the Comptroller and Auditor-General have understood PSUs to include Government Companies and Statutory Corporations then this Court must give a plain, simple and clear meaning to the words PSUs in Section 3(1)(b) in order to avoid any challenge to the said sub-section on the ground of invidious classification having no rational nexus with the objects sought to be achieved. According to the learned counsel, if the said expression "PSUs" in the said sub-section is confined to statutory corporations and if PSUs and statutory corporations are classified under one distinct category, as contended on behalf of the respondents, then the consequence would be that in the Insurance Industry, OIC and UIC (Government companies) would get protection of the Rent Act, 1999 whereas LIC, which is a statutory corporation, would stand excluded from such protection. It is this type of arbitrary discrimination which needs to be avoided in interpreting Section 3(1)(a). According to the learned counsel, therefore, one needs to give the meaning to the words PSUs as understood by the Committee on Public Undertakings, the Reporting Ministry and by the Comptroller and Auditor-General and if so read, all the three entities herein, namely, IOC/UIC/BPCL would come within the meaning of expression PSUs in Section 3(1)(b) of the Rent Act. Therefore, according to the learned counsel, the impugned judgment needs to be set aside.

14. Shri R.F. Nariman, learned senior counsel appearing on behalf of the The Hongkong & Shanghai Banking Corporation Ltd. submitted that Section 3(1) of the said Rent Act must be read as a whole in order to understand the meaning and purport of the said section. According to the learned counsel, the rationale behind under Section 3(1)(a) in providing that the tenants of Government or a local authority will not have the protection of the Rent Act, whilst providing that the Government or local authority in its capacity as a tenant will have the protection of the Rent Act is that Government or a local authority performs sovereign and governmental functions. In other words, learned counsel urged that Government or a local authority is covered by the ambit of Section 3(1)(a) as long as it does not enter the arena of commercial activity. Learned counsel next submitted that the concept of

a "Government Company" is not a part of Section 3(1)(a). According to the learned counsel, the said sub-section 3(1)(a) is bodily lifted from Section 4(1) of Bombay Rent Act, 1947. That Act was a temporary enactment. According to the learned counsel, the absence of the words "Government Company" in sub-section 3(1)(a) and the presence of the expression "any PSUs" in Section 3(1)(b) leads to the inevitable conclusion that Government Companies were not entitled to receive the protection of the said Rent Act. According to the learned counsel, banks, PSUs, statutory corporations and private and public limited companies mentioned in Section 3(1)(b) are in the commercial sector and, therefore, they will not have the protection of the Rent Act when they are the tenants. According to the learned counsel, the object of the said Rent Act is to extend protection of the said Rent Act to tenants who are Government, local authorities and those who are not affluent and who do not have the capacity to pay market rent. On the point of literal interpretation, learned counsel submitted that on a plain reading of Section 3(1)(b) it would be clear that PSUs and statutory corporations fall in two separate and distinct categories/classes of tenants who are not entitled to the protection of the said Rent Act. In this connection, learned counsel placed heavy reliance on the word "or" occurring in Section 3(1)(b) after the word Banks and before the words "any corporation established by or under any Central or State Act". Learned counsel submitted that the word "or" indicated the PSUs are disjunctive and form a separate category by themselves. In this connection, learned counsel further submitted that to interpret "PSUs" to mean statutory corporations alone would lead to tautology as it would make the said words superfluous and, therefore, it was submitted that the expression "PSUs" must be read to mean all PSUs, namely, statutory corporations, public sector companies, Government companies etc.. Learned counsel submitted that the legislature has used the words PSUs in plural deliberately as it desired statutory corporations, public sector companies and Government companies etc. to fall as part of the genus, namely, PSU. Therefore, according to the learned counsel, PSU is the genus whereas Government companies, statutory corporations and public sector companies etc. are species.

15. Learned counsel next submitted that Section 3(1)(b) applies to any corporation established by or under any Central or State Act; that, a "corporation" would include a company; that such corporation does not have to be established by a Central or State Act. It can also be established under a Central or State Act, for example, GIC is established under General Insurance Business Nationalisation Act, 1972 as a Government Company. Therefore, according to the learned counsel, if Section 3(1)(b) is read in the manner suggested by the respondent the words PSUs in Section 3(1)(b) would be wholly redundant as there would be no undertakings left apart from the statutory corporations established by or under any Central or State Act because the expression "or under" subsumes all forms of corporations so established. Learned counsel further submitted that Section 16 of General Insurance Business (Nationalisation) Act, 1972, in particular sub-section (2), shows that four companies, including OIC and UIC, render combined services of general insurance business all over India. According to the learned counsel, all the said four companies are the Government Companies which even on the narrow interpretation placed by the respondent, are corporations established under the Nationalisation Act. Therefore, learned counsel submitted that "PSUs" should be read in the widest possible term so as to include within it every kind of establishments through which the Government would do business. Therefore, according to the learned counsel, PSUs would encompass Government companies, statutory corporations, public sector companies etc. through which the Government is doing business. Reliance was placed on various statutes which have defined PSUs to include Government companies. One such statute is "Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996" which defines PSUs under Section 2(1)(a)(ii) as any corporation established by or under

any Central or State Act or a Government Company as defined in Section 617 of the said 1956 Act, which is owned, controlled or managed by the Central Government. Learned counsel pointed out further that LIC is a statutory corporation established under the LIC Act 1956; that Sections 21, 27, 28, 28(A) and 38 of the said LIC Act show that LIC is under the control of the Central Government and not Parliament. It is further pointed out that under Section 6(2)(g) and (h), LIC is entitled to run business other than the business of life insurance in certain circumstances. Therefore, according to the learned counsel, LIC could in given circumstances run the business of general insurance. What is pointed out by the learned counsel is that various anomalies would arise if this Court was to accept the interpretation placed on Section 3(1)(b) of the said Rent Act. According to the learned counsel, in terms of Section 3(1)(b) LIC is not different from GIC, which is a Government company established under a Central Act, or from other four nationalized insurance companies including OIC and UIC. All the said companies are doing the business of insurance, namely, LIC is in the business of life insurance whilst the others are in the business of general insurance. All the said insurance companies, according to the learned counsel, are mammoth undertakings having a paid up share capital in excess of Rs. 1,00,00,000. Therefore, learned counsel submitted that if the interpretation of Section 3(1)(b) given by the respondent(s) herein is accepted it would mean extension of protection of the said Rent Act to the four insurance companies including, OIC and UIC, while not extending such protection to LIC and GIC, which interpretation would run foul of Article 14 of the Constitution. Learned counsel submitted that any interpretation of Section 3(1)(b) must be such as would uphold its constitutional validity and, therefore, the four insurance companies, namely, OIC, UIC, New India Assurance Company and National Insurance Company must also not be entitled to the protection of the said Rent Act.

16. Learned counsel submitted that while interpreting Section 3(1)(b) the principle of noscittur a sociis must be adopted which would mean that Section 3(1)(b) applies to different categories of tenants all of whom can afford to pay at the market rate. According to the learned counsel, all the different kinds of tenants enumerated in Section 3(1)(b) are financially giants, namely, PSUs, statutory corporations, banks, multinational companies, international agencies, private or public limited companies with a paid up share capital of Rs. 1,00,00,000 or more etc. These tenants, according to the learned counsel, do not require the protection of the Rent Act. Learned counsel next submitted that in any event OIC and UIC are public limited companies having a paid up share capital of more than Rs. 1, 00, 00,000 and, therefore, stand excluded from the protection of the Rent Act. In this connection, learned counsel urged that Government Companies and Insurance Companies are merely sub-species of public limited companies under the 1956 Act; the genus "company" is divided into three species - "existing company", "private company" and "public company"; that various sub-species including holding and subsidiary companies, insurance companies, Government companies etc. are all public limited companies under 1956 Act.

17. Lastly, learned counsel urged that when the legislature provided under Section 3(1)(b) that private limited companies and public limited companies having a paid up share capital of Rs. 1,00,00,000 or more were to be excluded from the protection of the Rent Act, it was providing for all bodies carrying on business in the corporate form under the 1956 Act, which have a paid up share capital of Rs. 1,00,00,000 or more. Therefore, according to the learned counsel, the legislature had no intention of carving out an exception in the case of Government companies defined under Section 617 of the 1956 Act as erroneously held by the High Court.

