

RAVI DUTT SHARMA

B

RATAN LAL BHARGAVA

February 20, 1984

C [ S. MURTAZA FAZAL ALI, A. VARADARAJAN &amp; R.N. MISRA, JJ. ]

*Constitution of India 1950, Article 14: Sections 14A, 25A and 25B of Delhi Rent Control Act 1958 whether ultra vires Article 14.*

D

*Slum Areas (Improvement and Clearance) Act 1956, s. 19 Delhi Rent Control Act 1958, Ss.14 (1) (e), 14A, 25A, 25B & 25C: suit by landlord for eviction of tenant under s.14(1) (e) or s.14A of the Rent Act—prior permission of Competent Authority under Slum Clearance Act—Whether necessary.*

E

The appellant—tenant was inducted into the suit premises as far back as 1945. The respondent landlord applied under section 19 (1) (a) of the Slum Areas Improvement and Clearance) Act 1956 before the Competent Authority for permitting him to institute a suit for eviction of the appellant but that application was dismissed, and the order was confirmed in appeal by the Financial Commissioner. Thereafter the respondent filed a suit for eviction in April 1979 under section 14 (1) (e) read with section 25B of the Delhi Rent Control Act 1958. The tenant applied for leave to defend the suit but the same was rejected and an order of eviction was passed.

F

A revision filed by the tenant in the High Court was dismissed.

G

In the appeal to this Court as well as in the connected Special Leave Petition it was contended that: (1) under section 19 (1) (a) of the Slum Act it is incumbent on the landlord to obtain permission from the Competent Authority before institution of a suit for evicting a tenant and without such permission the suit was no maintainable, and (2) sections 25A and 25B were *ultra vires* of Article 14 of the Constitution and were inconsistent with the Slum Act which was an existing statute and, therefore, the procedure substituted under Chapter IIIA, particularly sections 25A and 25B should be invalidated.

H

Dismissing the Appeal and Special Leave Petition:

HELD: A.(i) The High Court was correct in rejecting the applications of the tenants for setting aside the order of eviction. [624E] A

B.(1) Sections 14A, 25A, 25B and 25C of the Rent Act are special provisions so far as the landlord and tenant are concerned, and in view of the non-obstante clause these provisions override the existing law so far as the new procedure is concerned; [624A] B

(2) There is no difference either on principle or in law between sections 14(1)(e) and 14A of the Rent Act even though these two provisions relate to eviction of tenants under different situations; [624B] C

(3) The procedure incorporated in Chapter IIIA of the Amending Act into the Rent Act is in public interest and is not violative of Article 14 of the Constitution; [624C]

(4) In view of the procedure in Chapter IIIA of the Rent Act, the Slum Act is rendered inapplicable to the extent of inconsistency and it is not, therefore, necessary for the landlord to obtain permission of the Competent Authority under s. 19(1)(a) of the Slum Act before instituting a suit for eviction and coming within s.14(1)(e) or 14A of the Rent Act. [624D-E] C

C.(1) The dominant object of the Amending Act of 1976 was to provide a speedy, expeditious and effect remedy for a class of landlords contemplated by sections 14(1)(e) and 14A and for avoiding unusual dilatory process provided otherwise by the Rent Act. Suits for eviction under the Act take a long time commencing with the Rent Controller and ending up with the Supreme Court. In many cases by the time the eviction decree became final several years elapsed and either the landlord died or the necessity which provided the cause of action disappeared. It was this mischief which the legislature intended to avoid by incorporating the new procedure in Chapter IIIA. It cannot therefore be said that the classification of such landlords would be an unreasonable one because such a classification has got a clear nexus with the objects of the Amending Act of 1976 and the purposes which it seeks to subserve. [619D-F; G] E

(2) The new sections 14A, 25A, 25B and 25C had been introduced for the purpose of meeting a particular contingency as spelt out in the object and reasons behind the new provisions. Once it is recognised that the newly added sections are in the nature of a special law intended to apply to special classes of landlords, the inevitable conclusion would be that the application of the Slum Act stands withdrawn to that extent and any suit falling within the scope of sections 14(1)(e) and 14A would not be governed or controlled by section 19 (1) (a) of the Slum Act. [621CD-] H

