

CIVIL MISCELLANEOUS

Before R. S. Narula and Bal Raj Tuli, JJ.

AMAR NATH AND ANOTHER,—Petitioners.

versus

THE ESTATE OFFICER AND OTHERS,—Respondents.

Civil Writ No. 1304 of 1969

September 26, 1969.

Public Premises (Eviction of Unauthorised Occupants) Act (XXXII of 1959)—Sections 2(f) and 4(1)—Punjab Public Premises and Land (Eviction and Rent Recovery) Act (XXXI of 1959)—Sections 2(d) and 5—The Punjab Re-organisation Act (XXXI of 1966)—Sections 2(f), 4, 48, 87, 88 and 95—“Public premises” in Union Territory of Chandigarh—Act applicable thereto after re-organisation of Punjab—Whether the Central or Punjab Act—Extension of the Central Act to such territory—Whether necessary.

Held, that Public Premises (Eviction of Unauthorised Occupants) Act, 1959, applies to “public premises” belonging to the Central Government wherever situate in the entire country, whereas the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959, applies to public premises belonging to the Punjab State in the State of Punjab itself. The Punjab Act does not apply to any property of the Punjab State outside its territorial limits. The Central Act was applicable to the Union territory of Chandigarh even when it formed part of the State of Punjab in respect of the premises belonging to the Central Government. The Act operates on the properties according to their ownership being of the Central Government and not because they are situated in a particular place. The State Act applies only within the territorial limits of the State and not outside because no State legislature possesses extra-territorial jurisdiction. Since the ownership of the Government properties in the Union territory of Chandigarh changed from the State of Punjab to the Central Government, the law applicable to those properties automatically came to be the Central Act in place of the Punjab Act. Section 88 of the Punjab Re-organisation Act, 1966, has made no difference to the applicability of that Act to the premises belonging to the Central Government situate in Chandigarh after re-organisation and hence the Act applicable to all public premises in the Union territory of Chandigarh is the Central Act. (Para 4)

Held, that according to section 87, the power has been vested in the Central Government to extend any enactment which is in force in a State at the date of the notification, to the Union territory of Chandigarh which means the extension of any State law to this territory and not the extension of any Central Act which already applied to this territory because of its application to the whole of India and which applied to it when it was a part of the State of Punjab before re-organisation. The Central Acts like the

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Indian Penal Code, the Code of Criminal Procedure, the Indian Evidence Act, the Contract Act, the Companies Act and the Income-tax Act, etc., have continued to apply to the Union territory of Chandigarh without any notifications having been made by the Central Government. Hence it was not necessary to extend by notification Public Premises (Eviction of Unauthorised Occupants) Act to the Union territory of Chandigarh after the re-organisation of the State of Punjab. (Para 5)

Petition under Articles 226 and 227 of the Constitution of India praying that a writ of certiorari or any other appropriate writ, order or direction be issued quashing the order dated 14th April, 1969 and 28th May, 1969, passed by respondent Nos. 1 and 2, respectively.

N. L. DHINGRA, ADVOCATE, for the petitioners.

C. D. DEWAN, AND J. L. GUPTA, ADVOCATES, for the respondents.

JUDGMENT

TULI, J.—The petitioners obtained the lease of a tea stall at the bus stand in sector 17, Chandigarh in an auction held on July 25, 1963, for one year commencing from August 1, 1963 and ending with July 31, 1964. Their bid was of Rs. 2050 per mensem, which was the highest. For the next year, the lease was auctioned in June, 1965 and again the petitioners gave the highest bid of Rs. 1925.00 per mensem. It has been stated by the petitioners that the General Manager, Punjab Roadways, offered to give the lease for five years at Rs. 1925-00 per mensem to the petitioners which offer they accepted. This allegation has been denied in the written statement. The auction in favour of the petitioners was not confirmed and the tea stall at the bus stand was ordered to be auctioned on July 1, 1965, for one year, with effect from August 1, 1965. This order was stayed by the Transport Minister on June 30, 1965. The lease of the tea stall was, however, auctioned on July 29, 1965, in favour of some other person. Since the petitioners did not vacate the premises, the Estate Officer, Chandigarh passed an order against them on November 4, 1965, under section 5 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959, hereinafter called the Punjab Act, for the eviction of the petitioners. The petitioners filed an appeal against that order which was dismissed by the Commissioner, Ambala Division, Ambala, on April 26, 1966. The petitioners filed C.W. 932 of 1966 against the order of the Estate Officer and the Commissioner which was dismissed on May, 10, 1966, by this Court. Against that judgment, their Lordships of the Supreme Court accepted the appeal on January 15, 1968 and the orders of the Estate Officer, Chandigarh and the Commissioner, Ambala Division, were quashed.