18. Shri Soli J. Sorajbee, learned senior counsel appearing for the applicants-intervenors submitted that the legislative policy under the Rent Act legislation in India is to confine protection to the weaker sections of the society and not to extend such protection to the entities which can withstand the forces of demand and supply. In this connection, learned counsel submitted that Section 3(1)(b) strikes a balance between the interest of the landlord and the tenant; it is neither pro-landlord nor anti-tenant. It is pro - public interest. According to the learned counsel, the impugned judgment frustrates the object of Section 3(1)(b) as indicated hereinabove. Further, according to the learned counsel, it was not open to the High Court to exclude Government Companies from PSUs referred to in Section 3(1)(b). According to the learned counsel, such an exercise undertaken by the High Court amounts to judicial legislation as it was not open to the High Court to read into Section 3(1)(b) the words, namely, "except Government companies". According to the learned counsel, such judicial legislation is liable to be set aside by this Court. Learned counsel further submitted that the basic rationale underlying the exemption granted by Section 3(1)(b) is that the entities and bodies mentioned therein, in the legislative judgments are not in need of Rent Act protection. In this connection, the learned counsel submitted that it is this rationale which becomes explicit when Section 3(1)(b) excludes a private or public limited company having paid up share capital of Rs. 1,00,00,000 or more from Rent Act protection. Learned counsel submitted in this connection that if a company becomes a Government company, it is not equally in need of Rent Act protection so long as its paid up capital is Rs. 1, 00, 00,000 or more. Learned counsel submitted that for the purposes of Rent Act protection, there is no fundamental or qualitative distinction between a public limited company with Rs. 1, 00, 00,000 paid up share capital and a Government company with Rs. 1, 00, 00,000 paid up share capital. According to the learned counsel, a company on becoming a Government company does not undergo metamorphosis so as to result in the emergence of a separate entity under the 1956 Act, which needs Rent Act protection to which it was formerly not entitled. The consequence, according to the learned counsel, of a company becoming a Government Company is that the Government Company is placed under a special system of control and merely because the entire share holding is owned by the Central Government will not make the incorporated company a Central Government. In this connection, learned counsel relied upon the judgment of this Court in A. K. Bindal and anr. v. Union of India and ors. 2003(5) SCC 163 at 175. According to the learned counsel, the need for Rent Act protection does not arise merely because a company is placed under strict control and regulations. The need for Rent Act protection or its absence has no nexus whatsoever with the strict regime of control imposed on a Government company by Section 619 of the 1956 Act. In this connection, learned counsel submitted that if a public limited company with paid up share capital of Rs. 1, 00, 00,000 is not entitled to Rent Act protection under Section 3(1)(b), that company on becoming a Government company cannot claim protection of the Rent Act to which it was not entitled as a public limited company so long as its paid up share capital is Rs. 1,00,00,000 or more. According to the learned counsel, for the purpose of Section 3(1)(b) what is relevant and decisive is the criterion of Rs. 1,00,00,000 paid up share capital and not the degree or extent of control exercised over the company as held by the trial court and so long as the said criterion is satisfied and continues to be satisfied, the company remains outside the purview of the Rent Act. Any other interpretation, according to the learned counsel, would lead to invidious discrimination between a public limited company with one crore paid up share capital and a Government company with the same paid up share capital. According to the learned counsel, if the share capital of a Government company is reduced to Rs. 99 lacs then it would be entitled to protection under the Rent Act.

19. According to Shri Parag P. Tripathi, learned Additional Solicitor General appearing on behalf of the respondent-Oriental Insurance Co. Ltd. ("OIC"), the principle issue raised revolves around the meaning and purport of the compendious expression "any Public Sector Undertakings or any Corporation established by or under any Central or State Act." According to the learned counsel, a Government Company is sui generis in structure and in statutory treatment thereof, therefore, it does not fall within the above compendious expression. According to the learned counsel, the exclusion clause, namely, Section 3(1)(b) applies to PSUs established by or under any Central or State Act but not to a Government company, like the OIC, which is not so established.

20. Learned counsel next urged that a Government company is sui generis and also does not fall either within the concept of private or public limited company simplicitor. In other words, according to the learned counsel, Section 3(1)(b) does not apply to a Government company as it is not established by or under any Central or State Act and nor does it fall within the concept of public limited company simplicitor. In this connection he submitted that an exemption or exclusionary clause, particularly in the context of Rent Act, to the extent that it excludes a class or category of tenants has to be narrowly interpreted. According to the learned counsel, Section 3(1)(b) of the said Rent Act needs to be interpreted in the context of the 1956 Act. It was submitted that under the definition of "company" under Section 2(10) of the 1956 Act, which refers to Section 3 of that Act, the definition Section of Government Company refers to Section 617 of the 1956 Act. According to the learned counsel, Section 3 of the Companies Act deals with company [see section 3(1)(i)]; existing company [section 3(1) (ii)]; private company [section 3(1)(iii)] and public company [section 3(1) (iv)]. According to the learned counsel, it is not possible to proceed on the basis as if public and private companies are two sub-sets, which exhausts the "field" of companies. In this connection he submitted that Section 3 of the 1956 Act does not define a public company exhaustively as a company; that, Section 3 of the Companies Act merely states that the public limited company is not a private company and, therefore, the strict dichotomy between public or private may not be entirely correct insofar as the Companies Act is concerned.

21. According to the learned counsel, Section 617 of the 1956 Act is sui generis as is indicated by the Chapter Heading in Part XIII "General" which is "Application of Act to Government Companies"; that a Government company cannot be treated as public or private company, particularly when a separate chapter is made applicable to Government companies. According to the learned counsel, the scheme of Section 617 indicates that, Government Companies have separate set of auditors, namely, CAG; annual reports are required to be laid before the Houses of Parliament under Section 619A and the wide ranging power of the Central Government to modify and make non-applicable any of the provisions of the Companies Act to such companies except Sections 618, 619 and 619A. Similarly, according to the learned counsel, under Section 616, there is reference to companies governed by Special Acts. According to the learned counsel, Section 616 recognizes that several companies are covered by the Special Acts. They stand on a different footing vis-`-vis public and private companies under the 1956 Act. In the event of inconsistency between the Special Acts and the Companies Act, it is the former which would prevail. Therefore, in respect of Government companies, which are governed by the Special Acts, their status as a Government company would prevail and the said companies would necessarily have to be treated as sui generis. In other words, according to the learned counsel, the structure of a Government company like OIC under the Insurance Act is totally different from the structure of a public limited company under the

Companies Act. In this connection, learned counsel placed reliance on the various provisions of the Insurance Act in the context of winding up to bring out the difference between a Government company on one hand and the public limited company on the other hand.

22. All the above arguments have been canvassed to show that OIC is not a public limited company as is sought to be argued on behalf of the appellants. All the above arguments are advanced to show that structurally there is a difference between a Government company and an ordinary company under the provisions of the 1956 Act as well as Statutory Corporations.

23. In the context of the said Rent Act, learned counsel submitted that, i Section 3(1)(b) a compendious expression used is "any public sector undertakings or any corporation established by or under any Central or State Act". He urged that there is no "comma" after the words "any public sector undertakings". Therefore, according to the learned counsel, Section 3(1)(b) of the said Rent Act applies to PSUs and statutory corporations "established by or under any Central or State Act." Therefore, according to the learned counsel, a Government company incorporated under the Companies Act would fall outside Section 3(1)(b) and thus would be entitled to the protection of the Rent Act. In this connection, learned counsel placed reliance on the Report of the Joint Committee which vide para 19 refers to "Other PSUs including Government Undertakings or Corporations established by or under Central or State enactments." According to the learned counsel, what has emerged from the said report is that the Joint Committee intended to include Government/semi-Government undertakings or corporations within the words "other public sector undertakings", however, the Legislature has dropped the said inclusion from the expression "Public Sector Undertakings" and simply proceeded to specify "Public Sector Undertakings or Corporation" which were established by or under any Central or State Act. Therefore, according to the learned counsel, in the said sub-section 3(1)(b) the expression "Public Sector Undertakings" was given a narrow interpretation by the Legislature though the Joint Committee recommended much wider definition of the words PSUs.

24. Learned counsel submitted that the expression "PSU" has not been defined in the said Rent Act. It was submitted that even if the said expression has been defined as including Government companies, it would still be open to the respondent to contend that for the purposes of the exclusion clause, the expression PSU should be narrowly construed so as to exclude Government companies therefrom. Learned counsel submitted that Section 3(1)(b) is an exemption clause which excludes tenants from applicability of the said Rent Act, 1999 and, therefore, has to be narrowly interpreted. Lastly, learned counsel submitted that in a landlord-tenant statute, if two views are possible one favouring the tenant should be preferred.

25. On the aspect of incorporation, learned counsel submitted that LIC is a statutory corporation whereas GIC is not. According to the learned counsel, GIC is a Government company. Therefore, according to the learned counsel, the legislative scheme has maintained a distinction between statutory corporation and a Government company incorporated under the Companies Act.

