ANDHRA PRADESH HIGH COURT

Chintapalli Achaiah

Vs

P. Gopalakrishna Reddy

(B Reddy, CJ. G R Ekbote, J.)

05.01.1965

JUDGMENT

G.R. Ekbote, J.

1. The question which must essentially he answered in this enquiry is whether Section 32(b) of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 15 ot 1960 thereinafter called the Act) is violative of Article 14 of the Constitution.

2. The material facts are that the petitioner instituted a suit, O.S. 19/63 in the Court of the Chief Judge, City Civil Court, Hyderabed, for a declaration that he is the tenant within the meaning of Section 2 (ii) of the Act and therefore is entitled to the protection afforded there under. The respondent who is the landlord instituted O.S. No. 20/0.3 against the petitioner before the same Court for possession of the suit property contending that us the suit building was constructed in 1960 it is exempted from the operation of the Act. The Chief Judge framed the following common issue in both the suits:

> "Whether Section 32(b) of the Act is unconstitutional, invalid and inoperative in view of the provisions of Article 14 and Article 19 of the Constitution of India?"

The petitioner submitted an application, I. A. No. 91/64 under Section 113 read with Order 46 Rule 1 C. P. C. to refer the question involved in the said issue for determination to the High Court. The learned Chief Judge through his order dated 8-1-1961 rejected the petition. Against the said order C. R. P. No. 1679/64 is filed. C. M. P. No. 4906/64 is filed by the petitioner under Article 228 of the Constitution requesting this Court to withdraw the two suits in order to determine the issue mentioned above. It was conceded that in order to resolve the constitutionality of Section 32(b) it is necessary to assume that the building in question was constructed after 26-8-1957 and it is on that basis that the learned Advocate for the petitioner argued before us. Section 32(b) is in the following terms:

"32. The provisions of this Act shall not apply;

(a) .....

(b) to any building constructed on or after the 26th August, 1957".'

3. Now Article 14 has been construed in several cases by the Supreme Court and various High Courts. The difficulty therefore is not about the ascertainment of the principles enunciated in those cases. The real difficulty arises in applying those principles to the, cases arising now and then. In substance the principle underlying Article 14 is that it does not prohibit the Legislature from classifying persons or things, or from setting up different classes to some of which the law may apply, while to others it may not. But in order that such a classification may be constitutionally valid, it must be based on some, rational basis. It must be intelligible classification. It is also necessary that the basis of such a classification must have some rational nexus with the object which the legislation is intended to achieve.

4. Before we test Section 32(b) in the light of the abovesaid twin principles underlying Article 14 of the Constitution, it is better to keep in view some of the presumptions which arise in such cases.

5. It need hardly be asserted that every presumption favours the validity of an Act of the Legislature and the doubts, if any, must be resolved in support of the Act. Similarly it must be presumed that the Legislature acted with an honest purpose to keep the enactment within constitutional limits. This presumption arises from the fact that the Legislature is pledged to support and uphold the Constitution. It is also presumed that the Legislature intended that the whole of the Act and every part of it should be significant and effective. It is obvious that these presumptions are not conclusive. Never the less they throw burden upon the person who attacks the validity to show clearly and convincingly how and in what respect the impugned provision or the Act is violative of any constitutional principle.

6. Mr. T. Lakshmiah, the learned counsel for the petitioner, challenged the validity of Section 32(b) of the Act on the ground that it is obnoxious to Article 14 of the Constitution. His contention is two-fold:

(a) that there is no basis for classifying tenants of buildings constructed before 26-3-1957 and tenants of buildings constructed thereafter, and;

(b) that there is no nexus between the basis of this classification and the object of the Act as is mentioned in the preamble. The preamble of the Act is as follows:An Act to consolidate and amend the law relating to the regulation of leasing of buildings, the control of rent thereof and the

prevention of unreasonable eviction of tenants there from in the State of Andhra Pradesh." What is argued is that Section 32(b) does not advance the purpose of the Act which is threefold viz., (a) the regulation of leasing of buildings, (b) the control of rent thereof and (c) the prevention of unreasonable eviction of tenants there from. It is contended that if the Legislature intended to give incentive to the landlords to construct new Buildings, that purpose could have been achieved by providing higher rent in view of the increase in the costs of sites, material and labour as is done in regard to the buildings constructed prior to 1944 and thereafter. His submission is that as Section 32(b) does not fall within any one of the three objectives mentioned la the preamble, it should be held that the Classification based on time factor is invidiously discriminatory and as there is no nexus between the basis of the classification and the said objectives of the Act, Section 32(b) of the Act is obnoxious to Article 14.

