SMT. GIAN DEVI ANAND

v.

JEEVAN KUMAR AND OTHERS

May 1, 1985

[Y.V. CHANDRACHUD, C.J., P.N. BHAGWATI, S. MURTAZA FAZAL ALI, AMARENDRA NATH SEN AND V. BALAKRISHNA ERADI, JJ.]

Delhi Rent Control Act, 1958, ss. 14(1)(a) and 15(1)—Heirs of a deceased tenant—Whether enjoy protection under the Act—Commercial tenancy—Whether heritable.

The appellant's husband was the tenant in respect of a shop under the respondent-landlord since 1979. In 1970 the respondent-landlord served a notice on the appellant's husband determining the tenancy. Thereafter, he filed a petition under section 14 of the Delhi Rent Control Act, 1958 for eviction of the tenant from the said shop on several grounds including the grounds of non-payment of rent and sub-letting. The Rent Controller dismissed the petition. Against the order of the Rent Controller the respondent-landlord preferred an appeal before the Rent Control Tribunal and the tenant filed cross-objections. During the pendency of the appeal, the tenant died and the present appellant was substituted. The Rent Control Tribunal remanded the case to the Rent Controller to decide the question of sub-letting afresh after affording an opportunity to the parties to lead evidence.

Aggrieved by the order of the Rent Control Tribunal, the appellant filed an appeal in the High Court. The respondent-landlord filed cross-objection and further raised a contention that in view of the death of the original tenant who continued to remain in possession of the shop as a statutory tenant, the widow and the heirs of the deceased-tenant were not entitled to continue to remain in occupation thereof. The High Court allowed the cross-objection filed by the respondent-landlord and passed a decree for eviction against the appellant mainly on the ground that the protection afforded to the statutory tenant by the Act was not available to the heirs and the legal representatives.

In appeal to this Court the appellant while relying upon *Damadi Lal and Ors.* v. *Parashram and Ors.* [1976] Supp. S.C.R. 645 and *V. Dhanapal Chettiar* v. *Yesodai Ammal* [1980] 1 S.C.R. 334, contended that notwithstanding the determination of the statutory tenancy of the tenant in respect of any commercial premises, the position in law remains unchanged in so far as the tenancy in respect of commercial premises is concerned by virtue of the provisions of the Act. The respondent, however argued (i) that the protection against the eviction after termination of tenancy afforded to a tenant by the Act creates a personal right in favour of the tenant who continues to remain in possession after termination of his tenancy without any estate or interest in

the premises and therefore on the death of such a tenant his heirs who had neither any estate or interest in the tenanted premises and who do not have any protection under the Act against eviction are liable to be evicted as a mattet of course under the ordinary law of the land ; and (ii) that the amendment to the definition of 'tenant' with retrospective effect introduced by the Delhi Rent Control Amendment Act (Act 18 of 1976) to give personal protection and personal right to continue in possession to the heirs of the deceased statutory tenant in respect of residential premises only and not with regard to the so called statutory tenant in respect of commercial premises indicated that the heirs of so called statutory tenant, do not enjoy any protection under the Act.

Allowing the appeal,

[*Per Y.V. Chandrachud C.J., S.M. Fazal Ali, A.N. Sen and V.B. Eradi JJ.*]

HELD : (1)(i) The term "statutory tenant" is used in English Rent Act and though this term is not to be found in the Indian Acts, in the judgments of the Supreme Court and also various High Courts in India, this term has often been used to denote a tenant whose contractual tenancy has been terminated but who has become entitled to continue to remain in possession by virtue of the protection afforded to him by the statutes in question; namely, the various Rent Control Acts prevailing in different States of India. It is also important to note that notwithstanding the termination of the contractual tenancy by the Landlord, the tenant is afforded protection against eviction and is permitted to continue to remain in possession even after the termination of the contractual tenancy by the Act in question and invariably by all the Rent Acts in force in various States so long as an order of decree for eviction against the tenant on any of the grounds specified in such Acts on the basis of which an order or decree for eviction against the tenant can be passed, is not passed. [14 H; 15 A-B]

(1)(ii) Though provisions of all the Rent Control Acts are not uniform, the common feature of all the Rent Control Legislation is that a contractual tenant on the termination of the contractual tenancy is by virtue of the provisions of the Rent Acts not liable to be evicted as a matter of course under the ordinary law of the land and he is entitled to remain in possession even after determination of the contractual tenancy and no order or decree for eviction will be passed against a tenant unless any ground which entitles the landlord go get an order or decree for possession specified in the Act is established. [25 D-E]

(2)(i) It is clear from the definition of tenant, whether in the original Act or in the amended Act, that the tenant within the meaning of the definition of the term in the Act includes any person continuing in possession after the termination of his tenancy. [28 G]

(2)(ii) Section 14 of the Act clearly postulates that despite the termination of the tenancy and notwithstanding the provisions of any other law which might have been applicable on the termination of the contractual tenancy, protection against eviction is applicable to every tenant as defined

in S. 2(i) of the Act. This section clearly establishes that determination of a contractual tenancy does not disqualify him from continuing to be a tenant within the meaning of this Act and the tenant whose contractual tenancy has been determined enjoys the same position and is entitled to protection against eviction. The other sections in Chapter III also go to indicate that the tenant whose tenancy has been terminated enjoys the same status and benefit as a tenant whose tenancy has not been terminated, and a tenant after termination of his tenancy stands on the same footing as the tenant before such termination. Chapter III A which provides for summary trial for certain applications also does not make any distinction between a tenant whose tenancy has been determined and a tenant whose tenancy has not been terminated. Chapter IV which deals with deposit of rent consists of ss. 26 to 29 and these sections make it clear that the tenant after determination of a tenancy is treated under the Act on the same footing as a tenant whose tenancy has not been determined. Chapter VI though not very material for the purpose of adjudication of the point involved indicates that no discrimination is made in the matter of proceedings for eviction between the 'so called statutory tenant' and a contractual tenant. Chapter VII which consists of sections 44 to 49 makes provisions regarding obligations of landlords and also provides for penalties in appropriate cases. The sections make it clear that the duties and obligations of landlords cast upon the landlord apply equally whether the tenant is a so called 'statutory tenant' or the tenant is a contractual tenant. It may, however, be noted that section 50 which bars the jurisdiction of Civil Courts in respect of certain matters does not in any way discrimate between a 'so called statutory tenant' and a contractural tenant. Thus, the various provisions of the Act, make it abundantly clear that the Act does not make any distinction between a 'so called statutory tenant' and a 'contractual tenant' and the Act proceeds to treat both alike and to preserve and protect the status and rights of a tenant after determination of the contractual tenancy in the same way as the status and rights of a contractural tenant are protected and preserved. [30 A-H; 31 A]

V. Dhanpal Chattiar v. *Yesodai Ammal*, [1980] 1 SCR 334, relied upon.

(3)(i) The termination of the contractural tenancy in view of the definition of 'tenant' in the Act does not bring about any change in the status and legal position of the tenant, unless there are contrary provisions in the Act; and, the tenant notwithstanding the termination of tenancy does enjoy an estate or interest in the tenanted premises. This interest or estate which the tenant under the Act despite termination of the contractual tenancy continues to enjoy creates a heritable interest in the absence of any provision to the contrary. The amendment of the definition of 'tenant' by Act 18 of 1976 introducing particulary section 2(i)(iii) does not in any way mitigate against this view. The said sub-section (iii) with all the three Explanations thereto is not in any way inconsistent with or contrary to sub-section (ii) of Section 2(1) which unequivocally states that 'tenant' includes any person continuing in possession after the termination of his tenancy. In the absence of the provision contained in sub-section 2(i)(iii), the heritable interest of the heirs of the statutory tenant would devolve on all the heirs of the 'so called statutory tenant' on his death and the heirs of such tenant would in law step into his position. [33 G-H; 33 A-C]

Damadial & Ors. v. *Parashram & Ors.*, [1976] Supp. S.C.R. 645 *followed.*

(3)(ii) Section 2(i)(iii) of the Act does not create any additional or special right in favour of the heirs of the 'so called statutory tenant' on his death, but seeks to restrict the right of the heirs of such tenant in respect of residential premises. As the status and rights of a contractual tenant even after determination of his tenancy when the tenant is at times described as the statutory tenant, are fully protected by the Act and the heirs of such tenants become entitled by virtue of the provisions of the Act to inherit the status and position of the statutory tenant on his death, the Legislature which has created this right has thought it fit in the case of residential premises to limit the rights of the heirs in the manner and to the extent provided in S. 2(1)(iii). However, the Legislature has not thought it fit to put any such restrictions with regard to tenants in respect of commercial premises in this Act. So long as the contractual tenancy of a tenant who carries on the business continues, there can be no question of the heirs of the deceased tenant not only inheriting the tenancy but also inheriting the business and they are entitled to run and enjoy the same. [33 D-G]

(3)(iii) The mere fact that in the Act no provision has been made with regard to the heirs of tenants in respect of commercial tenancies on the death of the tenant after termination of the tenancy, as has been done in the case of heirs of the tenants of residential premises, does not indicate that the Legislature intended that the heirs of the tenants of commercial premises will cease to enjoy the protection afforded to the tenant under the Act. The Legislature could never have possible intended that with death of a tenant of the commercial premises, the business carried on by the tenant, however flourishing it may be and even if the same constituted the source of livelihood of the members of the family, must necessarily come to an end on the death of the tenant, only because the tenant died after the contractual tenancy had been terminated. [35 F-H]

