The decision of the Supreme Court in *Atma Ram, etc.* v. *State of Punjab* (1), also cited by Shri Sharma does not lend any assistance to the counsel. The precise question which concerns us in the case in hand, was not in controversy before the Supreme Court for determination. It is argued that the word "estate" is held in this decision to included even portions or shares in an estate. That is, of course, so; but then there is a *non-sequitor* here. It is not understood how it is possible to found on this conclusion the argument that the land in possession of the tenant becomes his holding within the contemplation of the Act. There is apparent fallacy of reasoning here in which the conclusion or inference sought to be drawn does not follow from the premises.

For all the foregoing reasons, we are of the opinion that only the landowner's holding can be consolidated under the Act and not the land in possession of tenants which does not fall within the definition of holding. This writ petition accordingly succeeds and allowing the same, we quash the impugned part of the scheme (Annexure 'A') so far as it provides for consolidation of lands in possession of tenants which do not constitute holdings as defined for the purposes of the Act. In the circumstances of the case, there would be no order as to costs.

R. S.

APPELLATE CIVIL

Before P. D. Sharma, J

DHARAM PAUL AGGARWAL, AND ANOTHER,—*Appellants.*

versus

THE REGIONAL DIRECTOR, EMPLOYEES' STATE INSURANCE CORPORATION,—*Respondent*

F.A.O. 71 of 1962.

March, 23, 1966.

Employees' State Insurance Act (XXXIV of 1948)—*S.* 2(12)—*Factory—Process connected with manufacture being carried on in three different houses—Premises—Whether must be in the same compound—Whether number should exceed* 20 *in each house or the total.*

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(1) A.I.R. 1959 S.C. 519.

Held, that it is not necessary, for the purposes of section 2(12) of the Employees' State Insurance Act, 1948, to constitute a building a factory that all the processes connected with the manufacture should be carried on or should be located in the same compound. What is necessary is that the work carried on in different buildings including the precincts should be inter-connected and conducted by the same concern. For this reason the employees working in three separate buildings, two of which are situate across the road and the third at a small distance, could collectively be taken into consideration for classifying the employer as a factory under the Act. The work conducted in all the three buildings unmistakably was directed towards the same object, namely, the manufacture of Science Instruments.

First Appeal from the order of the Court of Shri Salig Ram Seth, Judge Employees' Insurance Court, Ambala, dated 26th February, 1962, accepting the application of the Corporation to the extent of Rs. 1,332 and dismissing it for the remaining amount. In the other application filed by Dharam Pal the Corporation was recovering Rs. 842 from the respondents, while the employers' contribution which could be recovered was only Rs. 666 and to this extent that application was accepted, leaving the parties to bear their own costs.

J. S. CHAWLA, ADVOCATE, for the Appellants.

K. L. KAPUR, ADVOCATE, for the Respondent.

JUDGMENT

SHARMA, J.—This judgment will dispose of two F.A.O. Nos. 71 and 72 of 1962 which have arisen out of the following circumstances.

The Regional Director, Employees' State Insurance Corporation, hereinafter referred to as the Corporation, applied under section 75(2) of the Employees' State Insurance Act, 1948, hereinafter referred to as the Act,—*vide* application No. 14 of 1961 for the recovery of Rs. 1,659, as employees' contribution for the period from 1st April, 1956, to 30th June, 1961, the details of which were given in Schedule 'A', against Dharam Paul Aggarwal, Manager and Principal Employer of Messrs Paradise (India) Corporation, Ambala Cantonment, and Messrs Paradise (India), Corporation, It was alleged that respondent No. 2 was a factory as defined in sub-section (12) of section 2 of the Act and was liable to pay employees' contribution as provided in section 40(1) of the Act. Rs. 1,659 are said to have been due from the respondents as employees' contribution for the period 1st April, 1959 to 30th June, 1961. The respondents resisted the above application on the grounds that the Regional Director was not competent to institute the proceedings, that the application did

not contain all the particulars required under rule 13(3) of the rules framed under the Act, that respondent No. 2 was not a factory and that the application was barred by time. The Employees Insurance Court, Ambala, framed the following issues :—

(1) Whether the application is maintainable in the present form ?

(2) Whether full particulars as required under rule 13(3) have not been given, thus application is liable to be dismissed under rule 13.4 ?

(3) Whether respondent No. 2 is a factory under the Employees' State Insurance Act and is thus liable to pay the contribution claimed ?

(4) Whether the application is within time ?

(5) Whether there are sufficient reasons for condition of delay ?

(6) Relief.

The Corporation in addition applied to the Collector, District Ambala, for realisation of Rs. 829 as employer's special contribution for the period from 30th June, 1959 to 30th June, 1961, along with Rs. 13 as interest accrued thereon as arrears of land revenue. This was done under Section 5 of the Revenue Recovery Act 1890. Thereupon the two respondents applied to the same Court for a declaration that they were not liable to pay the sum of Rs. 842 because respondent No. 2 was not a factory as defined in Section 2(12) of the Act. The Corporation maintained that respondent No. 2 was a factory. Proceedings in both these applications were consolidated.

The Insurance Court decided issue Nos. 1, 3 and 4 in favour of the applicant, the Corporation, and issue No. 2 against the respondents. Issue No. 5 did not arise. In the result the application filed by the Regional Director of the Corporation was allowed to the extent of Rs. 1,332 while the application filed by Dharam Pal Aggarwal and Messrs Paradise Corporation was allowed to the extent that Rs. 666 only were found recoverable from them as employer's special contribution. These two appeals have been preferred by Dharam Pal Aggarwal and Messrs Paradise Corporation against the above orders.