According to the learned counsel, this distinction cannot be said to be a distinction without any difference. Therefore, it was submitted that it is always open to the Legislature to either proceed on the basis that both LIC and GIC will be excluded or that only LIC and not GIC, being a Government company, would be excluded. According to the learned counsel, these are the options open to the Legislature and the exercise of one or the other option will not vitiate the Legislature as being violative of Article 14 of the Constitution. Moreover, according to the learned counsel, there is a valid differentia between a statutory corporation like LIC and Government companies, like GIC, OIC etc. According to the learned counsel, in the matter of categorization, it is open to the Legislature to give protection only to statutory corporations. However, in the present case, the Legislature has excluded statutory corporations from such protection. According to the learned counsel, the Legislature has given protection to Government companies but has not extended protection to statutory corporations as it has treated Government companies more akin to the Government as is referred to in sub-section 3(1)(a) of the Act.

26. To sum up, the basic contention advanced by learned Additional Solicitor General is that a Government company does not fall within the compendious expression "any PSUs or any corporation established by or under any Central or State Act". In other words, according to the learned counsel, the impugned judgment of the High Court commends to be sustained though in a different matrix.

27. Dr. Rajeev Dhavan appearing on behalf of Bharat Petroleum Corporation Ltd.-appellant (SLP(C) Nos. 24789-90/07) submitted that the word `PSU' is a term of parlance and that it is not a term of art. Learned counsel submitted that in this case the court is required to give contextual interpretation to the words `PSUs' in Section 3(1)(b) and if such a interpretation is given then the position which emerges is that the words PSUs or any statutory corporation constitute one separate specific category and, therefore, to that extent he adopts the arguments advanced on behalf of the Oriental Insurance Company Ltd. that the Act vide Section 3(1)(b) excludes PSUs and statutory corporations established by or under Central or State Act alone from the protection of the Rent Act. Therefore, according to the learned counsel, if a PSU or a corporation is a Government company under the 1956 Act then such PSUs/corporations would continue to get protection of the Rent Act. According to the learned counsel, Oriental Insurance Company Ltd. is a Government Company, it is not a PSU established by or under any Central or State Act and, therefore, it continues to enjoy the protection of the Rent Act even after enactment of Section 3(1)

(b). Learned counsel further urged that the said Rent Act has been enacted to protect tenants from eviction; that, tenants protection is a part of housing; that, the said Rent Act is not concerned with poverty/protection to the weaker section as is sought to be contended on behalf of the appellants but essentially, according to the learned counsel, it deals with two aspects, namely, tenancy protection and rent fixation. According to the learned counsel, it would be wrong to say that the said Rent Act has been enacted only to protect those who cannot afford to pay. Learned counsel submitted that under the Rent Act a stipulated percentage of rent increase is allowed to the landlords on annual basis. This, according to the learned counsel, is one aspect of the Rent Act. The other aspect is to protect tenancy. Therefore, according to the learned counsel, the Rent Act touches both these

aspects. Further, according to the learned counsel, Section 3(1) has to be read in its entirety. Under the second part of Section 3(1)(a) protection is given in respect of premises let to the Government or local authority and to premises taken on behalf of the Government by or in the name of a designated officer. Learned counsel submitted that, in the present case, a Government company gets protection from eviction under second part of Section 3(1)(a) and since Government company is not one of the categories mentioned in Section 3(1)(b) such companies which are tenants would continue to get protection under second part of Section 3(1)(a). Learned counsel submitted that even if one is to give purposive interpretation to the said section, it is clear that in cases of tenancy created in favour of Government, local authority or Government companies, the court is concerned with public necessity and public need. According to the learned counsel, a bare reading of the second part of Section 3(1)(a) indicates that the Rent Act in question also assumes that the Government, local authorities and Government companies need protection of the Rent Act. Learned counsel submitted that there is nothing in the report of the Joint Committee or in the Statement of Objects and Reasons to exclude premises let out to Government companies. Learned counsel further submitted that if Section 3(1)(a) is to be given full interpretation then all governmental functions should be taken into account. That, Section 3(1)(a) cannot be confined to non-commercial activity. Therefore, according to the learned counsel, the distinction made between governmental functions and commercial functions to interpret Section 3(1) is erroneous. According to the learned counsel, Government operates in railways, transport and energy sectors. It operates via departments, Government companies and statutory corporations. When it operates through its department like bureau of public enterprises the matter will squarely come under Section 3(1)(a). However, in view of Section 3(1)(b) when a Government operates through a statutory corporation the matter would fall under Section 3(1)(b) because the legislature in its wisdom has excluded premises let to statutory corporations and to public limited companies having paid up share capital of Rs. 1,00,00,000 or more from the protection of the Rent Act. According to the learned counsel since an ordinary company under the Companies Act is different from the Government company under that Act, it is clear that Government companies would continue to get protection by virtue of Section 3(1)(b) as the said company is owned by the Government. Learned counsel submitted that one need not go by ownership or the form in which an entity is incorporated. One has to take into account the test of incorporation, the nature of the functions which entities carried on and the ownership. According to the learned counsel, Section 3(1)(b) refers to separate and distinct categories. According to the learned counsel, the last category consists of private limited companies and public limited companies having a paid up share capital of Rs. 1, 00, 00,000 or more. Learned counsel submitted that it would be wrong to contend that this last category subsumes the categories enumerated earlier in the first part of Section 3(1)(b). For the aforestated reasons, learned counsel submitted that no interference is called for in this matter.

28. Relevant Provisions for Consideration:

(a) Maharashtra Rent Control Act, 1999

Preamble

An Act to unify, consolidate and amend the law relating to the control of rent and repairs of certain premises and of eviction and for encouraging the construction of new houses by assuring a fair return on the investment by landlords and to provide for the matters connected with the purposes aforesaid.

Section 2.Application

(1) This Act shall, in the first instance, apply to premises let for the purposes of residence, education, business, trade or storage in the areas specified in Schedule I and Schedule II.

Section 3.Exemption

(1) This Act shall not apply-

(a) To any premises belonging to the Government or a local authority or apply as against the Government to any tenancy, licence or other like relationship created by a grant from or a licence given by the Government in respect of premises requisitioned or taken on lease or on licence by the Government, including any premises taken on behalf of the Government on the basis of tenancy or of licence or other like relationship by, or in the name of any officer subordinate to the Government authorized in this behalf; but it shall apply in respect of premises let, or given on licence, to the Government or a local authority or taken on behalf of the Government on such basis by, or in the name of, such officer;

(b) To any premises let or sub-let to banks, or any Public Sector Undertakings or any Corporation established by or under any Central or State Act, or foreign missions, international agencies, multinational companies, and private limited companies and public limited companies having a paid up share capital of rupees one crore or more.

Explanation.- For the purpose of this clause the expression "bank" means,-

(i) The State Bank of India constituted under the State Bank of India Act, 1955;

(ii) A subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(iii) A corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 3 of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1980; or

(iv) Any other bank, being a scheduled bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934.

(2) The State Government may direct that all or any of the provisions of this Act shall, subject to such conditions and terms as it may specify, not apply-

(i) To premises used for public purpose of a charitable nature or to any class of premises used for such purposes;

(ii) To premises held by a public trust for a religious or charitable purpose and let at a nominal or concessional rent;

(iii) To premises held by a public trust for a religious or charitable purpose and administered by a local authority; or

(iv) To premises belonging to or vested in an university established by any law for the time being in force.

Provided that, before issuing any direction under this sub- section, the State Government shall ensure that the tenancy rights of the existing tenants are not adversely affected.

(3) The expression "premises belonging to the Government or a local authority" in sub-section (1) shall, notwithstanding anything contained in the said sub-section or in any judgment, decree or order of a court, not include a building erected on any land held by any person from the Government or a local authority under an agreement, lease, licence or other grant, although having regard to the provisions of such agreement, lease, licence or grant the building so erected may belong or continue to belong to the Government or the local authority, as the case may be, and such person shall be

entitled to create a tenancy in respect of such building or a part thereof.

(b) The Companies Act, 1956:

Preamble

An Act to consolidate and amend the law relating to companies and certain other associations.

Section 2.Definitions.- In this Act, unless the context otherwise requires.-

(5) "Banking company" has the same meaning as in the Banking Companies Act, 1949 (10 of 1949)

(7) "Body corporate" or "corporation" includes a company incorporated outside India but does not include-

(a) A corporation sole;

(b) A co-operative society registered under any law relating to co-operative societies; and

(c) Any other body corporate (not being a company as defined in this Act) which the Central Government may, by notification in the Official Gazette, specify in this behalf.

(10) "Company" means a company as defined in section 3.

(16) "Existing Company" means an existing company as defined in section 3.

(18) "Government Company" means a Government company within the meaning of section 617.