7. We see very little substance in the above contention, What is ignored in advancing this argument is that the preamble is not always the exclusive and exhaustive statement of the object or purpose of the Act. It is true that a preamble to a statute is a prefatory explanation or statement which purports to state the, reason or occasion for making a law or to explain in general terms the policy of the enactment. At the same time it cannot be lost light of, that the preamble is "no part of the law". It cannot therefore, either enlarge or abridge the scope, purpose or policy of the statute. The preamble can certainly be called in aid to interpret the purpose of the enactment as it is considered "a key to open minds of the makers of the Act and the mischief which it intended, to redress". Unfortunately however the preamable is not always true, accurate and complete and if it is allowed to control any enacting part of the Act, many hardships and some absurdities are likely to result. The preamble may therefore provide one of the several valuable intrinsic aids to find out the purpose of the Act. Yet if it is not consistent or complete, the intention or purpose of the legislation can as well be gathered from the provisions of the Act. By this mode we would be giving equal weight to all parts of the Act including the preamble. It is thus plain that the preamble cannot control the enacting part of the statute in cases where the enacting part viz., any provision, is expressed in clear and unambiguous terms leaving no doubt in the minds of the Courts.We are therefore, clear in our opinion that in finding out the purpose of the Act we should look not only to the language of the preamble but to the language of the whole Act, and if we find in the preamble an expression not so large and extensive in its import as those used in any provision of the Act, and upon a view of the whole Act, we can collect from the more large, and extensive expressions used in other parts the veal intention of the Legislature, it is our duty to give effect to the large expressions notwithstanding phrases of less extensive import of the preamble. The true intention can thus be gathered from the preamble as well as other provisions of the Act. Read thus, it will be clear that apart from the object mentioned in the preamble Section 32 itself will have to be examined in order to find out whether it extends and enlarges the object or the purpose of the Act. If must be understood that it is not permissible to declare a

provision of the Act unconstitutional in matters contained in the preamble if the text of the provision indicates the policy which is germane to the general purpose of the Act and is free from constitutional objection.

8. It must be borne in mind that Section 32 provides an exception. It exempts from the Operation of the Act buildings constructed after 26-8-1957. The preamble has therefore to be consistently interpreted with the legislative intent underlying Section 32. The exception itself must be considered in an attempt to determine the intention of the Legislature.

8a. This is true because the legislative purpose is set forth in the general enactment expressing the legislative policy and only that subject expressly exempted by the exception is to be excluded from the operation or the Act. The exception therefore both because of its caption and its form clearly indicates the legislative intent that the buildings constructed after 26-8-1937 In pursuance of a definite policy are excluded from the operation of the Act.

9. It is beyond question that the duty of the Court is to give effect to the Intent of the Legislature, and seek for that intent in every legitimate way. If the language of the statute is clear, then there is hardly any occasion to resort to any other means of interpretation, It is plain that what has no need of Interpretation or what interprets itself, there is no necessity to go outside the Act in order to understand the policy of the law. In cases where the object or the policy of the Act is not expressly disclosed in any part of the Act, it is permissible to consider contemporaneous events to find out the true polity. In ascertaining the legislative purpose where the language used is ambiguous or admits of more than one meaning, recourse can be had among other things to the circumstances existing at the time of the passage of the law, the occasion for the new law and the evil intended to be cured, the remedy intended to be applied, the law prior to the enactment of the Act under consideration and the consequences of the interpretation proposed. *In Ram Krihna Dalmia v. Justice S. R. Tendolkar, their* Lordships of the Supreme Court held that "in order to sustain the presumption of constitutionality the Courts may take into consideration matters of common knowledge, matters of common report, the history of the times, and may assume every state of facts which can be conceived existing at the time of legislation".

The same view is reiterated in Mahomed Hanif v. State of Bihar, AIR 1958 SC 731 at p. 740.