**A** (3) It is open to the legislature to pick out one class of the landlords out of several covered by section 14(1)(e) of the Rent Act so long as they formed a class by themselves and the legislature was free to provide the benefit of the special procedure to them in the matter of eviction of their tenants as long as the legislation had an object to achieve and the special procedure had a reasonable nexus with such object to be secured. [621F-G]

**B** (4) The new provision in the Amending Act were intended to have overriding effect and all procedural laws were to give way to the new procedure. [623D]

**C** *Kewal Singh v. Lajwanti* [1980] 1 S.C.R. 854; *Sarwan Singh & Anr. v. Kasturi Lal* [1977] 2 S.C.R. 421; *Vinod Kumar Chowdhry v. Narain Devi Taneja* [1980] 2 S.C.R. 746 referred to.

**D** *Smt. Krishna Devi Nigam & Ors. v. Shyam Babu Gupta & Ors.* AIR 1780 Delhi 165 approved.

**D** CIVIL APPELLATE JURISDICTION : Civil Appeal No. 212 of 1981

**E** Appeal by special leave from the judgment and order dated the 26th August, 1980 of the Delhi High Court in C.R. No. 790 of 1979:

**WITH**

**F** *SPECIAL LEAVE PETITION (CIVIL) NO. 2948 OF 1982*

From the judgment and order dated the 17th December, 1981 of the Delhi High Court in C.R. No. 873 of 1981.

**G** *V.M. Terkunde, P.M. Parekh, Ms. Indu Malhotra, Ms. Kailash Mehta & Vimal Dave* for the Appellant/Petitioners.

**H** *Bikarnjit Nayer and D.D. Sharma* for the Respondent in CA. 212/81.

T.S. Kawatra & N.K. Agarwala for the Respondent in S.L.P. No. 2948 of 1982.

A

The Judgment of the Court was delivered by

B

FAZAL ALI, J. This Appeal by special leave is directed against an order passed by the Delhi High Court on August 26, 1980 affirming an order of eviction of the appellant made by the Rent Controller. The facts of the case lie within a very narrow compass and the appeal involves a pure point of law which is already covered by decisions of this court to which we shall presently refer.

C

D

The tenant, Ravi Dutt Sharma, was inducted into the suit premises as far back as 1945. The landlord Ratan Lal Bhargava applied under section 19 (1) (a) of the Slum Clearance Act ('Slum Act' for short) before the Competent Authority for permitting him to institute a suit for eviction of the appellant but that application was dismissed on July 28, 1973. An appeal against this order was dismissed by the Financial Commissioner on October 4, 1974. Thereafter Respondent filed a suit for eviction of the tenant under s. 14 (1) (e) read with s. 25 (B) of the Delhi Rent Control Act ("Rent Act" for short) on April 13, 1979. Under the provisions of the Rent Act, as amended in 1976 it is incumbent upon the defendant tenant to apply for leave to defend a suit for eviction before entering contest. The tenant applied for such leave but the same was rejected and an order of his eviction was passed on September 14, 1979. A revision by the tenant to the High Court was dismissed and that has led to the appeal to this Court.

E

F

G

H

In the special leave petition Smt. Puspa Rani filed a suit for eviction against her tenant, Swaran Kumar and others, which also was allowed by the Rent Controller and a revision therefrom has been dismissed by the High Court. Hence the petition for special leave against judgment of the High Court has been filed and that was directed to be heard along with the Civil Appeal. It is unnecessary to give the facts involved in the case in which special leave has been asked for because the point of law for consideration is one and the same.

Admittedly the houses for which eviction has been asked for in these two cases are located within the slum areas as defined under the Slum Act. It was contended on behalf of the tenants that the suits for eviction by the landlords were not competent in view of want of permission from the competent Authority under the Slum Act. Under section 19 (1) (a) of the Slum Act it is incumbent on the landlord to obtain permission from the Competent Authority before instituting a suit for evicting a tenant and without such permission the suit is not maintainable.