(19) "Holding company" means a holding company within the meaning of section 4.

(21) "Insurance company" means a company which carries on the business of insurance either solely or in conjunction with any other business or businesses.

(23) "Limited company" means a company limited by sharesor by guarantee.

(23A) "listed public companies" means a public company which any of its securities has listed in any recognized stock exchange.

...

Section 3. Definitions of "company", "existing company", "private company" and "public company"

(1) In this Act, unless the context otherwise requires, the expressions "company", "existing company", "private "company" and "public company" shall, subject to the provisions of subsection (2), have the meanings specified below:

(i) "Company" means a company formed and registered under this Act or an existing company as defined in clause (ii);

(ii) "Existing company" means a company formed and registered under any of the previous companies laws specified below:

(a) Any Act or Acts relating to companies in force before the Indian Companies Act, 1866 (10 of 1866) and repealed by the Act;

(b) The Indian Companies Act, 1866 (10 of 1866);

(c) The Indian Companies Act, 1882 (6 of 1882);

(d) The Indian Companies Act, 1913 (7 of 1933);

(e) The Registration of Transferred Companies Ordinance 1942 (54 of 1942); and

(f) Any law corresponding to any of the Acts or the Ordinance aforesaid and in force-

(1) In the merged territories or in a Part B State (other than the State of Jammu and Kashmir), or any part thereof, before the extension thereto of the Indian Companies Act, 1913 (7 of 1913); or

(2) In the State of Jammu and Kashmir, or any part thereof, before the commencement of the Jammu and Kashmir (Extension of Laws) Act,1956 (62 of 1956), in so far as banking, insurance and financial corporations are concerned, and before the commencement of the Central Laws (Extension to Jammu and Kashmir) Act, 1968 (25 of 1968) insofar as other corporations are concerned; and

(g) The Portugese Commercial Code in so far as it relates to "sociedades anonimas";

(iii) "Private company" means a company which has a minimum paid-up capital of one lakh rupees or such higher paid-up capital as may be prescribed, and by its articles,-

(a) Restricts the right to transfer its shares, if any;

(b) Limits the number of its members to fifty not including-

(i) Persons who are in the employment of the company, and

(ii) Persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased; and

(c) Prohibits any invitation to the public to subscribe for any shares in, or debentures of, the company;

(d) Prohibits any invitation or acceptance of deposits from persons other than its members, directors or their relatives:

Provided that where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this definition, be treated as a single member;

(iv) "Public company" means a company which-

(a) is not a private company;

(b) Has a minimum paid-up capital of five lakh rupees or such higher paid-up capital, as may be prescribed;

(c) Is a private company which is a subsidiary of a company which is not a private company?

(2) Unless the context otherwise requires, the following companies shall not be included within the scope of any of the expressions defined in clauses (i) to (iv) of sub-section (1), and such companies shall be deemed, for the purposes of this Act, to have been formed and registered outside India:-

(a) A company the registered office whereof is in Burma, Aden or Pakistan and which immediately before the separation of that country from India was a company as defined in clause (i) of sub-section (1);

(3) Every private company, existing on the commencement of the Companies (Amendment) Act, 2000, with a paid-up capital of less than one lakh rupees, shall, within a period of two years from such commencement, enhance its paid-up capital to one lakh rupees.

(4) Every public company, existing on the commencement of the Companies (Amendment) Act, 2000, with a paid-up capital of less than five lakh rupees, shall within a period of two years from such commencement, enhance its paid-up capital to five lakh rupees.

(5) Where a private company or a public company fails to enhance its paid-up capital in the manner specified in sub- section (3) or sub-section (4), such company shall be deemed to be a defunct company within the meaning of section 560 and its name shall be struck off from the register by the Registrar.

(6) A company registered under section 25 before or after the commencement of Companies (Amendment) Act, 2000 shall not be required to have minimum paid-up capital specified in this section.

Section 25.Power to dispense with "Limited" in name of charitable or other company

(1) Where it is proved to the satisfaction of the Central Government that an association:-

(a) Is about to be formed as a limited company for promoting commerce, art, science, religion, charity or any other useful object, and

(b) Intends to apply its profits, if any, or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Central Government may, by licence, direct that the association may be registered as a company with limited liability, without the addition to its name of the word "Limited" or the words "Private Limited".

(2) The association may thereupon be registered accordingly; and on registration shall enjoy all the privileges, and (subject to the provisions of this section) be subject to all the obligations, of limited companies.

(3) Where it is proved to the satisfaction of the Central Government-

(a) That the objects of a company registered under this Act as a limited company are restricted to those specified in clause (a) of sub-section (1), and

(b) That by its constitution the company is required to apply its profits, if any, or other income in promoting its objects and is prohibited from paying any dividend to its members, the Central Government may, by licence, authorise the company by a special resolution to change its name, including or consisting of the omission of the word "Limited" or the words "Private Limited"; and section 23 shall apply to a change of name under this sub-section as it applies to a change of name under section 21.

(4) A firm may be a member of any association or company licensed under this section, but on the dissolution of the firm, its membership of the association or company shall cease.

(5) A licence may be granted by the Central Government under this section on such conditions and subject to such regulations as it thinks fit, and those conditions and regulations, shall be binding on the body to which the licence is granted, and where the grant is under sub-section (1), shall, if the Central Government so directs, be inserted in the memorandum, or in the articles, or partly in the one and partly in the other.

(6) It shall not be necessary for a body to which a licence is so granted to use the word "Limited" or the words "Private Limited" as any part of its name and, unless its articles otherwise provide, such body shall, if the Central Government by general or special order so directs and to the extent specified in the directions, be exempt from such of the provisions of this Act as may be specified therein.

(7) The licence may at any time be revoked by the Central Government, and upon revocation, the Registrar shall enter the word "Limited" or the words "Private Limited" at the end of the name upon the register of the body to which it was granted; and the body shall cease to enjoy the exemption granted by this section:

Provided that, before a licence is so revoked, the Central Government shall give notice in writing of its intention to the body, and shall afford it an opportunity of being heard in opposition to the revocation.

(8)(a) A body in respect of which a licence under this section is in force shall not alter the provisions of its memorandum with respect to its objects except with the previous approval of the Central Government signified in writing.

(b) The Central Government may revoke the licence of such a body if it contravenes the provisions of clause (a).

(c) In according the approval referred to in clause (a), the Central Government may vary the licence by making it subject to such conditions and regulations as that Government thinks fit, in lieu of, or in addition to, the conditions and regulations, if any, to which the licence was formerly subject.

(d) Where the alteration proposed in the provisions of the memorandum of a body under this sub-section is with respect to the objects of the body so far as may be required to enable it to do any of the things specified in clauses (a) to (g) of sub- section (1) of section 17, the provisions of this sub-section shall be in addition to, and not in derogation of, the provisions of that section. (9) Upon the revocation of a licence granted under this section to a body the name of which contains the words "Chamber of Commerce", that body shall, within a period of three months from the date of revocation or such longer period as the Central Government may think fit to allow, change its name to a name which does not contain those words; and-

(a) The notice to be given under the proviso to sub- section (7) to that body shall include a statement of the effect of the foregoing provisions of this sub-section; and

(b) Section 23 shall apply to a change of name under this sub-section as it applies to a change of name under section 21.

(10) If the body makes default in complying with the requirements of sub-section (9), it shall be punishable with fine which may extend to five thousands rupees for every day during which the default continues.

Section 616.Application of Act to Insurance, banking, electricity supply and other companies governed by special Acts.

The provisions of this Act shall apply- (a) To insurance companies, except in so far as the said provisions are inconsistent with the provisions of the Insurance Act, 1938;

(b) To banking companies, except in so far as the said provisions are inconsistent with the provisions of the Banking Companies Act, 1949;

(c) To companies engaged in the generation or supply of electricity, except in so far as the said provisions are inconsistent with the provisions of the Indian Electricity Act, 1910 or the Electricity Supply 1948;

(d) To any other company governed by any special Act for the time being in force, except in so far, as the said provisions are inconsistent with the provisions of such special Act;

(e) To such body corporate, incorporated by any Act for the time being in force, as the Central Government may, by notification in the Official Gazette, specify in this behalf, subject to such exceptions, modifications or adaptation, as may be specified in the notification.

...

Section 617. Definition of "Government Company".

For the purposes of this Act Government company means any company in which not less than fifty one per cent of the paid- up share capital is held by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments and includes a company which is a subsidiary of a Government company as thus defined.

Point for Determination:

29. Whether the High Court was right in holding that the words PSUs in Section 3(1)(b) excluded Government Companies as defined under Section 617 of the 1956 Act.