10. It is axiomatic that Courts can take judicial notice of all the facts necessary to determine the existence and validity of an Act qua Act. Thus the legislative history, passage of the law, the manner of its operation, can certainly be judicially noticed. It is clear that where it is required the Court will enquire into legislative history of the Bill, Select Committee reports or a commission's report, to gather the purpose, for which the various provisions are enacted together with noticing the public demand for the legislation and the mischief to be remedied. Thus apart from the

infrinsic aids such as preamble and the purview of the Act, the Court can consider, as stated earlier, resources outside the Act called extrinsic aids in interpreting and finding out the purpose of the Act These resources deal mainly with the history of the Act, both with the prior events leading up to the introduction of the Bill out of which the Act under consideration has emerged and the subsequent events from the time of its introduction until its final enactment as the present Act. It is also permissible to see the interpretation put on the Act by the Judiciary. These aids will show the circumstances under which the Act was passed and the mischief at which if was aimed and the purpose of the Act.

11. Let us in this background examine the history of the Act both before and after it was introduced in the Legislature and how it or its counter-part in other States were judicially interpreted.

12. On account of the conditions which World War II had created there was a great demand for accommodation particularly in big cities like Hyderabad and Secunderabad and important cities and towns in the Districts. The low level of constructional activity in the last two decades and the absence of proper maintenance and repairs also contributed to a large extent to the inadequacy of residential accommodation. It became apparent that the landlords were exploiting the situation to their advantage. Not only rent racketing was in vogue, but several malpractices were employed to enhance the cent and evict the tenants if they are not amenable to their pressure. In order to check such exploitation and to bring the situation under control, the then Government of Hyderabad issued an order No. 68 dated 23rd Thir, 1353 Fasli under Section 72 of the Defence of Hyderabad Regulation called "The Hyderabad Rent Control Order, 1353 Fasli". That order provided for fixation of Fair rent and prevented the unreasonable eviction of the tenants. It did not provide for any exemption. It was enforced in the beginning in a few important cities and towns of the Hyderabad State including the City of Hyderabad After Independence the Hyderabad House (Rent. Eviction and Lease) Control Ac, 1954 was passed by the Legislative Assembly of Hyderabad, which subsequently underwent some amendments. The preamble of the Act indicates the object as follows:

> "For the better control of the rent of houses and to prevent unreasonable eviction of tenants there from and to regulate the leasing of houses."

This Act repealed the Control Order of 1353 Fasli. Section 31 of the said Act exempted certain buildings from the operation of the Act. It also empowered the Government to exempt by a general or special order any person or institution from the operation of the Act as well as buildings used for charitable purposes, hostels and public institutions, It is under this section that the Government of Andhra Pradesh issued G. O. Ms. 1445 (Accommodation-B) dated 26-8-1957 exempting the buildings, the construction of which would have been completed on or after the

date of the said order from the operation of the Act for a period of five years from the date of such completion.

13. After the re-organisation of the States and integration of the Andhra area with the Telangana area this Act had to be integrated with "The Madras Buildings (Lease and Rent Control) Act. 19-19, Act 25 of 1949". The present Act 15/60 did that integration. Under Act 25/49 a Notification G. O. Ms. 1446. General Administration (Accommodation 'B') dated 26-8-1957 was issued exempting the buildings, the construction of which is completed on or after 1-10-1953 from all the provisions of the said Act for a period of five years from the date of such completion. This was applicable to the Andhra area. The Legislature while integrating the abovesaid two Acts which were in force in the said two regions naturally was confronted with the two separate dates mentioned in the said two Notifications relating to exemptions. The Legislature, in its wisdom, thought to give exemption only in the buildings constructed after 26-8-1957 and that is how the said date finds, place in Section 32(b) of the Act. What the present Act did therefore was to continue the status quo in regard to the exemptions and put the date fixed in the Notification in the Section itself. That amounted to giving legislative approval to the action of their delegate taken under the repealed Act in so far as the Telangana area including the City of Hyderabad was concerned.

14. It is pertinent in this connection to note that when the Bill relating to the present Act was before the Joint Select Committee the need of Section 32{b) was considered by the Committee. From the proceedings of the Joint Select Committee of 7-11-1959 the following information can be gathered:

"Clause 33:- The Chairman informed the Committee that the Government of India advised that it would be desirable to make a provision in the substantive Act itself exempting new buildings from the scope of this legislation as it would afford an incentive to the house building activity.It was also explained that at present all buildings constructed after 1-10-1953 in Andhra area are exempt from the scope of the Act for a period of 3 years, while all buildings constructed after 26-8-1957 in Telangaua area are exempt for a period of 5 years, The committee accepted the suggestion that a common date should be fixed and if must be 26-8-1957."This decision of the Joint Select Committee seems to have been incorporated in the Report which they submitted to the Legislative Assembly. At page 4 of this Report the following appears:

21. Clause 32 (old clause 33): The Committee considered it necessary that in order to afford an incentive to the house building activity, all buildings constructed after the 26th August, 1957, should be exempted from the scope of the Bill.Clause 32 has been amended suitably."