**B** This argument was countered by the respondent on the ground that by virtue of the Amending Act of 1976 (referred to as the 'Amending Act' for short) a new procedure has been substituted for two types of eviction of tenant—one of which was covered by s. 14 (1) (e) and the other by section 14 (A). In the instant case we are mainly concerned with eviction applications covered by s. 14(1) (e) and the special procedure provided in Chapter III-A introduced by the Amending Act. It was contended by the respondent that by virtue of the Rent Act a special protection was given to a particular class of landlords who fell within the provisions of s. 14(1) (e) of the Rent Act (personal necessity) and in such cases a procedure different from the procedure followed in other cases had been prescribed. Section 25 (A) and 25 (B) sought to simplify the procedure by insisting on the tenant to obtain permission to enter defence. In other words, so far as suits for eviction on the ground of personal necessity were concerned, the case for eviction was put at par with suits under Order 37, Code of Civil Procedure where the Court was satisfied that the tenant had an arguable case, leave to defend would be granted; otherwise the order of eviction would be passed straightway.

**G** Learned counsel for the tenants then argued that sections 25(A) and 25 (B) were *ultra vires* of Article 14 of the Constitution and were inconsistent with the Slum Act which was an existing statute and, therefore, the procedure substituted under Chapter III-A, particularly in SS. 25(A) and 25 (B) should be invalidated. On the other hand, counsel for the landlords contended that by virtue of the Amending Act a new procedure has been added in respect of evictions under s. 14(1) (e) as also the newly added 14(A), and sections 25(A) and 25(B) have been brought into the Statute to give effect to the intention of the legislature by providing a Special procedure and

also making provision that the new procedure would override the existing law to the contrary.

In order to appreciate this contention it may be necessary to give an extract of Statement of objects and reasons of the Amending Act :

"There has been a persistent demand for amendments to the Delhi Rent Control Act, 1958 with a view to conferring a right of tenancy on certain heirs/successors of a deceased statutory tenant to that they may be protected from eviction by landlords and also for simplifying the procedure for eviction of tenants in case the landlord requires the premises bona fide for his personal occupation. Further Government decided on the 9th September 1975 that a person who owns his own house in his place of work should vacate the Government accommodation allotted to him before the 31st December 1975. Government considered that in the circumstances, the Act requires to be amended urgently."

The dominant object of the Amending Act was, therefore, to provide a speedy, expeditious and effective remedy for a class of landlords contemplated by ss. 14 (1)(e) and 14 (A) and for avoiding unusual dilatory process provided otherwise by the Rent Act. It is common experience that suits for eviction under the Act take a long time commencing with the Rent Controller and ending up with the Supreme Court. In many cases experience has indicated that by the time the eviction decree became final several years elapsed and either the landlord died or the necessity which provided the cause of action dissappeared and if there was further delay in securing eviction and the family of the landlord had by then expanded, in the absence of accommodation the members of the family were virtually thrown on the road. It was this mischief which the legislature intended to avoid by incorporating the new procedure in Chapter III-A. The legislature in its wisdom thought that in cases where the landlords required their own premises for bona fide and personal necessity they should be treated as a separate class along with the landlords covered by s. 14 A and should be allowed to reap the fruits of decrees for eviction within the quickest possible time. It cannot, therefore, be said that the classification of such landlords would be

**A** an unreasonable one because such a classification has got a clear nexus with the objects of the Amending Act and the purposes which it seeks to subserve. Tenants cannot complain of any discrimination because the Rent Act merely gave certain protection to them in public interest and if the protection or part of it afforded by the Rent Act was withdrawn and the common law right of the tenant under the Transfer of property Act was still preserved, no genuine grievance could be made. This was clearly held in the case of *Kewal Singh v. Lajwanti*.<sup>(1)</sup>