The only point agitated by the appellants before me was that appellant No. 2 was not a factory as this term is defined in the Act. It is common ground that work of the factory is being carried on in three houses Nos. 6268/1, 5514-15/1 and 5493 situate at Ambala and that in none of these separate houses the number of workers exceeded 20 at any time but the number of employees working in these three houses collectively exceeded 20. A road only separate houses Nos. 5514-15/1 and 5493 while house No. 6268/1 is about half a furlong away from them. The Insurance Court also found that science instruments of bakelite were prepared by the appellants, that bakelite was boiled in house No. 5514-15/1 with the help of a stove where 10 or 11 persons worked while the articles were stored in house No. 6268/1 and in the third house those articles were cleaned with the help of "rayti". It meant that in all the three different houses process connected with the manufacture of Science Instruments was being conducted. The learned-counsel for the appellants contended that since the three houses were not situate within the same compound and the number of employees in any one of them did not exceed 20, therefore, appellant No. 2 could not be styled as factory. The term "factory" has been defined in sub-section (12) of section 2 of the Act as follows :—

> "Factory means any premises including the precincts thereof whereon twenty or more persons are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on but does not include a mine subject to the operation of the Indian Mines Act, 1923 or a railway running shed."

The word 'premises' has not been defined in the Act, but meaning of it has been given at page 322 of Words and Phrases (Judicial by Defined) Volume IV, 1944 edition as under :—

> "The word 'premises' includes at common law houses or lands, the definition being probably derived from reference to lands or houses, or both, recited in deeds and grants as being sold or conveyed, and afterwards referred to in the conveyance or deed of grant as premises."

In view of the above definition it is not necessary that all the buildings including the precincts in which manufacturing process of a factory is being carried on should be contiguous or should be located

in the same compound. What is necessary is that the work carried on in different buildings including the precincts should be inter-connected and conducted by the same concern. In the present case, as has been indicated above, appellant No. 2 is carrying on the process connected with the manufacture of Science Instruments of bakelite in the three different buildings. This fact has not been controverted by the appellants. The learned counsel for the appellants, however, in support of his argument relied on *Metro Motors Private Ltd.* v. *The Regional Provident Fund Commissioner, Punjab* (1), the facts of which are distinguishable from the facts of the instant case. In the cited cases an employer carried on the business of selling cars and a service-station in one premises and made bodies for buses and tracks in another premises. It was held that the employees working in both the premises could not be counted together to make twenty in order to make it a factory because it was not proved that there was any connection between the two premises except that of ownership. The work carried on at the two places was independent of each other. In the present case the work carried on in the three buildings was inter-connected as it related to the manufacture of Science Instruments. The other case, *S. M. Sriramulu Naidu* v. *Employees' State Insurance Corporation* (2), referred to by the learned counsel for the appellants was over-ruled by a Bench decision of the same Court in *Employees' State Insurance Corporation* v. *S. M. Sriramulu Naidu* (3). There the question was, whether employees working in various departments of the same concern and connected with the same work in buildings situate within the same compound could collectively be taken into consideration while deciding whether the concern was a factory as defined in the Act. The answer was in the affirmative for the reason that it was not necessary that all the 20 persons should be working in the same section or department. What was deemed essential was that efforts of all the departments should be co-ordinated to achieve the main object of the factory, that is, the manufacture. In the present case what requires determination is whether the employees working in three separate buildings, two of which are situate across the road and the third at a small distance could collectively be taken into consideration for classifying the employer-appellant No. 2 as a factory under the Act. The work conducted in all the

(1) 1959 P.L.R. 160.
(2) A.I.R. 1959 Mad. 457.
(3) A.I.R. 1960 Mad. 248.

three buildings unmistakably was directed towards the same object, namely, the manufacture of Science Instruments. In the circumstances, the Insurance Court correctly held that appellant No. 2 was a factory under the Act.

The question of limitation covering cases of the present category has recently been decided by a Full Bench of this Court in *Messrs United Indian Timber Works* v. *Employee State Insurance and others* (4), in according to which the application preferred by the Regional Director of the Corporation under section 75(2) of the Act is well in time.

The learned counsel for the appellants has not been able to make out any substantial question of law which could justify interference in the orders passed by the Court below in the two applications. Both the appeals fail. The parties are left to bear their own costs.

R. S.

LETTERS PATENT APPEAL

Before S. S. Dulat and S. K. Kapur, JJ.

MESSRS DELHI CLOTH & GENERAL MILLS CO. LTD., AND ANOTHER,—*Petitioners.*

versus

DELHI MUNICIPAL CORPORATION OF DELHI AND ANOTHER,—*Respondents.*

L.P.A. 145-D of 1963.

March, 24, 1966.

Punjab Municipal Act (III of 1911) as extended to Delhi—S. 121—Schedule of licence fees prescribed—Items 20 and 22—Interpretation of—Letters Patent—Clause 10—Single Judge dismissing writ petition on the ground that matter be raised before the criminal Court wherein proceedings are pending—Whether appealable.

Held, that according to item 20 of the schedule of fees for obtaining licences prescribed under section 121 of the Punjab Municipal Act, 1911, as extended

(4) I.L.R. (1966) 2 Punj. 291.