15. The measures undoubtedly gave some relief to the tenants occupying the existing buildings.

The Government took steps to check rising rents and for requisitioning premises for persons engaged in essential services. It soon became apparent that there was an increasing pressure on the existing accommodation and that new houses were coming up. Till the time the First Five Year Plan came in except a few cooperative housing societies, no organised efforts of constructing new houses for residential purposes had been undertaken by the State Government. It was to a very large extent left to private enterprise. Construction on private account had almost ceased during the War. With the legislative steps in the form of Rent Acts and compulsory requisitions made by the State Government for essential services, investment in housing became naturally less remunerative and more irksome. Private capital in housing industry thus became shy. Very few new houses were being constructed. Though the State and the Central Governments undertook various schemes to construct houses for residential purposes, it was obvious that the Government alone could not bear the burden of providing residential accommodation to the citizens. Thus the Government was compelled to consider as to how private capital could again be attracted towards construction of new houses in order to meet this very essential requirement of the Citizens. Amongst other concessions shown in order to achieve this aim the first plan suggested to give "exemption from general Municipal tax and urban immovable property tax for private efforts in the area of activity." Along with this another incentive given by the Legislature to attract the private capital to the house building industry was to exempt the new buildings from the operation of the Rent Act which was partly responsible for decrease in the number of constructions or" new houses. That is how we find similar provisions in several State Rent Control Acts. It was expected that it would reduce the pressure on the existing buildings. It is only by this multi-faced attack on the problem of acute shortage of residential accommodation that the Legislature thought that the situation can be brought under control as is evident from the Report of the Joint Select Committee.

16. The said Report in our view provides a valuable aid in finding out as to what prompted the Legislature to enact Section 32 (h). The report of the Joint Select Committee which investigated the desirability of the Act and its various provisions is a valid source for determining the intent of the Legislature when it sets forth the Committee's grounds for recommending passage of the Bill, and, more important, its understanding of the nature and effect of the measure. The use of this material is justified by the fact that, this Report was brought to the attention of the Legislature, and it intended to adopt the views embodied therein when it finally enacted the Committee's recommendations into law.

17. The Act if read in the light of what is stated above, would clearly disclose a well-knit composite policy of regulating lease, controlling the rent and preventing unreasonable eviction and at the same time not affecting the new construction of buildings which would help in solving the house shortage problem. This policy is easily deducible from the language of Section 32 and

the preamble and the purview of the Act. We therefore do not Bud any difficulty in rejecting the contention of Mr. Lakshmiah, the learned counsel for the petitioner that the object of the Act can be found only from the preamble, and as Section 32 does not conform to if, it should be declared ultra vires.

The policy of the Act can be found out, as discussed above, from all permissible intrinsic and extrinsic sources. Thus examined, the policy underlying Section 32 is to provide an incentive to private efforts to construct new buildings. The Act read as a whole therefore balances the policy underlying the main Act and the policy underlying Section 32. This purpose cannot be said to be in any manner derogatory to the main purpose of me Act; in fact it supplements it. It is true that the tenants of the new buildings would suffer from the same hardship in order to redress which the measure was enacted. The Legislature in its wisdom and perhaps with justification thought that this hardship to the tenant will be short lived and compared to the necessity of bringing into existence more and more new houses, for which purpose the concession is shown has necessarily to he tolerated for a short while in the interests of the entire body of tenants as the new buildings are hound to bring down not only the hardships from which the new tenants would thus suffer hut solve the larger problem of residential accommodation thus giving relief in all respects to the entire body of the tenants. It is for this purpose that it is now well-settled that the Legislature can recognise degrees of evil without being arbitrary, unreasonable or in conflict with Article 14 of the Constitution. See . We do not agree with the contention trial such an approach to find out the policy amounts to "conjure up possible situation which might justify the discrimination". It is now well settled that "a statutory discrimination will not be set aside as the denial of equal protection of the laws, if any state of facts reasonably may be conceived to justify it.