**C** The matter is no longer *res, integra* and is covered by two decisions of this Court which are directly in point. The first one is the case of *Sarwan Singh & Anr. v. Kasturi Lal*,<sup>(2)</sup> in which an identical point came up for consideration. It was held by this Court that sections 25 (A), 25 (B) and 25 (C) of the Rent Act (introduced by the Amending Act) were special provisions with reference to s. 14 (A) thereof which superseded all existing Acts to the contrary. **D** It was also pointed out that these newly added sections in the Rent Act were to apply only to a class of landlords and, therefore, the question of violation of Act. 14 of the constitution did not arise. While considering various aspects of the aforesaid provisions, Chandrachud, J. (as he then was), spoke for the Court thus :

**E** "When two or more laws operate in the same field and each contains a non-obstante clause stating that its provisions will override those of any other law, stimulating and inquisitive problems of interpretation arise. Since statutory interpretation has no conventional protocol, cases of such conflict have to be decided in reference to the object and purpose of the laws under consideration..... For resolving such inter se conflicts, one other test may also be applied though the persuasive force of such a test is but one of the factors which combine to give a fair, meaning to the language of the law. That test is that the later enactment must prevail over the earlier one. Section 14 A and Chapter III A having been enacted with effect from December 1, 1975, are later enactments in reference to s. 19 of the Slum Clearance Act which in its present form, was placed on the statute book with effect

from February 28, 1965 and in reference to s. 39 of the same Act, which came into force in 1956 when the Act itself was passed. The legislature gave over-riding effect to s. 14 A and Chapter III A with the knowledge that ss. 19 and 39 of the Slum Clearance Act contained non-obstante clauses of equal efficacy. Therefore, the later enactment must prevail over the former. Bearing in mind the language of the two laws, their object and purpose, and the fact that one of them is later in point of time and was enacted with the knowledge of the non-obstante clauses in the earlier law, we have come to the conclusion that the provisions of s. 14 A and Chapter III A of the Rent Control Act must prevail over those contained in ss. 19 and 39 of the Slum Clearance Act."

An analysis of the aforesaid decision clearly reveals that the new sections 14A, 25(A), 25(B) and 25(C) had been introduced for the purpose of meeting a particular contingency asept out in the objects and reasons behind the new provisions. Once it is recognised that the newly added sections are in the nature of a special law intended to apply to special classes of landlords, the inevitable conclusion would be that the application of the Slum Act stands withdrawn to that extent and any suit falling within the scope of the aforesaid sections 14 (1) (e) and 14A would not be governed or controlled by s. 19 (1) (a) of the Slum Act.

It was, however, submitted that s. 14A of the Rent act dealt with a special contingency for which a different procedure had been provided in the matter of evicting tenants by the landlords in occupation of premises allotted by the Central Government or any local authority. This was to enable them to get their own residential accommodation so that they would be in a position to vacate the premises allotted to them by the Central Government. It was contended that as the Central Government and persons in occupation as tenants of premises provided by Central Government were a class by themselves, section 14 A could be taken as a special provision but 14 (1) (e) of the Act could not be elevated to that pedestal. We are not able to accept this argument. It was open to the legislature to pick out one class of landlords out of the several covered by s. 14 (1) (e) of the Rent act so long as they formed a class by themselves and legislature was free to provide the benefit of a special procedure to them in the matter of eviction of their tenants as long the legisla-

A tion had an object to achieve and the special procedure had a reasonable nexus with such object to be secured.

B Despite the ingenious and attractive arguments of Mr. Tarkunde, it seems to us that the distinction made by the learned counsel between ss. 14(1)(e) and 14A is really a distinction without any difference. Moreover, the newly added sections, viz., ss. 14A, 25(A), 25(B) and 25(C) do constitute parts of a special scheme and have the effect of making the Sulum Act inapplicable. In view of the pronouncement of this Court as referred to above, it is impossible to accede to the contention advanced on behalf of the tenants. In C *Kewal Singh's* case (supra), a decision to which one of us was a party (Fazal Ali, J.), this Court observed as follows—