Findings:

30. Economics looks at life from the viewpoint of a man, not from that of an angel.

31. In order to give purposive interpretation to Section 3(1)(b) of the said Rent Act one has to go back in history to the object behind enactment of the Bombay Rent Act, 1947 ("1947 Act"). That Act was passed to amend and consolidate the law relating to rents, repairs, eviction of tenants,

control of rates of hotels and lodging houses and to control charges of licensed premises since 1.2.1973. The Act was passed to control the rents so as to prevent the landlords from exploiting the tenants by charging exorbitant rents with a view to take wrong advantage of growing acute shortage of accommodation in urban areas. Thus, that Act was also enacted to give further protection to the tenants, it intended to provide for responsibility of carrying out usual tenable repairs by transferring the duty of the tenants to carry out such repairs under the Transfer of Property Act to the landlord and thereby compelling him to keep the premises let out in good condition at his costs. In short, the said 1947 Act stood enacted with the intention to control rents, repairs, rates of hotels and eviction of tenants.

32. Section 4 of the 1947 Act dealt with exemptions. There were three limbs of Section 4(1) which are similar to Section 3(1)(a) of the Rent Act,1999. The first limb exempted the premises belonging to the Government or local authority from the operation of the 1947 Act if the Government was the owner of a building with sitting tenants therein, the latter were not protected by the 1947 Act. The second limb of Section 4(1) inter alia provided that the Act did not apply against the Government companies to any tenancy created by a grant from the Government in respect of premises taken on lease by the Government or in respect of premises requisitioned by the Government. The third limb of Section 4(1) applied when the Government or a local authority was a tenant. Section 3-A of the Bombay Housing Board Act, 1948 placed the Board in the same privileged position as that of the Government under Section 4(1) of the 1947 Act. The said Bombay Housing Board Act, 1948 stood replaced by Maharashtra Housing and Area Development Act, 1976 ("MHADA Act") which was enacted to consolidate, unify, and amend laws relating to housing, repairing and reconstructing dangerous buildings. In the Statement of Objects and Reasons it is mentioned that in urban areas and, particularly in Greater Mumbai area the old buildings had outlived their lives and have rendered themselves in a bad state of repairs and in order to prevent possible collapse of old buildings necessity was felt to take up the programme of repairs and reconstruction of such buildings.

33. To continue our discussion on Bombay Rent Act, 1947, Section 5(10) defined `standard rent'. Under that section there were six types of standard rent, namely, rent fixed by the court under the previous Rent Acts of 1939 and 1944, rent charged on 1.9.1940 if the premises were let for the first time on that date, if the premises were let before 1.9.1940 then the rent first charged, if the premises were let after 1.9.1940 then the rent first charged when let, if the premises were exempted from standard rent then after the five years period the rent was not to exceed 15% on the investment made in construction and outgoings and in any other cases rent fixed by the court which may vary from time to time. Thus, the fixed date-line was 1.9.1940.

The standard rent was subject to Section 11.

34. Our object of the above discussion regarding provisions of the Bombay Rent Act, 1947 is two-fold. Firstly, to point out that there has been a structural change made by the Legislature in the

present Rent Act vis-`-vis the 1947 Act. Secondly, we have analysed the relevant provisions of the 1947 Act to indicate the change in the economic conditions between 1947 and 31.3.2000 when the present Rent Act came into force.

35. Broadly, we may state that the twin objects for enacting the 1947 Act was tenancy protection and rent restriction. In 1947, the economic scenario was different from the scenario that prevails after 31.3.2000. In 1947 rent forming provided an important source of unearned income to the landlords which led to the landlords charging exorbitant rent in urban areas. Return on investments at that time constituted considerable returns to the landlords. At that time, it was worth investing in the business of leasing. The cost of repairs was comparatively much less. The purchasing power of the rupee was relatively higher than the purchasing power of the rupee after 31.3.2000. However, by 1976, with the rise in the cost of living index, the said investments made in 1940's started giving negative returns. Coupled with the price rise and increase in cost of repairs and maintenance, municipal taxes also increased. The result was that the net asset value became negative. Consequently, old buildings started collapsing for lack of maintenance. Even today thousands of buildings in Greater Mumbai are in a dilapidated condition for lack of resources. Therefore, in 1976, the Legislature enacted MHADA 1976 precisely to undertake repairs and constructions of old dilapidated buildings for which cess was levied. However, with the passage of time, it appears that the position deteriorated and investments in this sector became negligible by 31.3.2000. With the price rise and with the increase in the cost of construction, certain provisions of the 1947 Act by which standard rent stood pegged/frozen as on 1.9.1940 and the provision imposing a ban on the landlords from receiving premium under Sections 18 and 19 of the 1947 Act became vulnerable to challenge as violative of Article 14 of the Constitution. Those provisions, as discussed above, were Sections 5(10), 11, 18 and 19. This position was further compounded when large premises, particularly in South Mumbai stood occupied by cash-rich entities like, statutory corporations and corporate bodies who insisted on paying meager standard rent under the 1947 Act.

36. Ultimately, the economic reasons led one of the landlords by the name Malpe Vishwanath Acharya to challenge the provisions of Section 5 (10), 7, 9(2)(b) and 11(1)(a) of the 1947 Act. We quote hereinbelow paras 8, 15, 17, 22, 25, 26, 27, 28, 29, 30 and 31of the judgment of this Court in the case of Malpe Vishwanath Acharya and ors. v. State of Maharashtra and anr. (1998) 2 SCC 1:

"8. There is considerable judicial authority in support of the submission of learned counsel for the appellants that with the passage of time a legislation which was justified when enacted may become arbitrary and unreasonable with the change in circumstances. In the State of M.P. v. Bhopal Sugar Industries Ltd. (1964) 6 CR 846 dealing with a question whether geographical classification due to historical reasons would be valid this Court at SCR p. 853 observed as follows:

"Differential treatment arising out of the application of the laws so continued in different regions of the same reorganised State, did not therefore immediately attract the clause of the Constitution prohibiting discrimination. But by the passage of time, considerations of necessity and expediency

would be obliterated, and the grounds which justified classification of geographical regions for historical reasons may cease to be valid. A purely temporary provision which because of compelling forces justified differential treatment when the Reorganisation Act was enacted cannot obviously be permitted to assume permanency, so as to perpetuate that treatment without a rational basis to support it after the initial expediency and necessity have disappeared." Xxx

15. The aforesaid decisions clearly recognise and establish that a statute which when enacted was justified may, with the passage of time, become arbitrary and unreasonable. It is, therefore, to be seen whether the aforesaid principle is applicable in the instant case. Can it be said that even though the provisions relating to the

fixation of standard rent were valid when the Bombay Rent Act was passed in 1947 the said provision, as amended, can still be regarded as valid now? xxx

17. A perusal of the aforesaid extracts of reports and resolutions clearly demonstrates that since the last two decades the authorities themselves seem to be convinced that the pegging down of the rents to the pre-war stage and even thereafter, is no longer reasonable. Unfortunately apart from lip service little of note has

been done. Even the Rent Control Bill introduced in 1993 has not yet become law. Xxx

22. The aforesaid illustration, which has not been seriously disputed, clearly brings out the arbitrariness of the standard rent provisions contained in the Bombay Rent Act. It is true that the aforesaid illustration has reference to the monthly rent of Rs 100 as on 1-9- 1940 and does not relate to the premises which are let out after the Act had come into force. As far as Section 5 (10) is concerned the standard rent of the premises let out after 1-9-1940 is that rent at which the premises were first let. Even so the rapid increase in the expenses for repair and other outgoings and the decreasing net amount of rent which remains with the landlord, clearly show that the non-provision in the Act for reasonable increase in the rent, with the passage of time, is leading to arbitrary results. This is also demonstrated from the facts in the case of Petitioner 3 who owns Unit No. A-18 on the first floor admeasuring 808 sq. ft. in the property known as Shri Ram Industrial Estate situated at 13 J.D. Ambedkar Road, Mumbai. The said building belongs to a cooperative society and Unit No. A-18 was given on lease and licence basis by an agreement dated 23-8-1964 by the appellant to Lokmitra Sahakari Printing and Publishing Society Ltd. on a monthly compensation of Rs 686.80 per month. Liabilities of repairs is on the appellant and according to it this amount received in respect of the said unit by the appellant is Rs 563.65 per month inclusive of all taxes. Out of this sum Appellant 3 has to pay Rs 216.33 as municipal taxes leaving a balance of Rs 320.22. From this amount the society outgoings is Rs 250 per month, leaving a balance of only Rs 70.20 per month with the said appellant. Another instance which has been given is that of Appellant 4 who owns a property known as Ram Mahal situated at 8, Dinshaw Vachha Road, Mumbai. The said building has 20 residential flats and the building was purchased by Appellant 4 in the year 1955, although it had been constructed prior to 1940. Flat No. 15 on the 5th floor of the said building had been let out by the previous owners to M/s Bennett Coleman & Co. Ltd., who were the sitting tenants at the time

when the property was purchased. The flat measures 1710 sq. ft. and monthly rent for the same is Rs 460 per month inclusive of permitted increase and repairs. According to the appellant the income by way of rent has remained constant while the expenditure has been increased and the total gross rent of the building which he receives is Rs 1, 72,032 per annum while it incurs an annual expense of Rs1,93,245 consisting of BMC taxes, repairs, ground rent, maintenance charges inclusive of small electricity bill and the insurance premium. He is, therefore, suffering a loss of Rs 21,213 every year. It is not necessary to examine the correctness of these details except to note that what was reasonable on 1-9-1940 or in 1950s or in 1960s can no longer be regarded as reasonable at this point of time. xxx

