

**Bharat Petroleum Corporation and another v. Union of India 183  
and others (Jawahar Lal Gupta.)**

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*Before : Hon'ble Mr. Justice J. L. Gupta, J.*

**BHARAT PETROLEUM CORPORATION AND ANOTHER,  
—Petitioners.**

*versus*

**UNION OF INDIA AND OTHERS,—Respondents.**

*Civil Writ Petition No. 18386 of 1991*

*March 18, 1992*

*Constitution of India, 1950—Art. 226—Public Premises (Eviction of unauthorised Occupants) Act, 1971—Section 2(e) and 2(g)—Interpretation of 'any person'—Eviction of petitioner sought after terminating lease deed—Proceedings under the Act initiated against petitioner as being in unauthorised occupation—Whether provisions of the Act can be invoked against a Public undertaking—Held that the language of the statute does not permit giving a restricted meaning to words 'any person'—Petitioner though a Corporation liable for eviction.*

*Held, that the unauthorised occupation as defined in Section 2(g) of the Act would obviously include a Company or a Corporation mentioned in Section 2 (e) (i) & (ii). Even otherwise, the purpose of the Act and the plain language of the statute do not permit giving of a restricted meaning to the words 'any person' as used in the statute. A property belonging to a Company or a Corporation, as mentioned in Section 2(e), can be taken on lease by or on behalf of another Company or a Corporation as mentioned in the said provision. Such premises would be public premises and if the lessee continues in occupation after the lease-deed has been duly determined, its occupation would be unauthorised as contemplated under section 2 (g) of the Act. On the plain language of the statute, it is not possible to hold that the said Company or Corporation would not be liable to eviction under the Act. Consequently the suggestion on behalf of the petitioners that the action of the respondents is wholly without jurisdiction or that it is repugnant to the provisions of the Act cannot be sustained. (Para 10)*

*Public Premises (Eviction of Unauthorised Occupants) Act, 1971—Section 15—Jurisdiction—Bar on jurisdiction of Civil Court to entertain a suit or any proceedings in respect of eviction from Public premises by unauthorised occupants.*

*Held, that Section 15 bars the jurisdiction of the Civil Court to entertain a suit or any proceeding in respect of the eviction of any person, who is in unauthorised occupation of a public premises. (Para 12)*

*Civil Writ Petition under Articles 226/227 of the constitution of India praying that :—*

*(i) records of the case may kindly be summoned ;*

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- (ii) to issue writ in the nature of certiorari quashing Annexure P-4 dated 23rd November, 1991 ;
  - (iii) issuance of further writ in the nature of mandamus directing the respondent No. 3 not to proceed against the petitioners under the Act ;
  - (iv) filing of certified copies of annexures may also be dispensed with ;
  - (v) service of advance notice be dispensed with ;
  - (vi) the costs of this Civil Writ Petition may be allowed in favour of the petitioners.

*It is further prayed that during the pendency of this writ petition the proceedings before the respondent No. 3 be stayed in the meanwhile.*

Salil Sagar, Advocates, for the Petitioner.

Pawan Mutneja, Advocate, for the Respondents.

#### JUDGMENT

*Jawahar Lal Gupta, J. (Oral)*

(1) Can the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 be invoked by a Nationalised Bank against the Bharat Petroleum Corporation Ltd. This is the short question that arises in this case. A few facts may be noticed.

(2) In the year 1965, the Burmah Shell Oil Storage and Distributing Company of India Ltd. took on lease the second floor of S.C.O. No. 70-71, Sector 17-B, Chandigarh from the New Bank of India (hereinafter referred to as 'the Bank') at a monthly rent of Rs. 1,100. In the year 1970, a registered lease-deed was executed between the petitioner-Company and the Bank and the rate of rent was raised to Rs. 1,300 per month. The lease deed was originally executed for a period of five years, but was renewable for another term of five years on a monthly rent to be fixed in accordance with the prevailing rates. In the year 1970, the Parliament passed the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (hereinafter referred to as 'the Bank Nationalisation Act'). The New Bank of India, thus, became a Corporation established by the Central Act. The Parliament also enacted the Burmah Shell (Acquisition of Undertaking in India) Act, 1976 (hereinafter referred to as 'the Burmah Shell Act').