(3) (iv) In case of commercial premises governed by the Delhi Act the Legislature has not thought to fit in the light of the situation at Delhi to place any kind of restriction on the ordinary law of inheritance with regard to succession. It may also be borne in mind that in case of commercial premises the heirs of the deceased tenant not only succeed to the tenancy right in the premises but they succeed to the business as a whole. It might have been open to the Legislature to limit or restrict the right of inheritence with regard to the tenancy as the Legislature had done in the case of the tenancies with regard to the residential houses but it would not have been open to the Legislature to alter under the Rent Act, the law of succession regarding the business which is a valuable heritable right and which must necessarily devolve on all the heirs in accordance with law. The absence of any provision restricting the heritability of the tenancy in respect of the commercial premises only establishes that commercial tenanceis notwithstanding the determination of the contractual tenanceis will devolve on the heirs in accordance with law and the heirs who step into the position of the deceased tenant will contiuue to enjoy the protection afforded by the act and they can only be evicted in accordance with the provisions of the Act. [36 B-E]

(3) (v) As the protection afforded by the Rent Act to a tenant after determination of the tenancy and to his heirs on the death of such tenant is a creation of the Act for the benefit of the tenants, it is open to the Legislature which provides for such portection to make appropriate provisions in the Act with regard to the nature and extent of the benefit and protection to be enjoyed and the manner in which the same is to be enjoyed. If the Legislature makes any provision in the Act limiting or restricting the benefit and the nature of the protection to be enjoyed in a specified manner by any particular class of heirs of the deceased tenant on any condition laid down being fulfilled, the benefit of the protection has necessarily to be enjoyed on the fulfilment of the condition in the manner and to the extent stipulated in the Act. The Legislature which by the Rent Act seeks to confer the benefit on the tenants and to afford protection against eviction, is perfectly competent to make appropriate provision regulating the nature of protection and the manner and extent of enjoyment of such tenancy rights after the termination of contractual tenancy of the tenant including the rights and the nature of protection of the heirs on the death of the tenant. [38 C-F]

(3) (vi) When the tenant is a Company or a Corporation or any body with juristic personality, question of the death of the tenant will not arise. Despite the termination of the tenancy, the Company or the Corporation of such juristic personalities, however, will go on enjoying the protection afforded to the tenant under the Act. It can hardly be conceived that the Legislature would intend to deny to one class of tenants, namely, individuals the protection which will be enjoyed by the other class, namely, the Corporation and Companies and other bodies with juristic personality under the Act. [36 G-H]

(4) In the instant case' there is no provision in the Act regulating the rights of the heirs to inherit the tenancy rights of the tenant in respect of the tenanted premises which is commercial premises, the tenancy right which is heritable devolves on the heirs under the ordinary law of suceession. The tenancy right of appellant's husband therefore, devolves on all the heirs on his death. The heirs and legal repersentatives of appellant's husband step into his position and they are entitled to the benefft and protection of the Act. Therefore, the High Court was not right in coming to the conclusion that the heirs of appellant's husband the so called statutory tenant, did not have any right to remain in possession of the tenanted premises and did not enjoy any protection under the Act. The judgment and order of the High Court is therefore set aside and the case is remanded to the High Court for decision of the appeal and the cross objection on merits. The appeal is accordingly allowed to the extent indicated above. [39 B; D-E; G]

Ganpat Ladha v. *Sashikant Vishnu Shinde*, [1978] 3 S. C. R. 198 dissented.

The Legislature may consider the advisability of making bona fide requirement of the landlord a ground of eviction in respect of commercial premises as well. [40 F]

Per Bhagwati, J. (Concurring)

A

Though genetically the parentage of the two legal concepts, namely, contractual tenancy and statutory tenancy is different, one owing its origin to contract and the other to rent control legislation, they are equated with each other and their incidents are the same. If a contractual tenant has an estate or interest in the premises which is heritable, it is difficult to understand why a B statutory tenant should be held not to have such heritable estate or interest. In one case, the estate or interest is the result of contract while in the other, it is the result of statute. But the quality of the estate or interest is the same in both cases. When the rent control legislation places a statutory tenant on the same footing as a contractual tenant, wipes out the distinction between the two and invests a statutory tenant with the same right, obligations and incidents as a contractual tenant, why should it be difficult to hold that, just C like a contractual tenant, a statutory tenant also has estate or interest in the premises which can be inherited. [8 B-F]

It is true that there are certain observations in *Ganpat Ladha* v. *Sashikant Vishnu Shinde*, [1978] 3 S. C. R. 198, which go counter to what the Court is holding in the present case and to that extent these observations must D be held not to enunciate the correct law on the subject. This Court was not really concerned in that case with the question of heritability of statutory tenancy. The only question was in regard to the true interpretation of Section 5 (ii) (c) of the Bombay Rents, Hotel and Lodging House Rates Control Act 1947 which is almost in same terms as Section 2 (1) (iii) of the Delhi Rent Control Act 1958 and while dealing with this question, the Court made certain observations regarding the nature of statutory tenancy and its heritability. The E attention of the Court was not focussed on the question whether a statutory tenant has an estate or interest in the premises which is heritable and no argument was advanced that a statutory tenancy is heritable. It was assumed that a statutory tenancy is not heritable and on that footing the case was argued in regard to the true meaning and construction of Section 5 (ii) (c). The observations made in that case to the extent to which they conflict with the F judgment in the present case must therefore be regarded as overruled. [9 A-D]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3441 of 1972.

From the Judgment and Order dated 11-10-1979 of the G Delhi High Court in S.A.O. No. 8 of 1979.

S.N. Andley, Uma Datta, T.C. Sharma and *K.S. Mohan* for the Appellant.

H

Mrs. Shyamla Pappu, B.B. Sawhney, Mrs. Indra Sawhney and *Miss Kittu Bansilal* for the Respondents.

The following Judgments were delivered

A

BHAGWATI, J. I entirely agree with the Judgment just delivered by my learned brother A.N. Sen, J. I am adding a few words of my own since I was a party to the decision in *Ganpat Ladha* v. *Shashikant Vishnu Shinde*(1) where certain observations were made which seem to take a different view from the one we are taking in the present case.

B

The question which arises here for consideration is as to whether statutory tanancy is heritable on the death of the statutory tenant. 'Statutory tenant' is not an expression to be found in any provision of the Delhi Rent Control Act 1958 or the rent control legislation of any other State. It is an expression coined by the judges in England and, like many other concepts in English law, it has been imported into the jurisprudence of this country and has become an expression of common use to denote a tenant whose contractual tenancy has been determined but who is continuing in possession of the premises by virtue of the protection against eviction afforded to him by the rent control legislation. Though the expression 'statutory tenant' has not been used in any rent control legislation the concept of statutory tenant finds recognition in almost every rent control legislation The definition of 'tenant' in Section 2(1) of the Delhi Rent Control Act 1958—and I am referr ng here to the provisions of the Delhi Rent Control Act 1958 because that is the statute with which we are concerned in the present case—includes a statutory tenant. It says in clause (ii) that 'tenant' includes any person continuing the possession after the termination of his tenancy'. Such a person would not be a tenant under the ordinary law but he is recognised as a 'tenant' by the rent control legislation and is therefore described as a statutory tenant as contra-distinguished from contractual tenant. The statutory tenant is, by virtue of inclusion in the definition of 'tenant', placed on the same footing as contractual tenant so far as rent control legislation is concerned. The rent control legislation in fact, as pointed out by this Court in a seven judge Bench decision in *V. Dhanapal Chettiar* v. *Yesodai Ammal*(2) does not make any distinction between contractual tenant and statutory tenant. "It does not permit the landlord to snap his relationship with the tenant merely by his act

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(1) [1978] 3 S.C.R. 198.
(2) [1980] 2 S.C.R. 334.

of serving a notice to quit on him. Inspite of the notice, the law says that he continues to be a tenant and he does so enjoying all the rights of a lessee and is at the same time deemed to be under all the liabilities such as payment of rent etc. in accordance with the law." The distinction between contractual tenancy and statutory tenancy is thus completely obliterated by the rent control legislation. Though genetically the percentage of these two legal concepts is different, one owing its origin to contract and the other to rent control legislation, they are equated with each other and their incidents are the same. If a contractual tenant has an estate or interest in the premises which is heritable, it is difficult to understand why a statutory tenant should be held not to have such heritable estate or interest. In one case, the estate or interest is the result of contract while in the other it is the result of statute. But the quality of the estate or interest is the same in both cases. The difficulty in recognising that a statutory tenant can have estate or interest in the premises arises from the fact that throughout the last century and the first half of the present, almost until recent times, our thinking has been dominated by two major legal principles, namely, freedom of contract and sanctity of private property and therefore we are unable to readily accept that legal relationships can be created by statute despite want of contractual concensus and in derogation of property rights of the landlord. We are unfortunately not yet reconciled to the idea that the law is moving forward from contract to status. Why can estate or interest in property not be created by statute? When the rent control legislation places a statutory tenant on the same footing as a contractual tenant, wipes out the distinction between the two and invests a statutory tenant with the same right, obligations and incidents as a contractual tenant, why should it be difficult to hold that, just like a contractual tenant, a statutory tenant also has estate or interest in the premises which can be inherited. Of course, strong reliance was placed on behalf of the landlord on Section 2(1) (iii) of the Delhi Rent Control Act 1958 to combat this conclusion but that provision merely limits or circumscribes the nature and extent of the protection that should be available on the death of a statutory tenant in respect of residential premises. It does not confer a new right of heritability which did not exist aliunde. My learned brother A.N. Sen, J. has discussed this aspect of the case in great detail and I find myself wholly in agreement with what he has said in regard to the true meaning and import of Section 2(1) (iii).

