

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 07.12.2010
Judgment delivered on: 20-1-2011

W.P.(C) No.12718/2009 and C.M.No.13412/2009

SMT.KAMLA BHARGAVA & ANR. Petitioners
Through: Mr. L.K.Singh, Advocate.

Vs.

LIFE INSURANCE CORPORATION
OF INDIA & ORS. Respondents
Through: Mr.Mohinder Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

KAILASH GAMBHIR, J.

1. By this petition filed under Article 226 of the Constitution of India, the petitioners seek to challenge the

order dated 21.08.2009 passed by the learned trial court, whereby the appeal filed by the present petitioners under Section 9 of the Public Premises Act, 1971 challenging the order of the Estate Officer dated 28.01.2004 was dismissed.

2. Brief facts of the case relevant for deciding the present petition are that the husband of the petitioner No.1 was the tenant of the premises bearing no.8 in the building known as Tropical Building, H Block, Connaught Circus, New Delhi and he died on 18.4.1983. The respondent had served a legal notice dated 12/27.1.2001 upon the petitioners under section 106 of the Transfer of Property Act requiring them to vacate the said premises but the petitioners sent no reply to the said notice. That thereafter the respondent initiated proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 against the petitioners and an eviction order dated 28.1.2004 was passed by the learned Estate Officer against the petitioners. However, meanwhile the respondent through its Rent Negotiation Committee was in negotiation with the petitioners to revise

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the rate of rent and renew the tenancy on fresh terms and conditions. As per the petitioners this vital fact was ignored by the learned Estate Officer in the eviction proceedings as well as by the learned Appellate Court in the impugned order dated 21.8.09. Feeling aggrieved with the same, the petitioners have preferred the present petition.

3. Counsel for the petitioners submitted that the respondent-LIC vide its letter dated 8.3.2002 had agreed to regularize the tenancy in favour of the petitioner no.1 on the terms and conditions contained therein. The contention of counsel for the petitioners was that the petitioners had duly participated in the discussions held with the Rent Negotiation Committee of the respondent on 28.02.2002 and based on the said discussions, the respondent had conveyed its decision to regularize the tenancy of the petitioner no.1 by revising the rent and also subject to certain other terms and conditions contained in the said letter. Counsel also stated that the said terms and conditions were duly accepted by the petitioners and in fact the petitioners had paid the rent of Rs.20,000/-

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against the old arrears as demanded by the respondent and also started paying the rent at the revised rate of Rs.4,500/- per month w.e.f. 01.03.2002. Counsel also submitted that the petitioners had been regularly paying the said rent and there were no arrears of rent till at least November, 2009. Counsel thus urged that the eviction proceedings which were initiated by the respondent became *non est* due to the said decision of the respondent and therefore the status of the petitioners could not be termed as that of an unauthorized occupant but stood converted into the status of being a lawful tenant by virtue of the said decision. Counsel further submitted that before the Estate Officer, the petitioners had moved two separate applications to seek closure of the said proceedings after the said decision of the respondent to regularize the tenancy of the petitioner no.1. Counsel also submitted that the said subsequent development was neither properly appreciated by the learned Estate Officer nor by the learned Appellate Court. Counsel for the petitioners also submitted that even if the request made by the petitioners to transfer

the tenancy in favour of another legal heir, namely Vikramaditya Bhargava, was not acceded to by the respondent then also the tenancy under the law could have been regularized either in favour of all the legal heirs left by the deceased Mr.J.P.Bhargava or in favour of the petitioner No.1 being her widow.

4. Refuting the said submissions of counsel for the petitioners, counsel for the respondent submitted that no final decision was taken by the respondent through its letters dated 08.03.2002 and 08.09.2003, as clearly in the said letters it was stated by the respondent that the said decision would be "**without prejudice**". Counsel also submitted that the petitioners stopped appearing before the learned Estate Officer and had there been any final settlement between the parties, then it was for the petitioners to have apprised the Estate Officer about the said final settlement or final decision taken by the respondent. Counsel also submitted that the respondent has duly submitted its reply to the aforesaid two applications moved by the petitioners before the Estate