(2) The Estate Officer issued a fresh notice to the petitioners on October 17, 1968, under sub-section (1) of section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958, hereinafter called the Central Act, calling upon the petitioners to show cause on or before November 6, 1968, why an order of eviction should not be made against them. The petitioners filed their objections and the Estate Officer passed an order of eviction against the petitioners on April 14, 1969, which was proclaimed on April 22, 1969. Feeling aggrieved from that order, the petitioners filed an appeal in the Court of the District Judge, Chandigarh, on April 28, 1969, but it was dismissed on May 28, 1969. The petitioners then filed the present petition in this Court on May 29, 1969, which was ordered to be heard immediately after the vacation with the other petitions admitted on the same point. *Status quo* was ordered to remain meanwhile.

(3) The return to the writ petition has been filed by Shri Gurdip Singh, Assistant Estate Officer, on behalf of respondents 1 and 3.

(4) The only point argued before us is that the Central Act did not apply to the property in dispute by virtue of section 88 of the Punjab Re-organisation Act, 1966 and the Act applicable was the Punjab Act. The learned counsel has referred to the following provisions of the Punjab Re-organisation Act, 1966 :—

2(f) "Existing State of Punjab" means the State of Punjab as existing immediately before the appointed day.

4. *Formation of Union Territory of Chandigarh.*

On and from the appointed day, there shall be formed a new Union Territory to be known as the Union territory of Chandigarh comprising such of the territories of Manimajra and Mahauli *kanungo* circles of Kharar tehsil of Ambala District in the existing State of Punjab as are specified in the Second Schedule and thereupon the territories so specified shall cease to form part of the existing State of Punjab.

48. *Land and goods.*

(1) Subject to the other provisions of this Part, all land and all stores, articles and other goods belonging to the existing State of Punjab shall,—

(a) if within that State, pass to the successor State in whose territories they are situated; or

87. *Powers to extend enactments to Chandigarh.*

The Central Government may, by notification in the official Gazette, extend with such restrictions or modifications as it thinks fit, to the Union territory of Chandigarh any enactment which is in force in a State at the date of the notification.

88. *Territorial extent of laws.*

The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Punjab shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day.

95. *Effect of provisions of the Act inconsistent with other laws.*

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

The argument advanced by the learned counsel for the petitioners is that according to section 88 the provisions of Part II (in which section 4 occurs) are deemed not to affect any change in the territories to which the Punjab Act applied before November 1, 1966 and, therefore, the tea stall which was being occupied by the petitioners as lessees was to be deemed to have continued as the property of the Punjab State and governed by the Punjab Act and not the Central Act after November 1, 1966. The learned counsel has argued that the Union territory of Chandigarh was constituted under section 4 of the Punjab Re-organisation Act and if that provision is to be ignored for the purposes of continuing the territorial limits of the enactments which were in force in the State of Punjab before re-organisation, the lands, stores, articles and other goods situated in the Union Territory of Chandigarh cannot be deemed to have passed from the State of Punjab to the Union territory of Chandigarh and for this reason the bus stand where the tea stall is located continued to be the property of the Punjab State governed by the Punjab Act. In spite of the ingenuity of the learned counsel in advancing this argument, we are not impressed with the soundness