25. It is true that one of the reasons for enacting the rent control legislation is to prevent exploitation of the tenants by the landlords. One of the protections which has been provided to the tenants in the rent legislation throughout the country is the concept of standard rent. Each State has definite laws with regard thereto. In some case, like in Delhi, the Rent Control Act is not applicable if the rent is Rs 3500 or more while in the other States Rent Control Act is not applicable to certain categories of persons. In the Bombay Rent Act, with which we are concerned, the standard rent as on 1-9-1940 or the first rent of the premises which was let out thereafter is the standard rent. The pegging down of rent, coupled with the inability of the landlord to evict the tenants, has given rise to unlawful tendencies. In the Statement of Objects and Reasons annexed to LA Bill No. 79 of 1986 introduced in the Maharashtra Legislature providing for amendment to the Bombay Rent Control Act with regard to clause 3 it was, inter alia, stated as follows:

"The freezing of standard rent prevailing on 1st September, 1940 has deprived the landlords of getting reasonable and adequate return to undertake maintenance and repairs to the old buildings. Despite the penal provisions in the Act for charging any premium from a tenant, such freezing of rent results in charging `pugree' or deposit or similar illicit payments which are widely prevalent. The construction of new tenements on rental basis has considerably ceased with the result that low and middle income groups are not getting premises on rent...." (Emphasis added)

26. Notwithstanding the fact that the State Legislature was conscious of the illegal payments which are made because of the rent restriction law no effective steps have been taken so far to strike a balance between the interests of the landlords and the tenants.

27. It is true that whenever a special provision, like the Rent Control Act, is made for a section of the society it may be at the cost of another section, but the making of such a provision or enactment may be necessary in the larger interest of the society as a whole but the benefit which is given initially if continued results in increasing injustice to one section of the society and an unwarranted largess or windfall to another, without appropriate corresponding relief, then the continuation of such a law which necessarily, or most likely, leads to increase in lawlessness and undermines the authority of the law can no longer be regarded as being reasonable. Its continuance becomes arbitrary.

28. The legislature itself, as already noticed hereinabove, has taken notice of the fact that pugree system has become prevalent in Mumbai because of the Rent Restriction Act. This Court was also asked to take judicial notice of the fact that in view of the unreasonably low rents which are being received by the landlords, recourse is being taken to other methods to seek redress. These methods which are adopted are outside the four corners of the law and are slowly giving rise to a state of lawlessness where, it is feared, the courts may become irrelevant in deciding disputes between the landlords and tenants. This should be a cause of serious concern because if this extra-judicial backlash gathers momentum the main sufferers will be the tenants, for whose benefit the Rent Control Acts are framed.

29. Insofar as social legislation, like the Rent Control Act is concerned, the law must strike a balance between rival interests and it should try to be just to all. The law ought not to be unjust to one and give a disproportionate benefit or protection to another section of the society. When there is shortage of accommodation it is desirable, may, necessary that some protection should be given to the tenants in order to ensure that they are not exploited. At the same time such a law has to be revised periodically so as to ensure that a disproportionately larger benefit than the one which was intended is not given to the tenants. It is not as if the Government does not take remedial measures to try and offset the effects of inflation. In order to provide fair wage to the salaried employees the Government provides for payment of dearness and other allowances from time to time. Surprisingly this principle is lost sight of while providing for increase in the standard rent -- the increases made even in 1987 are not adequate, fair or just and the provisions continue to be arbitrary in today's context.

30. When enacting socially progressive legislation the need is greater to approach the problem from a holistic perspective and not to have a narrow or short-sighted parochial approach. Giving a greater than due emphasis to a vocal section of society results not merely in the miscarriage of justice but in the abdication of responsibility of the legislative authority. Social legislation is treated with deference by the courts not merely because the legislature represents the people but also because in representing them the entire spectrum of views is expected to be taken into account. The legislature is not shackled by the same constraints as the courts of law. But its power is coupled with a responsibility. It is also the responsibility of the courts to look at legislation from the altar of Article 14 of the Constitution. This article is intended, as is obvious from its words, to check this tendency; giving undue preference to some over others.

31. Taking all the facts and circumstances into consideration we have no doubt that the existing provisions of the Bombay Rent Act relating to the determination and fixation of the standard rent can no longer be considered to be reasonable. The said provisions would have been struck down as having now become unreasonable and arbitrary but we think it is not necessary to strike down the same in view of the fact that the present extended period of the Bombay Rent Act comes to an end on 31-3-1998. The Government's thinking reflected in various documents itself shows that the existing provisions have now become unreasonable and, therefore, require reconsideration. The new

bill is under consideration and we leave it to the legislature to frame a just and fair law keeping in view the interests of all concerned and in particular the resolution of the State Ministers for Housing of 1992 and the National Model Law which has been circulated by the Central Government in 1992. We are not expressing any opinion on the provisions of the said Model Law but as the same has been drafted and circulated amongst all the States after due deliberation and thought, there will, perhaps, have to be very good and compelling reasons in departing from the said Model Law. Mr Nargolkar assured us that this Model Law will be taken into consideration in the framing of the proposed new Rent Control Act."

37. The important point to be noted is that in the above judgment it has been held that with the passage of time the 1947 Act which was justified when enacted had become arbitrary and unreasonable with the change in economic circumstances. It has been further observed in the said judgment that the 1947 Act relating to determination and fixation of standard rent can no longer be considered to be reasonable. However, this Court felt that though the provisions mentioned above were liable to struck down as unreasonable and arbitrary keeping in mind the consequences that the tenants may lose protection of the Rent Act, this Court gave an opportunity to the Government to consider enactment of a Model Law. This judgment was delivered by the apex Court on 19.12.1997.

38. Therefore, the legislature was required to keep in mind the vulnerability of fixing standard rent as on 1.9.1940. At the same time, the legislature had to keep in mind two aspects, namely, tenancy protection and rent restriction. The problem arose on account of economic factors. However, the legislature found the solution by evolving an economic criterion. The legislature evolved a package under which the prohibition on receiving premium under Section 18 of the 1947 Act stood deleted. In other words, landlords were given the liberty to charge premium. The second package was to exclude cash-rich body corporates and statutory corporations from the protection of the Rent Act. This part of the economic package helps the landlords to enhance the rent and charge rent to the entities mentioned in Section 3(1)(b) who can afford to pay rent at the market rate. This was the second item in the economic package offered to the landlords under the present Rent Act. The third item of the Rent Act was to give the benefit of annual increase of rent @ 5% under the present Rent Act. All three items constituted one composite package for the landlords. The underlying object behind the said economic package is to balance and maintain the two-fold objects of the Rent Act, namely, tenancy protection and rent protection. The idea behind excluding cash-rich entities from the protection of the Rent Act is also to continue to give protection to tenants who cannot afford to pay rent at market rate.

39. The above discussion is relevant because we must understand the reason why Section 3(1)(b) came to be enacted. As stated above, in our view, with the offer of an economic package to the landlords, the legislature has tried to maintain a balance. The provisions of the earlier Rent Act, as stated above, have become vulnerable, unreasonable and arbitrary with the passage of time as held by this Court in the above judgment. The legislature was aware of the said judgment. It is reflected in the report of the Joint Committee. In our view, the changes made in the present Rent Act by which landlords are permitted to charge premium, the provisions by which cash- rich entities are excluded from the protection of the Rent Act and the provision providing for annual increase at a

nominal rate of 5% are structural changes brought about by the present Rent Act, 1999 vis-`-vis the 1947 Act. The Rent Act of 1999 is the sequel to the judgment of this Court in the case of Malpe Vishwanath Acharya (supra).

40. The entire discussion hereinabove is, therefore, not only to go behind Section 3(1)(b) and ascertain the reasons for enactment of the said sub- section but also to enable this Court to give purposive interpretation to the said sub-section.