Now a word about *Ganpat Ladha's* case (supra). It is true that there are certain observations in that case which go counter to what we are holding in the present case and to that extent these observations must be held not to enunciate to correct law on the subject. This Court was not really concerned in that case with the question of heritability of statutory tenancy. The only question was in regard to the true interpretation of Section 5(ii) (c) of the Bombay Rents, Hotel and Lodging House Rates Control Act 1947 which is almost in same terms as Section 2(1) (iii) of the Delhi Rent Control Act 1958 and while dealing with this question, the Court made certain observations regarding the nature of statutory tenancy and its heritability. The attention of the Court was not focussed on the question whether a statutory tenant has an estate or interest in the premises which is heritable and no argument was advanced that a statutory tenancy is heritable. It was assumed that a statutory tenancy is not heritable and on that footing the case was argued in regard to the true meaning and construction of Section 5(ii) (c). The observations made in that case to the extent to which they conflict with the judgment in the present case must therefore be regarded as overruled.

I accordingly concur with the order made by my learned brother A.N. Sen, allowing the appeal and remanding the case to the High Court for disposal according to law. There will be no order as to costs.

A.N. SEN, J. The question for consideration in this appeal by special leave is whether under the Delhi Rent Control Act, 1958 (for the sake of brevity hereinafter referred to as the Act), the statutory tenancy to use the popular phraseology, in respect of commercial premises is heritable or not. To state is more precisaly, the question is whether the heirs of a deceased tenant whose contractual tenancy in respect of commercial premises has been determined, are entitled to the same protection against eviction afforded by the Act to the tenant.

The question is essentially a question of law. This very question has been raised in a number of appeals, arising out of different sets of facts giving rise, however, to this common question of law in all the appeals. As the decision on this common question of law which arises in the other appeals pending in this Court may effect the parties in the other appeals, we considered it proper to

A hear the counsel appearing in all the appeals on this common question of law. We, however, feel that it will be convenient to deal with the other appeals separately and dispose of the same, applying the decision or this common question of law in the light of the facts and circumstances of the other cases and pass appropriate orders and decrees in the other appeals when they are taken up for B disposal.

Though the question is mainly one of law, it is necessary for a proper appreciation of the question involved to set out in brief the facts of the present appeal which is being disposed of by this C judgment.

One Wasti Ram was the tenant in respect of Shop No. 20, New Market, West Patel Nagar, New Delhi under the respondent at at the monthly rent of Rs. 110. He came into possession as such tenant on and from 1.9.1959. In April, 1970 the respondent land- D lord determined the tenancy by serving a notice to quit on the tenant Wasti Ram, since deceased. In September, 1970, the respondent landlord filed a petition under S. 14 of the Act for the eviction of the tenant Wasti Ram from the said shop on the following grounds :—(1) non-payment of rent, (2) bona-fide requirement, E (3) change of user from residential to commercial, (4) substantial damage to property and (5) sub-letting. In the petition filed by the landlord against the tenant Wasti Ram, the landlord had also impleaded one Ashok Kumar Sethi, as defendant No. 2 alleging him to be the unlawful sub-tenant of the tenant Wasti Ram. By judgment and order dated 19.5.1975, the Rent Controller held that F (1) the ground of bona fide requirement was not available to the landlord under the Act in respect of any commercial premises (2) the premises had been let out for commercial purposes and there had been no change of user, (3) no substantial damage to property had been done by tenant and (4) sub-letting had been established. On G the question of non-payment of Rent, the Rent Controller held that the tenant was liable to pay a sum of Rs. 24 by way of arrears for the period of 1.3.1969 to 28.2.1970 after taking into consideration all payments made and a further sum of Rs. 90 on account of such arrears for the month of September 1970 and the rent sub- H sequent to the month of March, 1975, if not already deposited. In view of the aforesaid finding on the question of default in payment of rent, the Rent Controller held that the tenant was liable to eviction under S. 14(1)(a) of the Act and further held that in view of

the provisions contained in S. 15(1) of the Act there would however be no order or decree for eviction if the tenant deposited all the aforesaid arrears within a period of one month from the date of the order and in that case the ground of non-payment of rent would be wiped out. The Rent Controller ordered accordingly.

Against the order of the Rent Controller, the landlord preferred an appeal on 13.7.1975 and the tenant Wasti Ram filed his cross-objection. The cross-objection of the tenant was against the order of the Rent Controller regarding his fiinding on default in payment of rent. The landlord in his appeal had challenged the finding of the Rent Controller on the question of substantial damage to the property by the tenant and also the finding of the Rent Controller on the question of sub-letting. It appears that during the pendency of the appeal, the tenant Wasti Ram died and on 5.9.1977 the prerent appellant Smt. Gian Devi Anand, the widow of deceased Wasti Ram, was substituted in place of Wasti Ram on the application of the landlord. The Rent Control Tribunal allowed the cross-objection of the tenant and held that there was no default on the part of the tenant in the matter of payment of rent. The Rent Control Tribunal rejected the first contention of the landlord in the Landlord's Appeal regarding substantial damage done to the property by the tenant. On the other question, namely, the question of sub-letting, the Rent Control Tribunal allowed the appeal of the landlord and remanded the case to the Rent Controller to decide the question of sub-letting after affording an opportunity to the parties to lead evidence in this regard.

Against the order of the Rent Control Tribunal, Smt. Gian Devi Anand, the widow of the deceased tenant, filed an appeal in the High Court impleading in the said appeal the other heirs of Wasti Ram as pro-forma respondents. The landlord also filed a cross-objection in the High Court after the widow had presented the appeal against the order of the Rent Control Tribunal directing remand on the question of sub-letting. In the cross-objection filed by the landlord, the landlord had challenged the finding of the Tribunal on the question of non-payment of rent and had further raised a contention that view of the death of the original tenant Wasti Ram, who continued to remain in possession of the shop as a statutory tenant, the widow and the heirs of the deceased tenant were not entitled to continue to remain in occuption thereof. The High Court held that on the death of the statutory tenant, the heirs

of the statutory tenant had no right to remain in possession of the premises, as statutory tenancy was not heritable and the protection afforded to a statutory tenant by the Act is not available to the heirs and legal representatives of the statutory tenant. In this view of the matter the High Court did not consider it necessary to go into other questions and the High Court allowed the cross-objection filed by the landlord and passed a decree for eviction against the appellant and the other heirs of Wasti Ram, the deceased tenant.

The correctness of this view that on the death of a tenant whose tenancy in respect of any commercial premises has been terminated during this life time, whether before the commencement of any eviction proceeding against him or during the pendency of any eviction proceeding against him, the heirs of the deceased tenant do do not enjoy the protection afforded by the Act to the tenant and they do not have any right to continue to remain in possession because they do not inherit the tenancy rights of the deceased tenant, is challenged in this appeal.

The learned counsel for the appellant-tenant argues that there could be no doubt that a contractual tenancy is heritable and he contends that notwithstanding the termination of the contractual tenancy of the tenant in respect of any commercial premises, the position in law remains unchanged in so far as the tenancy in respect of commercial premises is concerned, the virtue of the provisions of the Act. In support of this contention reference is made to the provisions of the Act and strong reliance is placed on the decision of this court in the case of *Damadi Lal & Ors.* v. *Parashram & Ors.*(1) and also to the decision of this Court in the case of *V. Dhanapal Chettiar* v. *Yesodai Ammal.*(2).

The learned counsel appearing on behalf of the landlord—respondents have submitted that on the determination of the contractual tenancy, the tenancy comes to an end and the tenant ceases to have any estate or interest in the premises. It is contended that on determination of the tenancy, the tenant becomes liable to be evicted in due process of law under the general law of the land; but, the Act affoads a protection to the tenant against such evictiod in as the Act provides that inspite of the termination of

(1) [1976] Supp. S.C.R. 245.
(2) [1977] 1 S.C.R. 334.

the tenancy, no order or decree for procession shall be passed against the tenant, unless any of the grounds mentioned in the Act which entitles a landlord to recover possession of the premises from the tenant is established. It is contended that the protection to the tenant under the Act is against eviction except on grounds recognised by the Act and the protection is only in the nature of personal protection to the tenant who continues to remain in possession after the termination of the tenancy. The contention is that the tenant loses the estate or interest in the tenanted premises after termination of the contractual tenancy and the tenant by virtue of the Act is afforded only a personal protection against eviction; and, therefore, the heirs of such tenant on his death acquire no interest or estate in the premises, because the deceased tenant had none, and they can also claim no protection against eviction, as the protection under the Act is personal to the tenant as long as the tenant continues to remain in possession of the premises after the termination of the tenancy. The argument, in short, is that the protection against eviction after termination of tenancy afforded to a tenant by the Act creates a personal right in favour of the tenant who continues to remain in possession after termination of his tenancy without any estate or interest in the premises; and, therefore, on the death of such a tenant, his heirs who have neither any estate nor interest in the tenanted premises and who do not have any protection under the Act against eviction, are liable to be evicted as a matter of course under the ordinary Law of the land. In support of this argument various authorities including decisions of this Court, of various High Courts, of English Courts and also passages from Halsburys" Laws of England and other eminent English authors have been cited.