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Officer for closure of the proceedings and took a stand that the tenancy of neither the petitioner no.1 nor her son Vikramaditya Bhargava was regularized as the petitioners had failed to furnish the no objection certificate. Counsel thus submitted that in view of said stand taken by the respondent, the petitioners were made well aware of the decision taken by the respondent in not agreeing to regularize the tenancy of any of the legal heirs left by the deceased Mr. J.P.Bhargava. Counsel further submitted that the order passed by the learned Estate Officer takes note of the fact that the petitioners had not paid any amount since 01.09.2003 onwards and the said observation of the learned Estate Officer would belie the claim of the petitioner no.1 that she had been paying the rent amount regularly to the respondent. Counsel further submitted that the petitioners themselves did not choose to contest the proceedings before the Estate Officer as neither any evidence was led by the petitioners nor the petitioners cross examined the witnesses produced by the respondent LIC and therefore, the petitioners cannot raise

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any grievance against the eviction order passed by the learned Estate Officer. Counsel also submitted that the tenancy of the petitioners was validly terminated by the respondent under Section 106 of the Transfer of Property Act. To support his argument counsel for the respondent placed reliance on the judgment of the Apex Court reported in the case of *Jiwan Das Vs. LIC 1994 Supp (3) SCC 694*, wherein it was held that even a Public Authority is entitled to deal with the property to its best advantage so as to fetch maximum profits.

5. Counsel for the respondent also submitted that the premises being residential in nature would only be allotted to its employees and would not be let out to any person for commercial motive. Counsel also submitted that no lease deed was executed by the respondent in favour of any of the legal heirs of the deceased tenant Mr.J.P.Bhargava and therefore, the petitioners were no more accepted as a tenant by the respondent. Counsel also submitted that the 'no objection' certificate was not furnished by the petitioner no.1 and other

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legal heirs to transfer the tenancy rights in favour of petitioner no.2 Vikramaditya Bhargava despite the letter dated 08.09.2003 sent by the respondent to the petitioner. Counsel also submitted that mere payment of the enhanced rent by the petitioner would not result in the creation of a fresh tenancy in her favour and also would not result in the waiver of the said legal notice already sent by the respondent terminating the tenancy of the petitioner. Counsel also submitted that the petitioner had never urged any such plea before the Appellate Court claiming submission of 'no objection' certificate as sought by the respondent vide its letter dated 08.09.2003. Counsel further placed reliance on Section 2(e) of the Public Premises Act to contend that the premises in question were public premises and once the sanction was withdrawn by the respondent, the necessary fall out would be that the occupant would become an unauthorized occupant and would have no legal right to occupy the subject premises.

6. In support of his arguments, counsel for the respondent further placed reliance on the following judgments:-

- (1) *Basant Lal v. State of U.P* 1971 RCR Rent 354
- (2) *Sri Mahanthara Mutt Trust vs. A.R Mankikya Vyasgam Chettiar* AIR 2008 (NOC) 740 (Kar)
- (3) *Shakti Vats vs. Dr.Fatima Raja* AIR 2008 2442 (Delhi)

7. I have heard learned counsel for the parties at considerable length and gone through the records.

8. The facts which are not in dispute are that one Mr.J.P.Bhargava, husband of the petitioner No.1 and father of the petitioner No.2 was a tenant in respect of the tenanted premises bearing No.8 in the building known as 'Tropical Building', H-Block, Connaught Circus, New Delhi on a monthly rent of Rs.200/- per month excluding other charges. Mr.J.P.Bhargava expired on 18.04.1983 and after his death the petitioners continued to occupy the said premises. Both the petitioners and Smt.Bharti Mishra, daughter of late Mr.J.P.Bhargava became co-tenants in respect of the said premises by operation of law. Vide legal notice dated

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12.01.2001/27.1.2001, the tenancy of the petitioners and that of Smt.Bharti Mishra was terminated by the respondent in terms of Section 106 of Transfer of Property Act. The ground stated in the said legal notice by the respondent-LIC for terminating the said tenancy was that the premises were required by the respondent for their own bonafide use. No reply to the said legal notice was given by the petitioners and the premises in question were also not vacated by them despite termination of their tenancy pursuant to the said legal notice. Proceedings were then initiated against the petitioners under the provisions of Public Premises Act and vide order dated 28.1.2004, the learned Estate Officer passed the eviction order under Section 5(1) of the said act and a separate order under Section 7(2) of the Public Premises Act, 1971 for recovery of damages @ Rs.25,887.50 per month w.e.f. 01.03.2001 till 31.12.2003 was passed against the petitioners.