(3) In February, 1990, a building known as 'Tel Bhawan' was constructed by the petitioner-Company. It shifted some of its branches to this building. It is averred that the main Engineering Branch was, however, allowed to continue functioning in the leased premises in Sector 17, Chandigarh. While the petitioners were enjoying the peaceful possession of the premises, the Bank served two notices dated December 17, 1990 and September 3, 1991 terminating the tenancy of the petitioners under Section 106 of the Transfer of Property Act. It is further averred that in order to pressurise the petitioners to vacate the premises, the Bank started creating problems like stopping of water and non-cooperation regarding use of amenities etc. When the petitioners did not vacate the premises, proceedings under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as 'the 1971 Act') were initiated. On receipt of a notice dated November 23, 1991 from the Estate Officer, the petitioners have approached this Court through the present writ petition. The action of the respondent-Bank and the Estate Officer in initiating the proceedings has been challenged as being wholly without jurisdiction.

(4) It is claimed that the provisions of the Act cannot be invoked in case of a public undertaking. The action is against the legislative intent and a public undertaking can never be described as an unauthorised occupant. It is also averred that respondent No. 3 the Estate Officer is an employee of the Bank and the petitioners cannot expect any justice from them. According to the petitioners, the provisions of the Rent Act apply and only in accordance therewith that it can be evicted from the premises in question.

(5) Written statement has been filed on behalf of respondent Nos. 2 and 3 only. None has been filed on behalf of the Union of India. It is averred that the Act is a complete Code in itself and provides for the remedy of eviction of unauthorised occupants. The lease having been terminated and the petitioners having been asked to vacate the premises, became an unauthorised occupant, after October 1, 1991. It is averred that the proceedings have been initiated in accordance with law and that under Section 5 of the Act, the Estate Officer has to pass an order after considering the evidence adduced by the parties. The aggrieved party has a right to appeal to the District Judge. On this premises, it is claimed that the petition is wholly devoid of merit and has been filed with the object of delaying the proceedings.

(b) I have heard Mr. Salil Sagar for the petitioners and Mr. Rawan Mutreja for the respondents.

It is apt to notice the relevant provisions of the Act. Section 2 (e) defines 'public premises', thus—

“public premises means—

- (1) any premises belonging to, or taken on lease or requisitioned by, or on behalf of, the Central Government, and includes any such premises which have been placed by that Government, whether before or after the commencement of the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1980, under the control of the Secretariat of either House of Parliament for providing residential accommodation of any member of the staff of that Secretariat ;
- (2) any premises belonging to, or taken on lease by, or on behalf of,—
  - (i) any company as defined in Section 3 of the Companies Act, 1956 (1 of 1956), in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government or any company which is a subsidiary (within the meaning of that Act) of the first-mentioned company,
  - (ii) any corporation (not being a company as defined in Section 3 of the Companies Act, 1956 (1 of 1956), or a local authority) established by or under a Central Act and owned or controlled by the Central Government,
  - (iii) any University established or incorporated by any Central Act,
  - (iv) any Institute incorporated by the Institutes of Technology Act, 1961 (59 of 1961),
  - (v) any Board of Trustees constituted under the Major Port Trusts Act, 1963 (38 of 1963),
  - (vi) the Bhakra Management Board constituted under Section 79 of the Punjab Reorganisation Act, 1966 (31 of 1966), and that Board as and when renamed as the Bhakra-Beas Management Board under subsection (6) of Section 80 of that Act; and

(b) in relation to the Union territory of Delhi,—

- (i) any premises belonging to the Municipal Corporation of Delhi, or any municipal committee or notified area committee, and
- (ii) any premises belonging to the Delhi Development Authority, whether such premises are in the possession of, or leased out by, the said Authority;”

Section 2 (g) defines ‘unauthorised occupation’. It reads as under :—

“Section 2 (g)—“unauthorised occupation”, in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.”

(7) Section 3 provides for the appointment of Estate Officers. Sections 4 and 5 lay down the procedure for the eviction of unauthorised occupants. Section 9 provides for appeal against the order of the Estate Officer to the District Judge of the district in which the public premises are situate.