18. The argument that this purpose could have been achieved by enhancing the rent of the new buildings is in our opinion devoid of any substance, obviously, because it is not the function of this Court to determine what course of legislation would have better achieved the purpose. Even otherwise as discussed above the rent was not the only thing which was coming in the way of construction of new buildings. Several other features of the Act were found to be coming in the way of drawing private capital and efforts to this area of activity. That is why the new buildings are exempted for all purposes from the operation of the Act.

19. It was contended that the fixation of the date which draws the line between the old and the new buildings, is arbitrary and has no rational basis, which must make Section 32(b) obnoxious to Article 14. In support of this contention the learned counsel relied upon the following decisions:

State of Punjab v. S. Kehar Singh, (KB); Balabhan Manaji v. Bapuji Satwaji Nandanwar, (S) (FB); Shree Meenakshi Mills Ltd. Madurai v.*Viswanatha Sastri (S) and Mayflower Farms v. Ten*

Eyck[1].

We do not think that this argument is sound. It is true that unless a statute is curative or re medial, and therefore, temporary, the classification must not be based on existing conditions only, but provision must be made for future acquisitions to the class as other subjects ac quire the characteristics which form the basis of the classification. It is also true that the principle is of considerable importance when at tempts are made to draw distinction based on time factor putting one class of the instances existing on a designated day and placing all others in another class. It must at the same time be realised that this principle it not rigid and is not without its exceptions. This restrictive principle does not have unlimited operation.It often happens that statutory changes ere made in accordance with the policy so as to take effect after a given date without applying the same rigorously to previously established conditions. Simultaneously in the light of the policy while existing persons or things can be brought within the purview of the Act, others can be excluded from its operation provided there is a definite policy behind such classification and that the basis for such classification is not merely on the ground of time-factor, but is in some way intimately connected with the policy of the Act. In such instances the class of persons on whom the law is to operate, must of course, possess some common disability, attribute or qualification or must occupy some conditions making them as proper objects in their operation or exclusion of special or class legislation.

20. It must be borne in mind that though the question whether the classification is reasonable or necessary is reviewable by the Courts, if is primarily a legislative question, subject to judicial revision only so far us to see that it is founded on real distinction on the subjects classified, and not artificial and irrelevant ones, used for the purposes of evading the constitutional prohibition. Unless a classification is manifestly, purely arbitrary and not founded on a substantial distinction or apparent natural reasons which suggest the necessity or propriety of different legislation, a Court has no right to interfere with the exercise of legislative discretion and it cannot set aside a provision of law merely because in its view it would have been unwise or unnecessary to enact in a particular manner or the same result could have been achieved by a different type of legislation.

21. The date appearing in Section 32(b) of the Act has a historical background. As stated earlier, under the Act of 1954 a Notification fixing this date was already issued and the buildings constructed after that date were exempted from operation of the old law. When the new Act was on the anvil it would have been objectionable to give greater retrospective effect in Telangana area to Section 32(b), as it could have been argued with some justification that no incentive was then necessary in regard to the buildings which already had been constructed in Telangana area. It was therefore not possible to go behind 26-8-57 in so far as the Telangana area was concerned. It was on the other hand possible to bring the houses constructed in the Andhra area after 1-10-

1953 and before 26-8-1957 within the purview of the Act without offending any legal or constitutional propriety. That is why 26th August, 1957 seems to have been chosen, from which date in any case all the buildings throughout the State which were enjoying the exemption under the old Acts would continue to be exempted under the present Act. Looked at from this point of view it cannot be said that the fixation of the date is arbitrary and has no basis for classification or relation with the object of the Act.The decisions cited by the learned advocate can be easily distinguished on facts. In all those cases neither the persons nor the things were classified on any other basis except the time-factor. The classification was neither reasonable, nor its basis had any relation with the policy of the Act under consideration. The instant case differs from those cases, and can well be justified on the abovesaid grounds. In our opinion the classification is based on proper and justifiable distinctions considering the purpose of the law. Once it is accepted that the policy of giving incentive is the basis for Section 32(b) and the Legislature did not want the Act to hamper the building activity, then the tact that the previous Act had already fixed that date which the present Act merely accepted and continued in the present form, cannot be said to be arbitrary or discriminatory in any manner. If Section 32(b) is valid in principle the fixation of this date cannot be obnoxious to Article 14. The classification which is thus made cannot be said to be capricious or arbitrary.