41. In the light of the discussion mentioned hereinabove, we need to interpret Section 3(1)(b). The said sub-section excludes entities enumerated therein from the protection of the said Rent Act, namely, banks, PSUs, statutory corporations, foreign missions, international agencies, multinational companies and private limited companies and public limited companies having a paid up share capital of Rs. 1,00,00,000 or more. The question which arises for determination concerns the character of PSUs in the context of Section 3(1)(b).

42. The word `PSU' is not a term of art. It is not defined in the said Rent Act. It is not defined in the Companies Act. However, the said term finds place in the Report of the Study Team on Public Sector Undertakings. One such Report of the Study Team is dated 10.6.1967. The Study Team was appointedon20.5.1966. It submitted its Report to the Chairman, Administrative Reforms Commission, and Government of India. Under Chapter XIV, the Committee has discussed the forms of organization, namely, departmental undertaking, Government Company and PSU. It observed that departmental undertakings are unsuitable for industrial and commercial enterprises. It is further observed that, in India, the Government has adopted the method of running companies by directly holding shares in them. According to the Committee, this is the pattern of public sector in India. This, according to the Committee, is apart from statutory corporations which are set up or established under Central/State Acts. According to the Committee, a public corporation as a form covers statutory corporation, Government Company and Public Sector Company. According to the Committee, PSU and Government Company are to be equated in the sense that these two entities are the same when it comes to autonomy and flexibility as compared to departmental undertakings. One point may be noted at this stage. The concept of PSU and the concept of Government Company became relevant after introduction of economic reforms in 1991. With the said reforms, market orientation was given to our economy. It is around this time that the role of PSU became important. Both, the PSU as well as the Government Company, were given autonomy and flexibility in commercial sectors. Annexure I to the Report of the Study Team on PSUs dated 10.6.1967 indicates clearly that Government companies stood covered under the concept of PSUs. In the present matter, the High Court has taken a view that Government companies stands excluded from PSU under Section 3(1)(b) as Government companies are separate and distinct entities from PSUs and since Government Company is not in the enumerated items in Section 3(1)(b) one cannot include the said entity within the meaning of the word PSU. This view of the High Court is erroneous for the simple reason that the word PSU is not defined under any Act. The word PSU is indicated in various Parliamentary Committees on Administrative Reforms so that in financial, employment and in policy matters, the Central/ State Government could evolve norms/standards. It is no doubt true that the public character of the functions performed by the Undertaking determine the character of that

undertaking. It is the public character of the functions of the undertaking which makes it a PSU. However, there is no conclusive test for determining the status of an undertaking as a PSU. In judging the character of an entity, the court has to keep in mind the context in which the word PSU is used in a given enactment. There are a number of tests which could be applied in judging the character of an entity, namely, the test of origin, the test of agency or instrumentality of the State, the functional test, the monopolistic status of an entity, test concerning areas of operations, the test of economies of scale, the test of control, the role of the entity in the priority sector etc. Therefore, there is no one conclusive test applicable to decide the character of an entity. For example, nationalized banks have been held to fall within State by this Court on an application of the test of control. Similarly, the test of "agency or instrumentality" that came to be laid down brought the Government companies, as defined under Section 617 of the 1956 Act, to be included within the concept of State for the purposes of Article 12 of the Constitution (see: Som Prakash Rekhi v. UOI and anr. [1981]1SCC449). Therefore, none of the above tests is conclusive in itself. Suffice it to state that Government companies under Section 617 are understood by the Legislature to be a part of PSUs. Therefore, even on the web site of Central Government, Undertakings under the caption of PSUs/PSEs, we find Government companies, State owned Government companies being listed under the caption of PSUs/PSEs. These items have been enumerated on the basis of Legislative Understanding. According to the book titled "Growth of Trade, Commerce and PSUs" written by Shri Suresh Prasad Padhy, the PSUs may be in the form of departmental units, corporations, Government companies, autonomous bodies or authorities. Corporate governance, according to Geeta Gouri, is one of the major process for putting PSEs and PSUs on the right track. In the list of PSUs published on the web site of the Central Governmet, BPCL is shown as a PSU. Similarly, MTNL and BSNL are Government companies which are also shown as PSUs. According to Bishwa Nath Singh, author of "Public Enterprise in Theory and Practice" for "efficient working of public enterprises a combination of economy and accountability is essential. The corporate form of undertaking has an advantageous position because it has necessary flexibility and operational freedom. The statutory corporations are set up under specific Statute of Parliament which statute indicates the extent of their accountability and the nature of Parliamentary control. On the other hand, a Government company is possessed with the merits of easy formation, flexibility in administration, wider source of resources mobilization, freedom from accounting and audit laws and procedures applicable to Government departments as well as providing a balance between autonomy and control. For its formation, there is no need of a separate enactment. Under the Indian Companies Act, 1956, a company may be established by issue of executive order by a Gazette notification or on a formal registration by a Memorandum and Articles of Association. This form of organization is free from day-to-day Government Interference. Thus, all the important forms of organization for the PSUs have certain advantages and certain limitations. A majority of PSUs in India are in the company form and the idea behind bringing more PSUs in this form has been mainly that of autonomy. Similar is the case of statutory corporations which are also created to mitigate the drawbacks of departmental administration" (see page 91).

43. In the Eleventh Report of the Committee on Public Undertakings (2005 - 2006) one of the topics related to Health Care Insurance. In the introduction, the committee has referred to health insurance schemes issued by four public sectors general insurance companies, namely, National Insurance Company Ltd., New India Assurance Company Ltd., OICL and UICL. In the said introduction, there is also reference to LIC, a statutory corporation, which also offers health covers. This Report indicates that companies under Section 617 of the Companies Act, 1956, including OICL and UICL, are all classified under one category, namely PSUs. The Committee was headed by

the Chairman, Rupchand Pal; its members consisted of MPs from Lok Sabha and Rajya Sabha. The Report also refers to the opening up of the insurance industry in the year 2000 for competition from private players including banks and it also refers to the constitution of a regulatory authority, namely, Insurance Regulatory and Development Authority Act, 1999.

44. A similar Committee on Public Undertakings had conducted studies on OICL and National Insurance Company Ltd. in 2001-2002 consisting of MPs from Lok Sabha and Rajya Sabha. This Report also indicates that the Legislature has taken into account the impact of privatization on the insurance sector. In the Report, public sector undertakings cover public sector companies. The Report indicates that in the insurance sector, the players consist of public sector companies, LIC (statutory corporation) as well as Government companies under Section 617 of the 1956 Act. In the Report, the history of OIC is set out (see: para 2). The point to be noted is that all Parliamentary Committees on public undertakings have proceeded on the basis that OIC and UICL are companies under Section 617 of the 1956 Act; that they are public sector insurance companies and accordingly they are all treated as body corporate falling under PSUs.

45. Therefore, the above discussion indicates clearly that statutory corporations, public sector companies and Government companies are merely corporate forms. India's PSUs may be in the corporate forms or in the form of statutory corporations or in the form of public sector companies. This is the legislative understanding indicated by various Parliamentary Committees like Estimates Committee, Administrative Reforms Commission and Study Team on PSUs constituted by Administrative Reforms Commission. The insurance industry in India has private players in it like Bajaj Allianz Life. It also has SBI Life as one of the players. It als has LIC in the said sector/industry besides OIC, UIC etc. This aspect is important.