thereof. The Central Act extends to the whole of India and applies to "Public premises" wherever situate. "Public premises" has been defined to mean any premises belonging to, or taken on lease or requisitioned by, or on behalf of the Central Government. It is not disputed by the learned counsel for the petitioners that the bus stand and the tea stall are "public premises" within the meaning of section 2(b) of the Central Act but it is submitted that the Act that applies will not be the Central Act but the Punjab Act. The Punjab Act extends to the whole State of Punjab and "public premises" therein means any premises belonging to, or taken on lease or requisitioned by or on behalf of, the State Government. as defined in section 2 (d) of this Act. It is thus clear that the Central Act applies to public premises belonging to the Central Government wherever situate in the entire country, whereas the Punjab Act applies to public premises belonging to the Punjab State in the State of Punjab itself. The Punjab Act does not apply to any property of the Punjab State outside its territorial limits. We put it to the learned counsel whether the Act applicable would have been the Central Act or the Punjab Act in case the bus stand had been acquired by the Central Government before the re-organisation of the State of Punjab in 1966 and his reply was that the Act applicable would have been the Central Act. We, therefore, fail to understand how the provision in section 48 of the Punjab Re-organisation Act vesting the bus stand in Sector 17 along with the other lands in the Union territory of Chandigarh in the Central Government, makes any difference to the applicability of the Central Act to that land and the premises built thereon. In case these properties had continued to belong to the Punjab State the Act applicable would have been the Punjab Act irrespective of the fact that the Union territory of Chandigarh did not form part of the State of Punjab thereafter. The Central Act was applicable to the Union territory of Chandigarh even when it formed part of the State of Punjab in respect of the premises belonging to the Central Government. Section 88 of the Punjab Re-organisation Act, therefore, has made no difference to the applicability of that Act to the premises belonging to the Central Government situate in Chandigarh.

(5) The argument that the Central Act has not been made applicable to the Union territory of Chandigarh after its constitution under the Punjab Re-organisation Act, as required by section 87 of the Punjab Re-organisation Act, is without any merit. According to section 87, the power has been vested in the Central Government to extend any enactment which is in force in a State at the date of the notification, to the Union territory of Chandigarh which means the

extension of any State law to this territory and not the extension of any Central Act which already applied to this territory because of its application to the whole of India and which applied to this territory when it was a part of the State of Punjab before re-organisation. The Central Acts like the Indian Penal Code, the Code of Criminal Procedure, the Indian Evidence Act, the Contract Act, the Companies Act and the Income-Tax Act, etc., have continued to apply to the Union territory of Chandigarh without any notifications having been made by the Central Government. Section 87 is, therefore, not applicable to the facts of this case.

(6) Section 95 of the Punjab Re-organisation Act also does not lead to the conclusion that the Central Act cannot apply to the properties of the Central Government in the Union territory of Chandigarh. There is no provision of the Punjab Re-Organisation Act which is inconsistent with the provisions of the Central Act. This section has nothing to do with the applicability of the Central Acts or the State Acts, which were in force in the State of Punjab before re-organisation, to the Union territory of Chandigarh after its formation. We are, therefore, of the opinion that none of the provisions of the Punjab Re-Organisation Act helps the learned counsel for the petitioners in his argument that the Punjab Act continues to apply to the Union territory of Chandigarh in spite of the fact that ownership of the property has changed from the State of Punjab to the Central Government.

(7) The learned counsel for the petitioners has tried to obtain support from a judgment of their Lordships of the Supreme Court in *Prabhakar Rao N. Mawle, v. State of Andhra Pradesh*, (1), but there is no similarity between the facts of two cases and therefore, no support can be had from that judgment. In that case, the Andhra Pradesh High Court had applied the provisions of Vexatious Litigation (Prevention) Act, 1949 (Madras Act 8 of 1949) to a litigant in the city of Hyderabad in Telangana region of Andhra Pradesh. The Madras Act extended to the whole State of Madras and the High Court of Andhra Pradesh had taken the view that it enjoyed all the jurisdiction of the former High Court of Madras and thus the provisions of the Madras Act created a jurisdiction in it capable of being exercised in Telangana area even though the Act as such had not been extended to this part of the territory of the State. Their Lordships of the Supreme Court did not affirm this view of the High Court of Andhra Pradesh on the ground that the Madras Act extended only to the