22. The next contention that this classification although reasonable and based on certain well-intended policy has no nexus with the object of the Act is also not tenable. We have already said what the composite policy underlying the whole Act is. In view of that policy Section 32(b) cannot be said to have no relation with it. It is enough if it is germane to the policy in any case. The entire policy of the Act is an integrated one and one part of it has its necessary effects on the other. Both these parts of the policy shade into each other so that equal emphasis is put on both the aspects of the policy by the Legislature. We are therefore satisfied that the classification which Section 32(b) makes is a reasonable classification based on well-recognised policy and has an intimate relation with the object, purpose and policy of the Act as found above. We are therefore of the clear opinion and we hold that Section 32(b) is not obnoxious to Article 14 of the Constitution. It is a good and valid piece of legislation.

23. Let us now consider some of the cases cited at the Bar. The validity of Section 18 of the Madras Buildings (Lease and Rent Control) Act, 25/19, was challenged *in P. J. Irani v. State of Madras,* . Section 13 empowers the State Government to exempt any building or class of buildings from all or any of the provisions of that Act. The Supreme Court upholding the constitutionality of Section 13 agreed with the High Court that individual order or execution passed by the State Government under Section 13 could be the subject of judicial review for finding out whether (a) it was discriminatory so as to offend Article 14 of the Constitution, (b) the order was made on grounds which were germane or relevant to the policy and purpose of the

Act, and (c) it was not otherwise mala fide. It was also held that the preamable and the operative provision of the Act provided enough guidance for the exercise of discretion vested in the State Government under Section 13.

24. *In State of Bombay v. F.N. Balsam*[2], *R* while considering the vires of Section 39 of the Bombay Prohibition Act, 25 of 1949, their Lordships upheld the exemption which the law authorised in favour of certain persons or groups of persons or institutions by introducing the system of processes etc., on the grounds which were considered as germane to the objective of the said Act.

25. A Bench of the Bombay High Court in Rampratap v. Dominion of India, considered the validity of Section 4 (1) of the Bombay Rents Hotel and Lodging House Rates Control Act, 57 of 1947. Section 4 (1) of that Act is in pari materia with Section 32 (a) of the Act in question. It was attacked on similar grounds. It was held that in exempting the Government from the operation of the law, the Legislature has not created a class of which it could be said that it has no rational relation with the object which the Legislature wanted to achieve by the Act. The classification is not unreasonable and Section 4 (1) therefore, was considered as not offending Article 14.

26. A Full Bench of the Allahabad High Court had an occasion to consider in Raman Das v. State of Uttar Pradesh, (FB), a similar question. The question was whether the treatment given to tenants living in buildings constructed prior to First of July, 1946 and to the tenants living in houses constructed thereafter is violative of Article 14. Relying upon the history of the legislation and the necessity of giving incentive to the persons constructing new houses it was held that the classification was justified and is not contrary to Article 14.

27. In G. D. Soni v. S. N. Bhalla, AIR 1959 Punj 381, a Full Bench of that High Court disposing of a similar contention held that the classification of the premises completed before and after 24-3-1947 is not unreasonable for the purpose of achieving the object sought by the Delhi and Ajmer Merwara Rent Control Act, 1947. Consequently Section 7-A and Schedule IV of the Act were found to be good and valid.

28. In Sadhu Singh v. Dist. Board, Gurdaspur, AIR 1960 Punjab 172 the vires of Section 3 of the East Punjab Urban Rent Restriction Act, 1949 were assailed. Under Section 3 the State Government was empowered to direct that the provisions of the Act shall not apply to any particular building or any class of buildings etc. It was held by a learned Judge that Section 3 is intra vires of the Constitution.

29. A Notification issued under Section 3 of the Punjab Act referred immediately before was questioned in Dalip Singh v. Rakha Ram, AIR 1960 Punjab 170. The teamed Judge upholding

the validity held that in order to encourage the construction of buildings if it is considered necessary to exempt a particular class of buildings from the operation of the Act, it does not contravene the guarantee of equality before the law.

30. Consequently both on principle and on authority our concluded opinion is that Section 32 (b) is valid and good and it does not offend in any manner Article 14 of the Constitution.

31. In the view which we have taken it is unnecessary to consider C. R. P. 1679/64. As we have answered the question in the light of which the Lower Court will dispose of the two suits filed before it, no separate order in the C. R. P. is called for. The petitioner will pay the costs. Advocate General's fee Rs. 250 and Advocate's fee Rs. 100. The suits, in view of the circumstances, should be disposed of expeditiously.

Cases Referred.

1(1935) 80 Law Ed. 675
21951 SC 318