46. According to the respondents, the words `PSUs' in Section 3(1)(b) has to be read with the words any corporation established by or under Central or State Act. In other words, according to the respondents, only those PSUs which are established by or under any Central or State Act alone stand excluded from the protection of the Rent Act. According to the respondents, PSUs which are Government companies incorporated under Section 617 of the 1956 Act are entitled to the protection as they are not expressly excluded under Section 3(1)(b). We do not find merit in this submission. Firstly, it may be noted that several entities have been enumerated in Section 3(1)(b), namely, banks, PSUs or statutory corporations, foreign missions, international agencies, multinational companies and private limited and public limited companies having a paid up share capital of Rs. 1,00,00,000 or more. As stated above, the said Rent Act, 1999 has brought about structural changes in the legislation. In this case, it was open to the legislature to opt for any of the tests, namely, test of origin, test of public character of the functions performed by each of these entities, test of public character of each of the undertakings, test of agency or instrumentality, test of monopolistic status, test of mobilization of resources etc. In the present case, we find that the legislature has opted for an economic criteria, namely, entities which are in a position to pay rent at market rates are to stand excluded from Rent Act protection. This is the test of Financial Capability. This is the golden thread which runs through Section 3(1)(a). Be it banks, PSUs. Statutory corporations, multinational companies, foreign missions, international agencies and public and

private limited companies having a paid up share capital of Rs. 1,00,00,000 or more stand excluded from the Rent Act protection. This criterion has been selected by the legislature knowing fully well that each of these entities including PSUs can afford to pay rent at the market rates. Secondly, we have given in- depth consideration to the contention advanced on behalf of the respondents on the interpretation of Section 3(1)(b). We are of the view that to accept the contention of the respondents, namely, that only PSUs which are established by or under the Central or State Acts will not get protection whereas PSUs which are Government companies incorporated under the 1956 Act would continue to get protection would make the Section 3(1)(b) vulnerable to challenge as violative of Article 14 of the Constitution. In this regard, it may be noted that in the insurance industry, we have LIC, banks, private sector companies and Government companies. To say that LIC being a statutory corporation stands excluded from the provisions of the Rent Act whereas Government companies incorporated under the Companies Act, 1956 would continue to get protection would lead to arbitrary discrimination under Article 14 to the Constitution. In the case cited by Mr. Soli J. Sorabjee, learned counsel for the appellants, namely, Shah and Co. v. State of Maharashtra (1967) 3 SCR 466 this Court held that to place such a construction as will save the statute from constitutional challenge is a well settled principle of interpretation. In the said Judgment, it has been held as follows:

"To place such a construction as will save the statute from constitutional challenge ... having special regard for the principle of constitutional adjudication which makes it decisive in the choice of fair alternatives that one construction may raise serious constitutional questions avoided by another. ...". (Emphasis supplied)

47. Moreover, if we are to hold that PSUs do not include Government companies, as held by the High Court, we would be disturbing the package offered by the Legislature of allowing increase of rent annually at 5%,allowing the landlords to accept premium and exclusion of certain entities from the protection of the Rent Act under Section 3(1)(b). On the other hand, acceptance of the arguments advanced on behalf of the respondents on the interpretation of Section 3(1)(b) would make the Act vulnerable to challenge as violative of Article 14 of the Constitution. Therefore, we are of the view that on a plain meaning of the words `PSUs' as understood by the Legislature, it is clear that, India's PSUs are in the form of statutory corporations, public sector companies, Government companies and companies in which the public are substantially interested (see: Income tax Act, 1961). When the word PSU is mentioned in Section 3(1)(b), the State Legislature is presumed to know the recommendations of the various Parliamentary Committees on PSUs. These entities are basically cash-rich entities. They have positive net asset value. They have positive net worths. They can afford to pay rents at the market rate. Thirdly, we are of the view that, in this case, the principle of noscittur a sociisis clearly applicable. According to this principle, when two or more words which are susceptible to analogous meaning are coupled together, the words can take their colour from each other. Applying this test, we hold that Section 3(1)(b) clearly applies to different categories of tenants all of whom are capable of paying

rent at the market rates. Multinational companies, international agencies, statutory corporations, Government companies, public sector companies can certainly afford to pay rent at the market rates. This thought is further highlighted by the last category in Section 3(1)(b). Private limited companies and public limited companies having paid up share capital of more than Rs. 1,00,00,000 are

excluded from the protection of the Rent Act. This further supports the view which we have taken that each and every entities mentioned in Section 3(1)(b) can afford to pay rent at the market rates. We may note that to meet the challenge of discrimination under Article 14 it is not sufficient to state that there is an intelligible differentia but it is further essential requirement to show that the differentia has a rational nexus to the object sought to be achieved by the Statute in question. (See: State of Rajasthan v. Mukanchand and ors. (1964) 6 SCR 903.)As stated above, Section 3(1)(b) strikes a balance between the interest of the landlords and the tenants; it is neither pro-landlords nor anti-tenants. It is pro-public interest. In this connection, one must keep in mind the fact that the said Rent Act, 1999 involves a structural change vis-`-vis the Bombay Rent Act, 1947. As stated above, with the passage of time, the 1947 Act became vulnerable to challenge as violative of Article 14. As stated above, the legislature has strike to balance the twin objectives of Rent Act protection and rent restriction for those who cannot afford to pay rents at the market rates. To accept the interpretation advanced on behalf of the respondents for excluding Government companies from the meaning of the words "PSUs" in Section 3(1)(b) would amount to disturbing the neat balance struck by the Legislature. OIC and UIC are Government companies. They have paid up capital of more than Rs. 100 crores. They can easily afford to pay rents at the market rates. The legislature in its wisdom has kept PSUs, including Government companies, outside the Rent Act. We have to proceed on the basis that the State Legislature was aware of the meaning of the words PSUs as understood by the various Parliamentary Committees. If Government companies are to be excluded from Section 3(1)(b) then the test of intelligible differentia having rational nexus to the objects sought to be achieved by the said Rent Act would stand defeated. We cannot exclude such PSUs from Section 3(1)(b) as is sought to be contended on behalf of the respondents. PSUs including Government Companies are independent companies/corporations. They cannot be equated to the "Government" in Section 3(1)(a). We have to read Section 3(1)(b) in its entirety. We have to read the said section keeping in mind the reasons for its enactment. Lastly, we are of the view that the High Court judgment is erroneous when it adds words to Section 3(1)(b), namely, "which is not a Government company". In other words, the High Court states that OIC/UIC and BPCL are public undertakings, however, they are Government companies incorporated under Section 617 of the 1956 Act and, therefore, stand excluded from Section 3 (1)(b). In this connection it may be stated that High Court has relied upon the definition of Government Company under Section 617 of the Companies Act. In the case of Union of India and others v. R.C. Jain and others - 1981 (2) SCC 308 this Court has enunciated the principle that "the definition of an expression in one Act must not be imported into another. It would be a new terror in the construction of Acts if we were required to limit a word to an unnatural sense because in some Act which is not incorporated or referred to such an interpretation is given to it for the purposes of that Act alone." Lastly, the interpretation placed by the High Court on the word "PSUs" in Section 3(1)(b) amounts to judicial legislation and further it defeats the very object of Section 3(1)(b).

48. Before concluding, we may note that we have interpreted the words `PSUs' in Section 3(1)(b) purely in the context of the provisions of the Maharashtra Rent Control Act, 1999. Our judgment is, therefore, confined strictly to the said provisions of the Rent Act.

49. For the aforestated reasons, we hold that OIC, UIC and BPCL and such other Government companies as defined under Section 617 of the Companies Act are not entitled to protection of the Maharashtra Rent Control Act, 1999 in view of the provisions of Section 3(1)(b).

50. Accordingly, civil appeals arising out of SLP(C) No. 5855/07 and 16237/08 filed by Smt. Leelabai Gajanan Pansare & Ors. and Hongkong & Shanghai Banking Corporation Ltd. respectively are allowed with no order as to costs.

Civil Appeals arising out of SLP(C) Nos. 24789-24790/07: [Bharat Petroleum Corporation Ltd. v. Sunil Niranjan Jhaveri]

51. Leave granted.

52. A decree for possession was passed by the Small Causes Court at Mumbai against the appellant herein - M/s Bharat Petroleum Corporation Ltd. (BPCL). It was confirmed by the Appellate Bench of the Small Causes Court.

53. The decree was challenged by BPCL by filing Civil Revision Application No. 173/07 in Bombay High Court. The said CRA No. 173/07 stood rejected by the impugned order dated 4.5.2007. That decision was given on the merits of the case and not on the interpretation of Section 3(1) (b) of the Maharashtra Rent Control Act, 1999 ("Rent Act"). However, thereafter a review petition was moved by BPCL vide CRA No. 173/07 in which one of the grounds taken by BPCL was that in view of the decision of the Division Bench of the Bombay High Court in the case of Smt. Leela Gajanan Pansare v. Oriental Insurance Co. Ltd. and ors. dated 20.12.2006 in First Appeal No.1245/04 the Revision Petition of BPCL needs to be made absolute and the decree of the Small Causes Court was required to be set aside. The review petition was dismissed by the High Court for lack of factual foundation. Hence, these civil appeals.

54. Today, vide civil appeal arising out of SLP(C) No. 5855/07 we have set aside the Division Bench judgment of the Bombay High Court dated 20.12.2006 in the case of Smt. Leela Gajanan Pansare v. Oriental Insurance Co. Ltd..

55. Accordingly, we dismiss these civil appeals filed by BPCL for the reasons contained in our judgment in the case of Smt. Leela Gajanan Pansare v. Oriental Insurance Co. Ltd. (supra) with no order as to costs.

56. Since Oriental Insurance Company Ltd., United India Insurance Company Ltd. and Bharat Petroleum Corporation Ltd. are liable to be evicted, decree against them for eviction shall not be

executed for a period of one year commencing from the date of this judgment on their giving undertaking in the usual form within a period of four weeks.