(1) 1965 (3) S.C.R. 743

State of Madras and unless it was extended to the Telangana region of the Andhra Pradesh, the High Court of Andhra Pradesh could not exercise any jurisdiction under that Act in that region. The Acts have to be extended to a territory by legislation and not by the judiciary on the ground that the power under the Act was exercised by it in a territory to which the Act applied. Even in one State, the judiciary can apply an Act only to that territory to which it applies if the extent of that Act is restricted to only a part of that State. In the present case, the Central Act applied to the Union territory of Chandigarh even when this territory was a part of the State of Punjab and if the tea stall in dispute had belonged to the Union Government at any time before re-organisation, it would have been governed by the provisions of the Central Act. The learned counsel, therefore, derives no help from this judgment of their Lordships of the Supreme Court.

(8) The learned counsel for the petitioners has then relied upon a judgment of a Division Bench of this Court (Tek Chand and P. D. Sharma, JJ.) in *Smt. Bhagwan Kaur v. State of Punjab* (2) wherein it was held :

“The policy underlying section 119 of the States Re-organisation Act appears to be not to suddenly disturb the legal rights and obligations of people in the respective territories which were being merged in one State.”

Section 119 of the States Reorganisation Act is in the same terms as section 88 of the Punjab Re-organisation Act. There is no dispute with that proposition of law but the question is whether the law applicable to the Union territory of Chandigarh immediately before re-organisation has been changed after re-organisation. Our answer to this question is in the negative because the Central Act already applied to the Union territory of Chandigarh and that Act governs all premises belonging to the Union Government. The Act operates on the properties according to their ownership being of the Central Government and not because they are situated in a particular place. The State Act applies only within the territorial limits of the State and not outside because no State legislature possesses extra-territorial jurisdiction. Since the ownership of the Government properties in the Union territory of Chandigarh changed from the State of Punjab to the Central Government, the law applicable to those properties automatically came to be the Central Act in place of the Punjab Act. In the Punjab Act, in the definition of “public premises” we cannot

(2) I.L.R. (1963)1 Punjab. 802—A.I.R. 1963 Punjab: 522

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read public premises to include properties belonging to the Central Government but situated in the Union territory of Chandigarh. In the definition clause of "public premises" in the Central Act, we have neither to add anything nor to omit anything from the definition of "public premises". The operation of that Act cannot be said to have been curtailed in its application to the Union territory of Chandigarh merely because prior to its formation the properties belonged to the Punjab State and not the Central Government. The Central Act will apply to all properties owned by private persons after they are acquired by any legal proceeding by the Central Government. The emphasis of the learned counsel for the petitioners is that the land and other properties of the Punjab State came to belong to the Union territory of Chandigarh because this territory was created under section 4, which is in Part II of the Punjab Re-Organisation Act, and for the purposes of section 88 the provisions of Part II have to be ignored. The approach of the learned counsel is, however, not correct. Section 48 of the Act is without any restriction and, therefore, the properties in Chandigarh belonging to the State of Punjab came to vest in the Central Government unconditionally and became its properties. The mere change of ownership of those properties affected the applicability of the Punjab Act to them. To all properties of the Central Government the Central Act is applicable and this Act will be applied to a property as soon as it comes to vest in the Central Government and can be said to belong to it because of the extent of the Central Act.

(9) For the reasons given above, we find no merit in this submission of the learned counsel and hold that the proceedings taken by the Estate Officer under the Central Act were valid.

(10) No other point has been argued in this petition. The same is, therefore, dismissed with costs. Counsel's fee Rs. 100.

(11) The petitioners had filed Civil Misc. No. 2198 of 1969 for restoration of the tea stall to them on the ground that they had been dispossessed therefrom after the stay order had been passed by this Court. Since the writ petition has been dismissed, there is no question of restoring the possession of the tea stall to the petitioners. The application is dismissed with no order as to costs.

R. S. Narula, J.—I agree.

N.K.S.