It has been further argued that in view of the clear provision in law that heirs of a deceased tenant whose tenancy had been terminated during his life time and who was continuing in possession by virtue of the provisions of the Act did not enjoy any protection and was liable to be evicted as a matter of course, the Legislature considered it fit to intarvene to give some relief to the heirs of the deceased tenant in respect of the residential premises and amended the Act of 1958 by Delhi Rent Control (Amendment) Act, 1976 (Act 18 of 1976) by changing the definition of 'tenant' with retrospective effect. The argument is that by virtue of the amendment introduced in 1976 with retrospective effect, the heirs of the deceased tenant specified in s. 2 (iii) enjoy the protection against eviction

during their life time in the manner mentioned therein, provided the conditions mentioned therein are satisfied, only with regard to residential premises. It is contended that with regard to the residential premises such limited protection essentially personal to the heirs specified and to be enjoyed by them for their lives in the manner laid down in the said sub-section 2 (1) (iii) has been provided by the amendment; but in respect of commercial premises no such protection has been given.

We do not consider it necessary to refer to the various English cases and the other English authorities cited from the Bar. The English cases and the other authorities turn on the provisions of the English Rent Acts. The provisions of the English Rent Acts are not in *pari materia* with the provisions of the Act in question or the other Rent Acts prevailing in other States in India. The English Rent Acts which have come into existence from time to time were no doubt introduced for the benefit of the tenants. It may be noted that the term "statutory tenant" which is not to be found in the Act in question or in the other analogous Rent Acts in force in other States in India, is indeed a creature of the English Rent Act. English Rent Act. 1977 which was enacted to consolidate the Rent Act 1968, parts III, IV and VIII of the Housing Finance Act, 1972, the Rent Act 1974, sections 7 to 10 of the Housing Rents and Subsidies Act 1975 and certain related enactments, witw amendments to give effect to recommendation of the Law Commission, speaks of protected tenants and tenancies in S. 1 and defines statutory tenant in S. 2, English Rent Act, 1977 is in the nature of a complete Code governing the rights and obligations of the landlord and the tenant and their relationship in respect of tenancies covered by the Act. As the provisions of the English Act are materially different from the provisions of the Act in question and other Rent Control Acts in force in other States in India, the decisions of the English Courts and the passages from the various authoritative books including the passages from Halsbury which are all concerned with English Rent Acts are not of any particular assistance in deciding the question involved in this appeal. As we have already noticed, the term 'statutory tenant' is used in English Rent Act and though this term is not be found in the Indian Acts, in the Judgments of this Court and also of the various High Courts in India, this term has often been used to denote a tenant whose contractual tenancy has been terminated but who has become entitled to continue to remain in possession by virtue of the protection afforded to him by the statutes in question,

namely, the various Rent Control Acts, prevailing in different States of India. It is also important to note that notwithstanding the termination of the contractual tenancy by the Landlord, the tenant is afforded protection against eviction and is permitted to continue to remain in possession even after the termination of the contractual tenancy by the Act in question and invariably by all the Rent Acts in force in various States so long as an order or decree for evictions against the tenant on any of the grounds specified in such Acts on the basis of which an order or decree for eviction against the tenant can be passed, is not passed.

As various decisions of this Court on which reliance has been placed by the learned counsel for the Landlord have been cited, it does not become very necessary to consider at any length the various decisions of the High Courts on the very same question, relied on by the Learned Counsel for the landlords. It may, however, be noted that the decisions of this Court to which we shall refer in due course and the decisions of the High Courts which were cited by the learned counsel for the Landlords do lend support to their contention.

We first propose to deal with the decision of his Court in *Damadilal's* case (supra) in which this Court considered some of the English Authorities and also some of the decisions of this Court. In this case the first question raised on behelf of the plaintiff-appellant in this Court was whether the heirs of the statutory tenants had any heritable interest in the demised premises and had the right to prosecute the appeal in the High Court on the death of the statutory tenant.

Dealing with this contention the Court held at pages 650 to 654 :

> "In support of his first contention Mr. Gupta relied on two decisions of this Court, *Anand Nivas (Private) Ltd.* v. *Anandji Kalyanji Pedhi & Ors*(1) and *Jagdish Chander Chatteriee & Ors.* v. *Sri Kishan & Anr.*(2). The statute considered in *Anand Nivas*(1) case was Bombay Rents, Hotel and Lodging Rates Control Act, 1947 as amended in 1959. The question there was, whether a tenant whose tenancy had been terminated had any right

(1) [1973] 4 S.C.R. 892.
(2) [1973] 1 S.C.R. 850.

to sublet the premises. Of the three learned Judges composing the Bench that heard the appeal, Hidayatullah and Shah, JJ. held that a statulory tenant, meaning a tenant whose tenancy has determined but who continues in possesion, has no power of subletting. Sarkar J. delivered a dissenting opinion. Shah J. who spoke for himself and Hidayatullah J. observed in the course of their judgment :

'A statutory tenant has no interest in the premises occupied by him, and ne has no estate to assign or transfer. A statutory tenant is, as we have already observed, a person who on determination of his contractual right, is permitted to remain in occupation so long as he observes and performs the conditions of the tenancy and pays the standard rent and permitted increases. His personal right of occupation is incapable of being transferred or assigned, and he having no interest in the property there is no estate on which subletting may operate.'

It appears from the judgment of Shah, J. that 'the Bombay Act merely grants conditional protection to a statutory tenant and does not invest him with the right to enforce the benefit of any of the terms and conditions the original tenancy'. Sarkar, J. dissenting held that word 'tenant' as defined in the Act included both a contractual tenant—a tenant whose lease is subsisting as also a statutory tenant and the latter has the same power to sublet as the former. According to Sarkar, J. even if a statutory tenant had no estate or property in the demised premises, the Act had undoubtedly created a right in such a tenant in respect of the property which he could transfer. *Jagdish Chander Chatterjee's* case dealt with the Rajasthan Premises (Control of Rent and Eviction) Act, 1950, and the question for decision was whether on the death of a statutory tenant his heirs succeed to the tenancy so as to claim protection of the Act. In this case it was held by Grover and Palekar JJ., relying on *Anand Nivas's* case, that after the termination of contractual tenancy, a statutory tenant enjoys only a personal right to continue in possession and on his death

his heirs do not inherit any estate or interest in the original tenancy. A

Both these cases, *Anand Nivas* and *Jagdish Chander Chatterjee*, proceed on the basis that a tenant whose tenancy has been terminated, described as statutory tenant, has no estate or interest in the premises but only B a personal right to remain in occupation. It would seem as if there is a distinct category of tenants called statutory tenants having separate and fixed incidents of tenancy. The term 'statutory tenancy' is borrowed from the English Rent Acts. This may be a convenient expression for C referring to a tenant whose tenancy has been terminated and who would be liable to be evicted but for the protecting statute, but courts in this country have sometimes borrowed along with the expression certain notions regarding such tenancy from the decisions of the English Courts. In our opinion it has to be ascertained how far D these notions are reconcilable with the provisions of the statute under consideration in any particular case. The expression 'statutory tenancy' was used in England in several judgments under the Increase of Rent and Mortgage interest (War Restrictions) Act, 1915, to refer E to a tenant protected under that Act, but the term got currency from the marginal note to section 15 of the Rent and Mortgage Interest (Restriction) Act, 1920. That section which provided *inter alia* that a tenant who by virtue of that Act retained possession of any dwelling house to which the Act applied, so long as he retained F possession, must observe and would be entitled to the benefit of all the terms and conditions of the original contract of tenancy which were consistent with the provisions of the Act, carried the description in the margin 'conditions of statutory tenancy'. Since then the G term has been used in England to describe a tenant protected under the subsequent statutes until Section 49(1) of the Housing Repairs and Rent Act, 1954 for the first time define 'statutory tenant' and 'statutory tenancy'. 'Statutory Tenant' was defined as a tenant 'who retains H possession by virtue of the Rent Acts and not as being entitled to a tenancy' and it was added, 'statutory

tenancy' shall be construed accordingly.' This definition of 'statutory tenancy' has been incorporated in the Rent Acts of 1957 and 1965. In England 'statutory tenancy' does not appear to have had any clear and fixed incidents; the concept was developed over the years from the provisions of the successive Rent Restrictions Act which did not contain a clear indication as to the character of such tenancy. That a statutory tenant is entitled to the benefit of the terms and conditions of the original contract of tenancy so far as they were consistent with the provisions of the statute did not as Scrutton L.J. observed in *Roe* v. *Russell*(1) 'help very much when one came to the practical facts of life', according to him 'citizens are entitled to complain that their legislators did not address their minds to the probable events that might happen in cases of statutory tenancy, and consider how the legal interest they were granting was affected by those probable events'. He added, '...it is pretty evident that the Legislature never considered as a whole the effect on the statutory tenancy of such ordinary incidents as death, bank-ruptcy, voluntary assignment, either *inter vivos* or by will, a total or partial sub-letting; but from time to time put into one of the series of Acts a provision as to one of the incidents without considering how it fitted in with the general nature of the tenancy which those incidents might affect.' On the provisions which gave no clear and comprehensive idea of the nature of statutory tenancy, the courts in England had been slowly 'trying to frame a consistent theory (2)' making bricks with very insufficient statutory straw' (3) Evershed M.R. in *Boyer* v. *Warbey* (4) said : 'The character of the statutory tenancy, I have already said, is a very special one. It has earned many epithets, including *'monstrum horrendum'* and perhaps it has never been fully thought out by Parliament'. Courts in England have held that a statutory tenant has no estate or property in the premises he occupies because he retains possession by virtue of the

(1) [1928] 2 K.B, 117.
(2) *Scrutton L.J in Haskins* v. *Lewis* [1935] 2 K.B. 1(9)
(3) *Scrutton L.J. in Keeves* v. *Dean* [1923] L.J.K.B. 203 (207),
(4) [1953] 2 K.B. 234.