D "The Act actually replaced the Ordinance which was promulgated on 1st December, 1979. The objects and reasons clearly reveal that the amendment has been made or simplifying the procedure for eviction of tenants in case the landlord requires the premises bona fide for his personal occupation. It is a matter of common knowledge that even though the landlord may have an immediate and imperative necessity for vacating the house given to a tenant he is compelled to resort to the time consuming and dilatory procedure of a suit which takes years before the landlord is able to obtain the decree and in most cases by the time the decree is passed either the landlord dies or the need disappears and the landlord is completely deprived of getting any relief. It appears to us that it was for these reasons that the legislature in its wisdom thought that a short and simple procedure should be provided for those landlords who generally want the premises for their bona fide necessity so that they may be able to get quick and expeditious relief. . . . The landlords having personal necessity have been brought together as a separate class because of their special needs and such a classification cannot be said to be unreasonable particularly when the legislature in its wisdom feels that the landlords should get this relief as quickly as possible

H Thus taking an overall picture of the situation, the circumstances under which the landlord's needs have been classified and the safeguards given by the statute it cannot be said by

any stretch of imagination that section 29B and its sub-sections are violative of Article 14 of the Constitution of India, or that section 29B suffers from the vice of excessive delegation of powers. In fact section 29B contains valuable and sufficient guidelines which completely exclude the exercise of uncanalised or arbitrary powers by the Rent Controller.

The ratio of this case reinforces the rule laid down in *Sarwan Singh's case* supra and in *Vinod Kumar Chowdhry v. Narain Devi Taneja*,<sup>(1)</sup> it was clearly pointed out that whenever there was any conflict between section 29A and any other provision of law, s. 29A was to override and prevail. Here again one of us (Fazal Ali, J.) observed;

"The non-obstante clause occurring in section 29A makes it quite clear that whenever there is a conflict between the provisions of Chapter IIIA on the one hand and those of the rest of the Act or of any other law for the time being in force on the other, the former shall prevail."

It is, therefore, clear from the new provision in the Amending Act that the procedure indicated therein was intended to have overriding effect and all procedural laws were to give way to the new procedure. Applications under s. 14 (1) (e), therefore, clearly fell within the protective umbrella of the new procedure in Chapter IIIA.

An identical view has been taken by the Delhi High Court in the case of *Smt. Krishna Devi Nigam & Ors. v. Shyam Babu Gupta & Ors.*,<sup>(2)</sup> In this decision it has been clearly held that the provisions of s. 29A cannot be controlled by the provisions of the Slum Act. We fully approve and endorse the ratio laid down in that decision as it is in conformity with the consistent opinion of this Court.

On a consideration, therefore, of the facts and circumstances of the case and the law referred to above, we reach the following conclusions :

(1) [1980] 2 S.C.R. 747.

(2) AIR 1980 Delhi 165.

**A** (1) That sections 14A, 25A, 25B and 25C of the Rent Act are special provisions so far as the landlord and tenant are concerned and in view of the non-obstante clause these provisions would override the existing law so far as the new procedure is concerned;

**B** (2) That there is no difference either on principle or in law between sections 14(1)(e) and 14A of the Rent Act even though these two provisions relate to tenants under different situations;

**C** (3) That the procedure incorporated in Chapter IIIA of the Amending Act into the Rent Act is in public interest and is not violative of Article 14 of the Constitution;

**D** (4) That in view of the procedure in Chapter IIIA of the Rent Act, the Slum Act is rendered inapplicable to the extent of inconsistency and it is not, therefore, necessary for the landlord to obtain permission of the Competent Authority under s. 19 (1) (a) of the Slum Act before instituting a suit for eviction and coming within s. 19(1) (c) or 19A of the Rent Act.

**E**

**F** We are, therefore, of the opinion that the High Court was correct in rejecting applications of the tenants for setting aside the order of eviction. The appeal is accordingly dismissed but without any order as to costs.

**G** As a result of our decision, the special leave petition has to be dismissed. In both these cases time to vacate the premises is extended till June 30, 1984, subject to filing of the usual undertaking within four weeks from today failing which the landlords shall be free to ask for possession forthwith through the executing court.

**H**

N.V.K.

*Appeal & Petition dismissed.*