(8) A perusal of Section 2 (e) which defines ‘public premises’ *inter alia* shows that any premises “belonging to, or taken on lease by, or on behalf of any Company as defined in Section 3 of the Companies Act, 1956, in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government” or a Corporation which is not a Company “established by or under a Central Act and owned or controlled by the Central Government” constitute public premises. In other words, any premises whether belonging to or taken on lease by a Company or a Corporation, as mentioned above, are public premises. In the instant case, the premises belong to the Bank. They have been taken on lease by the petitioners. The premises as such fall squarely within the provision of Section 2 (e). Further the occupation of any public premises “by any person” becomes unauthorised when it is “without authority for such occupation” or when “the authority ...under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever.”

(9) It has been contended on behalf of the petitioners that the occupation of the petitioners cannot be termed as unauthorised because it is not a person and also because the provisions of the Act cannot be interpreted in a manner so as to make them applicable against a government undertaking.

(10) The Act was promulgated to provide for the eviction of unauthorised occupants from public premises and other incidental matters. Any premises which belong to or are taken on lease by a Company in which not less than fifty-one per cent of the paid-up share capital is held by the Central Government fall within the expression 'public premises'. (The unauthorised occupation as defined in Section 2 (g) of the Act would obviously include a Company or a Corporation mentioned in Section 2 (e) (2) (i) & (ii). Even otherwise, the purpose of the Act and the plain language of the statute do not permit giving of a restricted meaning to the words 'any person' as used in the statute. A property belonging to a Company or a Corporation, as mentioned in Section 2 (e), can be taken on lease by or on behalf of another Company or a Corporation as mentioned in the said provision, such premises would be public premises and if the lessee continues in occupation after the lease-deed has been duly determined, its occupation would be unauthorised as contemplated under Section 2 (g) of the Act. On the plain language of the statute, it is not possible to hold that the said Company or Corporation would not be liable to eviction under the Act. Consequently the suggestion on behalf of the petitioners that the action of the respondents is wholly without jurisdiction or that it is repugnant to the provisions of the Act cannot be sustained). In this view of the matter, I am unable to accept the contention raised on behalf of the petitioners.

(11) The word 'person' having not been defined in the Act, reference can be made to the provisions of The General Clauses Act, 1897. Section 3 (42) defines a person to include "any company or association or body of individuals, whether incorporated or not." The petitioner-Company is obviously included within the definition of a 'person'. Accordingly, the claim made on its behalf cannot be sustained.

(12) Section 15 bars the jurisdiction of the Civil Court to entertain a suit or any proceeding in respect of the eviction of any person, who is in unauthorised occupation of a public premises. In view thereof, the action of respondent Nos 2 and 3 in initiating proceedings under the Act was, in my opinion, legal and valid.

(13) Mr. Salil Sagar referred to the decision of the Supreme Court in *M/s Oil and Natural Gas Company v. Collector of Central Excise* (1), to contend that the proceedings should have been initiated before the Committee as may be constituted by the Government in pursuance to the order of the Court. A perusal of the Judgment would show that their Lordships were pleased to direct the Government of India to set up a Committee and to submit a report to the Registry of the Court. There is nothing on record to indicate that such a Committee is actually functioning. As such, I am unable to accept the plea raised on behalf of the petitioners.

(14) Accordingly, I find no merit in this petition, which is dismissed with costs. Counsel's fee assessed at Rs. 2,000.

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J.S.T.

Before : Hon'ble Mr. Justice J. L. Gupta, J.

Ms. ANNUMEET KHAIRA,—Petitioner.

versus

PRINCIPAL, LYALLPUR KHALSA COLLEGE AND ANOTHER,  
-Respondents.

Civil Writ Petition No. 5107 of 1991

March 18, 1992.

*Constitution of India, 1950—Article 226—Termination of services—Petitioner appointed in October, 1987 against leave vacancy—More vacancies occurred—Petitioner appointed as lecturer on one years' probation—Probation extended—Thereafter services terminated in April 1991—No show cause notice issued—Termination notice not valid—Civil rights of petitioner affected.*

Held, that keeping in view the fact that the petitioner has been serving the College continuously since the year 1987, it appears to me to be reasonable that the University should have given some opportunity to the petitioner to show cause before it decided to disapprove the appointment. If such an opportunity had been given, the petitioner may have succeeded in persuading the University that her continuance in service was not contrary to any of the regulations of the University and that she was entitled to be allowed to continue against one of the regular vacancies which had become available soon after the finalisation of the proceedings of the Selection Committee. May be that the University while considering the case for grant of approval does not exercise a quasi-judicial function. Still its actions

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