Rent Acts and not as being entitled to a tenancy; it has been said that he has only a personal right to remain in occupation, the statutory right of 'irremovability', and nothing more. A

We find it difficult to appreciate how in this country we can proceed on the basis that a tenant whose contractual tenancy has determined but who is protected against eviction by the statute, has no right of property but only a personal right to remain in occupation, without ascertaining what his rights are under the statute. The concept of a statutory tenant having no estate or property in the premises which he occupies is derived from the provisions of the English Rent Acts. But it is not clear how it can be assumed that the position is the same in this coutry without any reference to the provisions of the relevant statute. Tenancy has its origin in contract. There is no dispute that a contractual tenant has an estate or property in the subject matter of the tenancy, and heritability is an incident of the tenancy. It cannot be assumed, however, that with the determination of the tenancy the estate must necessarily disappear and the statute can only preserve his status of irremovability and not the estate he had in the premises in his occupation. It is not possible to claim that the 'sanctity' of contract cannot be touched by legislation. It is therefore necessary to examine the provisions of the Madhya Pradesh Accommodation Control Act, 1961 to find out whether the respondents' predecessors-in-interest retained a heritable interest in the disputed premises even after the termination of their tenancy. B C D E F

Section 2(i) of the Madhya Pradesh Accommodation Control Act 1961 defines 'tenant' to mean, unless the context otherwise requires : G

> 'a person by whom or on whose account or behalf the rent of any accommodation is, or, but for a contract express or implied would be payable for any accommodation and includes any person occupying the accommodation as a sub-tenant and also any person continuing in possession after the termination of his tenancy whether before or after the H

commencement of this Act; but shall not include any person against whom any order or decree for eviction has been made'.

The definition makes a person continuing in possession after the determination of his tenancy a tenant unless a decree or order for eviction has been made against him, thus putting him on par with a person whose contractual tenancy still subsists. The incidents of such tenancy and a contractual tenancy must therefore be the same unless any provision of the Act conveyed a contrary intention. That under this Act such a tenant retains an interest in the premises, and not merely a personal right of occupation, will also appear from section 14 which contains provisions restricting the tenant's power of subletting. Section 14 is in these terms :

> 'Sec. 14 Restriction on sub-letting.—(1) No tenant shall without the previous consent in writing of the landlord.—
>
> (a) sublet the whole or any part of the accommodation held by him as a tenant : or
>
> (b) transfer or assign his rights in the tenancy or in any part thereof.
>
> (2) No landlord shall claim or receive the payment of any sum as premium or pugree or claim or receive any consideration whatsoever in cash or in kind for giving his consent to the sub-letting of the whole or any part of the accommodation held by the tenant'.

There is nothing to suggest that this section does not apply to all tenants as defined in Section 2(i). A contractual tenant has an estate or interest in premises from which he carves out what he gives to the sub-tenant. Section 14 read with section 2 (i) makes it clear that the so called statutory tenant has the right to sub-let in common with a contractual tenant and this is because he

also has an interest in the premises occupied by him." A

It may be noted that in deciding *Damadilal's* case (supra), this Court considered the two decisions of this Court, namely, the decisions in *Anand Nivas* and *Jagdish Chander Chatterjee's* cases (supra) which have been relied on by the learned counsel for the landlords. B

The decision of this Court in the case of *Ganpat Ladha* v. *Sashikant Vishnu Shinde*(1) is another decision on which very strong reliance has been placed on behalf of the landlords. In this case under Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, the Court was concerned with the question whether the heirs of deceased tenant whose tenancy has been determined and against whom eviction proceeding was pending, were entitled to the benefit of protection afforded to the tenant after the determination of the tenancy in respect of the business premises. This Court noticed at page 202 that the tenancy right was being claimed under S. 5(11) (c) of the said Act which, as recorded in the judgment, is in the following terms : C D

"5(11)(c) : 'tenant' means any person by whom or on whose account rent is payable for any premises and includes— E

(a) ... ...

(b) ... ...

(c) any member of the tenant's family residing with him at the time of his death as may be decided in default of agreement by the Court." F

While dealing with this question, this Court held at pp. 202-204 : G

"In these circumstances, the question arose for decision whether the present respondent, whose residence is given in the special leave petition as 'Agakhan Building, Haines Road, Bombay', could possibly claim to H

(1) [1978] 3 S.C.R. 198.

be a tenant in respect of the shop which admittedly constitutes business premises by reason of Section 5(11) (c) of the Act. The High Court took the view that section 5(11) (c) applies not only to residential premises but also to business premises and therefore, on the death of a tenant of business premises, any member of tenant's family residing with him at the time of his death would become a tenant. We do not think this view taken by the High Court is correct. It is difficult to see how in case of business premises, the need for showing residence with the original tenant at the time of his death would be relevant. It is obvious from the language of Section 5(11) (c) that the intention of the legislature in giving protection to a member of the family of the tenant residing with him at the time of his death was to secure that on the death of the tenant, the member of his family residing with him at the time of his death is not thrown out and this protection would be necessarily only in case of residential premises. When a tenant is in occupation of business premises, there would be no question of protecting against dispossession a member of the tenant's family residing with him at the time of death. The tenant may be carrying on a business in which the member of his family residing with him may not have any interest at all and yet on the construction adopted by the High Court, such member of the family would become a tenant in respect of the business premises. Such a result could not have been intended to be brought about by the legislature. It is difficult to discern any public policy which might seem to require it. The principle behind section 5(11) (c) seems to be that when a tenant is in occupation of premises, the tenancy is taken by him not only for his own benefit, but also for the benefit of the members of the family residing with him and, therefore, when the tenant dies, protection should be extended to the members of the family who were participants in the benefit of the tenancy and for whose needs inter alia the tenancy was originally taken by the tenant. This principle underlying the enactment of section 5(11) (c) also goes to indicate that it is in respect of residential premises that the protection

of that section is intended to be given. We can appreciate a provision being made in respect of business premises that on the death of a tenant in respect of such premises, any member of the tenant's family carrying on business with the tenant in such premises at the time of his death shall be a tenant and the protection of the Rent Act shall be available to him. But we fail to see the purpose the legislature could have had in view in according protection in respect of business premises to a member of the tenant's family residing with him at the time of his death. The basic postulate of the protection under the Rent Act is that the person who is sought to be protected must be in possession of the premises and his possession is protected by the legislation. But in case of business premises, a member of the family of the tenant residing with him at the time of his death may not be in possession of the business premises; he may be in service or he may be carrying on any other business. And yet on the view taken by the High Court, he would become tenant in respect of the business premises with which he has no connection. We are, therefore, in agreement with the view taken by one of us (Bhagwati J.) in the Gujarat High Court about the correct meaning of Section 5(11)(c) in *Perupai Manilal Brahmin & Ors.* v. *Baldevdas Zaverbhai Tapodhan*(1) in preference to the view adopted in the subsequent decision of the Gujarat High Court in *Heirs of deceased Darji Mohanlal Lavji* v. *Muktabai Shamji*(2) which decision was followed by the Bombay High Court in the judgment impugned in the present appeals before us."

A B C D E F

This decision proceeds entirely on the construction of S.5(11)(c)(i) and it does not appear that the case of *Damadilal* (supra) which also was in respect of commercial premises was cited before this Court or was considered by the Court while deciding this case. Section 5(11)(b) and Section 5(11)(c)(ii) were also not discussed.

G

H

(1) [1964] 5 Guj, LR 563.
(2) [1971] 12 Guj. LR 272.

A The aforesaid decisions indicate that there is a divergence of opinion in this Court on the question whether the heirs of a deceased tenant whose contractual tenancy in respect of commercial premises has been determined, can inherit the tenancy rights of the deceased tenant and can claim the benefit and protection to which the deceased tenant was entitled under the Act.

B For an appreciation of the question it is necessary to understand the kind of protection that is sought to be afforded to a tenant under the Rent Acts and his status after the termination of the contractual tenancy under the Rent Acts. It is not in dispute that so long as the contractual tenancy remains subsisting, the contractual C tenancy creates haritable rights; and, on the death of a contractual tenant, the heirs and legal representatives step into the position of the contractual tenant; and, in the same way on the death of a landlord the heirs and legal representatives of a landlord become entitled to all the rights and privileges of the contractual tenancy D and also come under all the obligations under the contractual tenancy. A valid termination of the contractual tenancy puts an end to the contractual relationship. On the determination of the contractual tenancy, the landlord becomes entitled under the law of the land to recover possession of the premises from the tenant in due process of law and the tenant under the general E law of the land is hardly in a position to resist eviction, once the contractual tenancy has been duiy determined. Because of scarcity of accommodation and gradual high rise in the rents due to various factors, the landlords were in a position to exploit the situation for unjustified personal gains to the serious detriment of the helpless F tenants. Under the circumstances it became imperative for the legislature to intervene to protect the tenants against harassment and exploitation by avaracious landlords and appropriate legislation came to be passed in all the States and Union Territories where the situation required an interference by the legislature in this regard. It is no doubt true that the Rent Acts are essentially meant for the G benefit of the tenants. It is, however, to be noticed that the Rent Acts at the same time also seek to safeguard legitimate interests of the landlords. The Rent Acts which are indeed in the nature of social welfare legislation are intended to protect tenants against harassment and exploitation by landlords, safeguarding at the same H time the legitimate interests of the landlords. The Rent Acts seek to preserve social harmony and promote social justice by safeguarding

the interests of the tenants mainly and at the same time protecting the legitimate interests of the landlords. Though the purpose of the various Rent Acts appear to be the same, namely, to promote social justice by affording protection to tenants against undue harassment and exploitation by landlords, providing at the same time for adequate safeguards of the legitmate interests of the landlords, the Rent Acts undoubtedly lean more in favour of the tenants for whose benefit the Rent Acts are essentially passed. It may also be noted that various amendments have been introduced to the various Rent Acts from time to time as and when situation so required for the purpose of mitigating the hardship of tenants.

Keeping in view the main object of Rent Control Legislation, the position, of a tenant whose contractual tenancy has been determined has to be understood in the light of the provisions of the Rent Acts. Though provisions of all the Rent Control Acts are not uniform, the common feature of all the Rent Control Legislation is that a contractual tenant on the termination of the contractual tenancy is by virtue of the provisions of the Rent Acts not liable to be evicted as a matter of course under the ordinary law of the land and he is entitled to remain in possession even after determination of the contractual tenancy and no order or decree for eviction will be passed against a tenant unless any ground which entitles the landlord to get an order or decree for possession specified in the Act is established. In other words, the common feature of every Rent Control Act is that it affords protection to every tenant against eviction despite termination of tenancy except on grounds recognised by the Act and no order or decree for eviction shall be passed against the tenant unless any such ground is established to the satisfaction of the Court.

This Court has very aptly observed in *Damadilal's* case (supra) that it cannot be assumed that with the determination of the tenancy, the estate must necessarily disappear and the statute can only preserve the status of irremovability and not the estate he has in the premises in his occupation; and it is not possible to claim that the sanctity of contract cannot be touched by legislation. As already noticed, this Court in *Damadilal's* case (supra) after referring mainly to the definition of tenant in S. 2(i) of the Madhya Pradesh Accommodation Control Act, 1961 came to the so-called statutory tenant had an interest in the premises occupied by him and the heirs of the statutory tenant "had a heritable interest in the premises". A

tenant has been defined in S. 2(1) of the Delhi Rent Control Act, which reads as follows :-

" 'tenant' means any person by whom or on whose account or behalf the rent of any premises is, or, but for a special contract would be, payable, and includes—

(i) a sub-tenant;

(ii) any person continuing in possession after the termination of his tenancy; and

(iii) in the event of the death of the person continuing in possession after the termination of his tenancy, subject to the order of succession and conditions specified respectively, in Explanation I and Explanation II to this clause, such of the aforesaid person's—

(a) spouse,

(b) son or daughter, or, where there are both son and daughter, both of them,

(c) parents,

(d) daughter-in-law, being the widow of his predeceased son,

as had been ordinarily living in the premises with such person as a member or members of his family upto the date of his death, but does not include, —

(A) any person against whom an order or decree for eviction has been made, except where such decree or order for eviction is liable to be re-opened under the proviso to section 3 of the Delhi Rent Control (Amendment) Act, 1976.

(B) any person to whom a licence, as defined by section 52 of the Indian Easements Act, 1882 has been granted.

Explanation I.—The order of succession in the event of the death of the person continuing in possession after the terminatton of his tenancy shall be as follows.— A

(a) firstly, his surviving spouse;

(b) secondly, his son or daughter, or both, if there is no surviving spouse, or if the surviving spouse did not ordinarily live with the deceased person as a member of his family upto the date of his death; B

(c) thirdly, his parents, if there is no surviving spouse, son or daughter of the deceased person, or if such surviving spouse, son or daughter or any of them, did not ordinarily live in the premises as a member of the family of the deceased person upto the date of his death; and C

D

(d) fourthly, his daughter-in-law, being the widow of his pre-deceased son, if there is no surviving spouse, son, daughter or parents of the deceased person, or if such surviving spouse son, daughter or parents, or any of them, did not ordinarily live in the premises as a member of the family of the deceased person up to the date of his death. E

Explanation II.—If the person, who acquires, by succession, the right to continue in possession after the termination of the tenancy, was not financially dependent on the deceased person on the date of his death, such successor shall acquire such right for a limited period of one year; and, on the expiry of that period, or on his death, whichever is earlier, the right of such successor to continue in possession after the termination of the tenancy shall become extinguished. F G

Explanation III.—For the removal of doubts, it is hereby declared that,— H

(a) where, by reason of Explanation II, the right of any successor to continue in possession after

A the termination of the tenancy becomes extinguished, such extinguishment shall not affect the right of any other successor of the same category to continue in possession after the termination of the tenancy; but if there is no other successor of the same category, the right to continue in possession after the termination
B of the tenancy shall not, on such extinguishment pass on to any other successor, specified in any lower category or categories, as the case may be ;

C (b) the right of every successor, referred to in Explanation I, to continue in possession after the termination of the tenancy, shall be personal to him and shall not, on the death of such successor, devolve on any of his heirs ;"

D The definition of tenant as it stands at present in the Act, is after the amendment of the definition in S. 2(1) of the earlier Act, by the Amendment Act (Act 18 of 1976) which was introduced with retrospective effect. Prior to the amendment, the definition of tenant as it stood in the original Act, 1958 was in the following terms :—

E " 'tenant' means any person by whom or on whose account or behalf the rent of any premises is, or, but for a special contract would be, payable and includes a sub-tenant and also any person continuing in possession after the termination of his tenancy but shall not include any
F person against whom any order or decree for eviction have been made".

It is, therefore, clear from the definition of tenant, whether in the original Act or in the amended Act, that the tenant within the
G meaning of the definition of the term in the Act includes any person continuing in possession after the termination of his tenancy. It will be seen that the definition of tenant in Madhya Pradesh Accommodation Control Act, 1961 on which the decision in *Damadilal's* case (supra) mainly turns, is similar to the definition
H of tenant as given in the Delhi Act in the sense that the tenant under both the Acts includes for the purpose of the Rent Act any person continuing in possession after the termination of the tenancy.

The other section of the M.P. Accommodation Control Act 1961 considered by this Court in deciding *Damadilal's* case (supra) was section 14 which deals with sub-letting and this Court held that there was nothing in that section to suggest that the section would not apply to all tenants as defined in section 2(1) of the said Act. S.14 was considered in *Damadilal's case* (supra) to ascertain whether the 'so called statutory tenant' enjoyed the same right as the contractual tenant in the matter of sub-letting and this Court held that the 'so called statutory tenant' enjoyed the same right as the contractual tenant.

Let us now analyse the provisions of the Delhi Act to find out whether there is anything in the other provisions to indicate that the tenant as defined in S. 2(1)(ii) will stand on any different footing from a contractual tenant in the matter of enjoyment of the protection and benefits sought to be conferred on a tenant by the Act.

S. 2(e) defines landlord and clearly indicates that the landlord continues to be the landlord for the purpose of the Act even after termination of the contractual tenancy. S. 2(1) which defines 'tenant' has been set out earlier in its entirety. We shall consider the true effect of S. 2(1)(iii) on which as earlier noted, reliance has been placed by the learned counsel of the landlords, when we deal with the argument which has been advanced on the basis of this sub-section. Section 3 mentions premises which are outside the purview of this Act and has no bearing on the question involved. Chapter II of the Act consists of Sections 4 to 13 and makes provision regarding rent. These sections indicate that they are applicable to tenants as defined in S. 2(1) including 2(1)(iii). Chapter III consists of sections 14 to 25 of the Act and deals with eviction and control of eviction of tenants. S. 14 starts as follows :—

> "notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any Court or Controller in favour of the landlord against a tenant ;
>
> .....
>
> ....."

Thereafter various provisions are made as to grounds and under what circumstances a decree for eviction may be passed. This section, therefore, clearly postulates that despite the termination of the tenancy and notwithstanding the provisions of any other law which might have been applicable on the termination of the contractual tenancy, protection against eviction is applicable to every tenant as defined in S. 2(1) of the Act. This section clearly establishes that determination of a contractual tenancy does not disqualify him from continuing to be a tenant within the meaning of this Act and the tenant whose contractual tenancy has been determined enjoys the same position and is entitled to protection against eviction. The other sections in this chapter also go to indicate that the tenant whose tenancy has been terminated enjoys the same status and benefit as a tenant whose tenancy has not been terminated, and a tenant after termination of his tenancy stands on the same footing as the tenant before such termination. Chapter III A which provides for summary trial for certain applications also does not make any distinction between a tenant whose tenancy has been determined and a tenant whose tenancy had not been terminated. Chapter IV which deals with deposit of rent consists of sections 26 to 29 and these sections make it clear that the tenant after determination of a tenancy is treated under the Act on the same footing as a tenant whose tenancy has not been determined. Chapter V which consists of sections 30 to 34 deals with hotels and lodging houses and does not have any relevance to the question involved. Chapter VI which consists of sections 35 to 43 provides for appointment of Controllers and their powers and functions and also makes provisions with regard to appeals. This chapter though not very material for the purpose of adjudication of the point involved indicates that no discrimination is made in the matter of proceedings for eviction between the 'so called statutory tenant' and a contractual tenant. Chapter VII which consists of sections 44 to 49 makes provisions regarding obligations of landlords and also provides for penalties in appropriate cases. The sections make it clear that the duties and obligations cast upon the landlord apply equally whether the tenant is a so called 'statutory tenant' or the tenant is a contractual tenant. Chapter VIII which makes various miscellaneous provisions does not have any bearing on the question involved. It may, however, be noted that section 50 which bars the jurisdiction of Civil Courts in respect of certain matters does not in any way discriminate between a 'so called statutory tenant' and a contractual tenant. The provisions of the Act, therefore, make it abundantly

clear that the Act does not make any distinction between a 'so called statutory tenant' and a contractual tenant and the Act proceeds to treat both alike and to preserve and protect the status and rights of a tenant after determination of the contractual tenancy in the same way as the status and rights of a contractual tenant are protected and preserved.

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While on this question it will be appropriate to quote the following observations of this Court in the case of *V. Dhanapal Chettiar* v. *Yesodai Ammal* (supra) at 340 :—

> "Once the liability to be evicted is incurred by the tenant, he cannot turn round and say that the contractual lease has not been determined. The action of the landlord in instituting a suit for eviction on the ground mentioned in any State Rent Act will be tantamount to an expression of his intention that he does not want the tenant to continue as his lessee and the jural relationship of lessor and lessee will come to an end on the passing of an order or a decree for eviction. Until then, under the extended definition of the word 'tenant' under the various State Rent Acts, the tenant continues to be a tenant even though the contractual tenancy has been determined by giving a valid notice under section 106 of the Transfer of Property Act. In many cases the distinction between a contractual tenant and a statutory tenant was alluded to for the purpose of elucidating some particular aspects which cropped up in a particular case. That led to the criticism of that expression in some of the decisions. Without detaining ourselves on this aspect of the matter by any elaborate discussion, in our opinion, it will suffice to say that the various State Rent Control Acts make a serious encroachment in the field of freedom of contract. It does not permit the landlord to snap his relationship with the tenant merely by his Act of serving a notice to quit on him. Inspite of the notice, the law says that he continues to be a tenant and and he does so enjoying all the rights of a lessee and is at the same time deemed to be under all the liabilities such as payment of rent etc. in accordance with the law."

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These observations were made by a seven-Judge Bench of this Court. It is no doubt true that these observations were made while

considering the question of requirement of a notice under section 106 of the Transfer of Property Act before the institution of suit for recovery of possession of premises to which the Rent Act applies. These observations, however, clearly go to establish that mere determination of the contractual tenancy does not in any way bring about any change in the status of a tenant. As aptly observed in this decision, "it will suffice to say that the various State Rent Control Acts make a serious encroachment in the field of freedom of contract. It does not permit the landlord to snap his relationship with the tenant merely by his act of serving a notice to quit on him. Inspite of the notice, the law says that he continues to be a tenant and he does so, enjoying all the rights of a lessee and is at the same time deemed to be under all the liabilities such as payment of rent etc. in accordance with the law."

We now proceed to deal with the further argument advanced on behalf of the landlords that the amendment to the definition of 'tenant' with retrospective effect introduced by the Delhi Rent Control Amendment Act (Act 18 of 1976) to give personal protection and personal sight of continuing in possession to the heirs of the deceased statutory tenant in respect of residential premises only and not with regard to the heirs of the 'so called statutory tenant' in respect of commercial premises, indicates that the heirs of so called statutory tenants, therefore, do not enjoy any protection under the Act. This argument proceeds on the basis that in the absence of any specific right created in favour of the 'so called statutory tenant' in respect of his tenancy, the heirs of the statutory tenant who do not acquire any interest or estate in the tenanted premises, become liable to be evicted as a matter of course. The very premise on the basis of which the argument is advanced is, in our opinion, unsound. The termination of the contractual tenancy in view of the definition of tenant in the Act does not bring about any change in the status and legal position of the tenant, unless there are contrary provisions in the Act; and, the tenant notwithstanding the termination of tenancy does enjoy an estate or interest in the tenanted premises. This interest or estate which the tenant under the Act despite termination of the contractual tenancy continues to enjoy creates a heritable interest in the absence of any provision to the contrary. We have earlier noticed the decision of this Court in *Damadilal's* case (supra). This view has been taken by this Court in *Damadilal's* case and in our opinion this decision represents the correct position

in law. The observations of this Court in the decision of the Seven Judge Bench in the case of *V. Dhanapal Chettiar* v. *Yesodai Ammal* (supra) which we have earlier quoted appear to conclude the question. The amendment of the definition of tenant by the Act 18 of 1976 introducing particularly 2(1)(iii) does not in any way mitigate against this view. The said sub-section (iii) with all the three Explanations thereto is not in any way inconsistent with or contrary to sub-section (ii) of Section 2(1) which unequivocally states that tenant includes any person continuing in possession after the termination of his tenancy. In the absence of the provision contained in sub-section 2(1)(iii). the heritable interest of the heirs of the statutory tenant would devolve on all the heirs of the 'so called statutory tenant' on his death and the heirs of such tenant would in law step into his position. This sub-section (iii) of S. 2(1) seeks to restrict this right in so far as the residential premises are concerned. The heritability of the statutory tenancy which otherwise flows from the Act is restricted in case of residential premises only to the heirs mentioned in S. 2(1)(iii) and the heirs therein are entitled to remain in possession and to enjoy the protection under the Act in the manner and to the extent indicated in sub-section 2(1)(iii). The Legislature, which under the Rent Act affords protection against eviction to tenants whose tenancies have been terminated and who continue to remain in possession and who are generally termed as statutory tenants, is perfectly competent to lay down the manner and extent of the protection and the rights and obligations of such tenants and their heirs. S. 2(1)(iii) of the Act does not create any additional or special right in favour of the heirs of the 'so called statutory tenant' on his death, but seeks to restrict the right of the heirs of such tenant in respect of residential premises. As the status and rights of a contractual tenant even after determination of his tenancy when the tenant is at times described as the statutory tenant, are fully protected by the Act and the heirs of such tenants become entitled by virtue of the provisions of the Act to inherit the status and position of the statutory tenant on his death, the Legislature which has created this right has thought it fit in the case of residential premises to limit the rights of the heirs in the manner and to the extent provided in S. 2(1)(iii). It appears that the Legislature has not thought it fit to put any such restrictions with regard to tenants in respect of commercial premises in this Act.

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It may be noted that for certain purposes the Legislature in the Delhi Act in question and also in various other Rent Acts has treated

commercial premises differently from residential premises S. 14(1)(d) provides that it will be a good ground for eviction of a tenant from residential premises, if the premises let out for use as residence is not so used for a period of six months immediately before the filing of the application for the recovery of possession of the premises. Similarly S. 14(1)(e) makes bonafide requirement of the landlord of the premises let out to the tenant for residential purposes a good ground for eviction of the tenant from such premises. These grounds, however, are not made available in respect of commercial premises.

We find it difficult to agree with the observations which we have quoted earlier made by this Court in the case of *Ganapat Ladha* v. *Sashi Kant Vishnu* Shinde (supra).

It may be noticed that the Legislature itself treats commercial tenancy differently from residential tenancy in the matter of eviction of the tenant in the Delhi Rent Act and also in various other Rent Acts. All the grounds for eviction of a tenant of residential premises are not made grounds for eviction of a tenant in respect of commercial premises. S. 14(1)(d) of the Delhi Rent Act provides that non-user of the residential premises by the tenant for a period of six months immediately before the filing of the application for the recovery of possession of the premises will be a good ground for eviction, though in case of a commercial premises no such provision is made. *Similarly*, S. 14(1)(e) which makes bona fide requirement of the landlord of the premises let out to the tenant for residential purposes a ground for eviction of the tenant, is not made applicable to commercial premises. A tenant of any commercial premises has necessarily to use the premises for business purposes. Business carried on by a tenant of any commercial premises may be and often is, his only occupation and the source of livelihood of the tenant and his family. Out of the income earned by the tenant from his business in the commercial premises, the tenant maintains himself and his family; and the tenant, if he is residing in a tenanted house, may also be paying his rent out of the said income. Even if tenant is evicted from his residential premises, he may with the earnings out of the business be in a position to arrange for some other accommodation for his residence with his family. When, however, a tenant is thrown out of the commercial premises, his business which enables him to maintain himself and his family comes to a stand-still. It is common

knowledge that it is much more difficult to find suitable business premises than to find suitable premises for residence. It is no secret that for securing commercial accommodation, large sums of money by way of salami, even though not legally payable, may have to be paid and rents of commercial premises are usually very high. Besides, a business which has been carried on for years at a particular place has its own goodwill and other distinct advantages. The death of the person who happens to be the tenant of the commercial premises and who was running the business out of the income of which the family used to be maintained, is itself a great loss to the members of the family to whom the death, naturally, comes as a great blow. Usually, on the death of the person who runs the business and maintains his family out of the income of the business, the other members of the family who suffer the bereavment have necessarily to carry on the business for the maintaince and support of the family. A running business is indeed a very valuable asset and often a great source of comfort to the family as the business keeps the family going. So long as the contractual tenancy of a tenant who carries on the business continues, there can be no question of the heirs of the deceased tenant not only inheriting the tenancy but also inheriting the business and they are entitled to run and enjoy the same. We have earlier held that mere termination of the contractual tenancy does not bring about any change in the status of the tenant and the tenant by virtue of the definition of the 'tenant' in the Act and the other Rent Acts continues to enjoy the same status and position unless there be any provisions in the Rent Acts which indicate to the contrary. The mere fact that in the Act no provision has been made with regard to the heirs of tenants in respect of commercial tenancies on the death of the tenant after termination of the tenancy, as has been done in the case of heirs of the tenants of residential premises, does not indicate that the Legislature intended that the heirs of the tenants of commercial premises will cease to enjoy the protection afforded to the tenant under the Act. The Legislature could never have possibly intended that with the death of a tenant of the commercial premises, the business carried on by the tenant, however flourishing it may be and even if the same constituted the source of livelihood of the members of the family, must necessarily come to an end on the death of the tenant, only because the tenant died after the contractual tenancy had been terminated. It could never have been the intention of the Legislature that the entire family of a tenant depending upon the

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business carried on by the tenant will be completely stranded and the business carried on for years in the premises which had been let out to the tenant must stop functioning at the premises which the heirs of the deceased tenant must necessarily vacate, as they are afforded no protection under the Act. We are of the opinion that in case of commercial premises governed by the Delhi Act, the Legislature has not thought it fit in the light of the situation at Delhi to place any kind of restriction on the ordinary law of inheritance with regard to succession. It may also be borne in mind that in case of commercial premises the heirs of the deceased tenant not only succeed to the tenancy rights in the premises but they succeed to the business as a whole. It might have been open to the Legislature to limit or restrict the right of inheritance with regard to the tenancy as the Legislature had done in the case of the tenancies with regard to the residential houses but it would not have been open to the Legislature to alter under the Rent Act, the Law of Succession regarding the business which is a valuable heritable right and which must necessarily devolve on all the heirs in accordance with law. The absence of any provision restricting the heritability of the tenancy in respect of the commercial premises only establishes that commercial tenancies notwithstanding the determination of the contractual tenancies will devolve on the heirs in accordance with law and the heirs who step into the position of the deceased tenant will continue to enjoy the protection afforded by the Act and they can only be evicted in accordance with the provisions of the Act. There is another significant consideration which, in our opinion, lends support to the view that we are taking. Commercial premises are let out not only to individuals but also to Companies, Corporations and other statutory bodies having a juristic personality. In fact, tenancies in respect of commercial premises are usually taken by Companies and Corporations. When the tenant is a Company or a Corporation or anybody with juristic personality, question of the death of the tenant will not arise. Despite the termination of the tenancy, the Company or the Corporation or such juristic personalities, however, will go on enjoying the protection afforded to the tenant under the Act. It can hardly be conceived that the Legislature would intend to deny to one class of tenants, namely, individuals the protection which will be enjoyed by the other class namely, the Corporations and Companies and other bodies with juristic personality under the Act. If it be held that commercial tenancies after the termination of the contractual tenancy of the

tenant are not heritable on the death of the tenant and the heirs of the tenant are not entitled to enjoy the protection under the Act, an irreparable mischief which the Legislature could never have intended is likely to be caused. Any time after the creation of the contractual tenancy, the landlord may determine the contractual tenancy, allowing the tenant to continue to remain in possession of the premises, hoping for an early death of the tenant, so that on the death of a tenant he can immediately proceed to institute the proceeding for recovery and recover possession of the premises as a matter of course, because the heirs would not have any right to remain in occupation and would not enjoy the protection of the Act. This could never have been intended by the Legislature while framing the Rent Acts for affording protection to the tenant against eviction that the landlord would be entitled to recover possession, even no grounds for eviction as prescribed in the Rent Acts are made out.

In our opinion, the view expressed by this Court in *Ganpat Ladha's* case and the observations made therein which we have carlier quoted, do not lay down the correct law. The said decision does not properly construe the definition of the 'tenant' as given in S. 5(11)(b) of the Act and does not consider the status of the tenant, as defined in the Act, even after termination of the commercial tenancy. In our judgment in *Damadilal's* case this Court has correctly appreciated the status and the legal position of a tenant who continues to remain in possession after termination of the contractual tenancy. We have quoted at length the view of this Court and the reasons in support thereof. The view expressed by a seven-Judge Bench of this Court in *Dhanapal Chetttiar's* case and the observations made therein which we have earlier quoted, lend support to the decision of this Court in *Dhamadilal's* case. These decisions correctly lay down that the termination of the contractual tenancy by the landlord does not bring about a change in the status of the tenant who continues to remain in possession after the termination of the tenancy by virtue of the provisions of the Rent Act. A proper interpretation of the definition of tenant in the light of the provisions made in the Rent Acts makes it clear that the tenant continues to enjoy an estate or interest in the tenanted premises despite the termination of the contractual tenancy.

Accordingly, we hold that if the Rent Act in question defines a tenant in substance to mean a tenant who continues to remain in

A possession even after the termination of the contractual tenancy till a decree for eviction against him is passed', the tenant even after the determination of the tenancy continues to have an estate or interest in the tenanted premises and the tenancy rights both in respect of residential premises and commercial premises are heritable. The heirs of the deceased tenant in the absence of any provision in B the Rent Act to the contrary will step into the position of the decreased tenant and all the rights and obligations of the deceased tenant including the protection afforded to the deceased tenant under the Act will devolve on the heirs of the deceased teanant. As the protection afforded by the Rent Act to a tenant after determination of the tenancy and to his heirs on the death of such tenant is a C creation of the Act for the benefit of the tenants, it is open to the Legislature which provides for such protection to make appropriate provisions in the Act with regard to the nature and extent of the benefit and protection to be enjoyed and the manner in which the same is to be enjoyed. If the Legislature makes any provision in the D Act limiting or restricting the benefit and the nature of the protection to be enjoyed in a specified manner by any particular class of heirs of the deceased tenant on any condition laid down being fulfilled, the benefit of the protection has necessarily to be enjoyed on the fulfilment of the condition in the manner and to the extent stipu- E lated in the Act. The Legislature which by the Rent Act seeks to confer the benefit on the tenants and to afford protection against eviction, is perfectly competent to make appropriate provision regulating the nature of protection and the manner and extent of enjoyment of such tenancy rights after the termination of contractual tenancy of the tenant including the rights and the nature of protection F of the heirs on the death of the tenant. Such appropriate provision may be made by the Legislature both with regard to the residential tenancy and commercial tenancy. It is, however, entirely for the Legislature to decide whether the Legislature will make such provision or not. In the absence of any provision regulating the right G of inheritance, and the manner and extent thereof and in the absence of any condition being stipulated with regard to the devolution of tenancy rights on the heirs on the death of the tenant, the devolution of tenancy rights must necessarily be in accordance with the ordinary law of succession.

H In the Delhi Act, the Legislature has thought it fit to make provisions regulating the right to inherit the tenancy rights in respect

of residential premises. The relevant provisions are contained in S. 2(1)(iii) of the Act. With regard to the commercial premises, the Legislature in the Act under consideration has thought it fit not to make any such provision. It may be noticed that in some Rent Acts provisions regulating heritability of commercial premises, have also been made whereas in some Rent Acts no such provision either in respect of residential tenancies or commercial tenancies has been made. As in the present Act, there is no provision regulating the rights of the heirs to inherit the tenancy rights of the tenanted premises which is commercial premises, the tenancy right which is heritable devolves on the heirs under the ordidary law of succession. The tenancy right of Wasti Ram, therefore, devolves on all the heirs of Wasti Ram on his death.

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We must, therefore, hold that Wasti Ram enjoyed the statute of the premises in dispute even after determination of the contractual tenancy and notwithstainding the terimination of the contractual tenency, Wasti Ram had an estate or interest in the demised premises; and tenancy rights of Wasti Ram did not come to an end with his death but they devolved on the heirs and legal representative of Wasti Ram. The heirs and legal representatives of Wasti Ram step into his position and they are entitled to the benefit and protection of the Act. We must, accordingly, hold that the High Court was not right in coming to the conclusion that the heirs of Wasti Ram, the so called statutory tenant, did not have any right to remain in possession of the tenanted premises and did not enjoy any protection under the Act. It appears that the High Court passed an order for eviction against the heirs of Wasti Ram only on this ground without going into the merits of the appeal filed by the appellant in the High Court against the order of remand and also without considering the cross-objections filed in the High Court by the landlord. We accordingly, set asled the judgment and order of the High Court and we remand the case to the High Court for decision of the appeal and the cross objection on merits. The appeal is accordingly allowed to the extent indicated above with no order as to costs.

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Before concluding, there is one aspect which we consider it desirable to make certain observations. The owner of any premises, whether residential or commercial, let out to any tenant, is permitted by the Rent Control Acts to seek eviction of the tenant only on tne ground specified in the Act, entitling the landlord to evict the tenant

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from the premises. The restrictions on the power of the landlords in the matter of recovery of possession of the premises let out by him to a tenant have been imposed for the benefit of the tenants. Inspite of various restrictions put on the landlords's right to recover possession of the premises from a tenant, the right of the landlord to recover possession of the premises from the tenant for the bona fide need of the premises by the landlord is recognised by the Act, in case of residential premises. A landlord may let out the premises under various circumstances. Usually a landlord lets out the premises when he does not need it for own use. Circumstances may change and a situation may arise when the landlord may require the premises let out by him for his own use. It is just and proper that when the landlord requires the premises bona fide for his own use and occupation, the landlord should be entitled to recover the possession of the premises which continues to be his property inspite of his letting out the same to a tenant. The legislature in its wisdom did recognise this fact and the Legislarure has provided that bona fide requirement of the landlord for his own use will be a legitimate ground under the Act for the eviction of his tenant from any residential premises. This ground is, however, confined to residential premises and is not made available in case of commercial premises. A landlord who lets out commercial premises to a tenant under certain circumstances may need bona fide the premises for his own use under changed conditions in some future date should not in fairness be deprived of his right to recover the commercial premises. Bona fide need of the landlord will stand very much on the same footing in regard to either class of permises, residential or commercial. We therefore, suggest that Legislature may consider the advisability of making the bona fide requirement of the landlord a ground of eviction in respect of commercial premises as well.

M.L.A. *Appeal allowed.*