9. It is also not in dispute that simultaneously the matter for revision of rent of the said premises was under

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consideration with the Rent Negotiation Committee of the respondent and vide their letter dated 08.03.2002, it was conveyed to the petitioner No.1 that the competent authority of the respondent has approved the regularization/revision of rent of the said premises on the terms & conditions contained in the said letter. As per the terms & conditions of the letter dated 8.3.2002, the rent was settled @ Rs.4,500/- per month w.e.f. 01.03.2002 for a lease period of ten years commencing from 01.03.2001 to 28.03.2012 with escalation clause of 35% increase over the last rent paid after five years. It was also settled that the petitioners will have to pay one-time payment of Rs.20,000/- against the old arrears in addition to the admitted rent. It was also conveyed by the respondent that a fresh lease will be executed by them in favour of Smt. Kamla Bhargava, the petitioner No.1 herein. As per the petitioners, they had accepted the said terms & conditions contained in the letter dated 08.03.2002 and in compliance thereof they had deposited a sum of Rs.20,000/- towards old arrears of rent and two months' rent for the months of March and April,

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2002 amounting to Rs.9,000/- and thus a total amount of Rs.29,000/- was paid vide pay order No.220811 dated 01.05.2002 drawn on American Express Bank, Connaught Place, New Delhi.

10. The petitioners have also taken a stand that they continued to pay the monthly rent at the revised rate of Rs.4,500/- per month to the respondent-LIC. The petitioners have further taken a stand that they have already paid the rent @ Rs. 4,500/- till the month of November, 2009 although possession of the subject premises was taken by the respondent LIC in the month of October, 2009.

11. The aforesaid undisputed facts would clearly show that while on one hand the respondent was actively pursuing the remedy to seek eviction of the petitioners and to claim damages from them by invoking the provisions of the Public Premises Act, but at the same time the respondent was also proceeding ahead on its administrative side to regularize the tenancy of the petitioners on revised terms. In fact the Rent Negotiation Committee after having their discussion with the

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petitioners took a decision on 28.2.2002 to regularize the tenancy of the petitioners and to revise the terms and conditions of the tenancy. The said decision was conveyed to petitioner No. 1 vide letter dated 8.3.2002. It would be apt to reproduce the contents of the said letter here:-

Ref.: NZO/Estate/533 WITHOUT PREJUDICE Dated: 7.3.2002
8.3.2002

Smt. Kamla Bhargava,
Flat No. 8/8A,
Tropical Bldg.
H-Block, Connaught Place,
New Delhi - 110 001

Dear Sir,
Re: Regularisation & Revision of Rent of the premises occupied by you at Tropical Bldg., Conn. Place New Delhi.

This has reference to the discussion held with the Rent Negotiation Committee on 28.2.2002. We have pleasure to inform you that the Competent Authority has approved the regularization & revision of rent on the following terms & conditions.

- i) That the rent will be @ Rs. 4500/- P.M. w.e.f. 1.3.2002
- ii) The lease period will be for 10 years commencing from 1.3.2001 to 28.3.2012 with Escalation Clause of 35% increase over the last rent paid after 5 years.
- iii) That you will pay one time payment of Rs. 20,000/- (Rupees Twenty thousand only) against old arrears in addition to admitted rent.
- iv) That the lease will be executed in the name of Smt. Kamla Bhargava, Wd/o Late Sh. J.P. Bhargava.

You are therefore, requested to send your consent in token of accepting of the above terms & conditions by signing on the copy of this letter enclosed within 10 days from the receipt of this letter.

Yours faithfully,

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P. Zonal Manager

Encl : As above"

12. The contents of the aforesaid letter leaves no room of doubt that the prime concern of the respondent was to revise the rate of rent from Rs.200/- to Rs. 4,500/- per month with an escalation clause of 35% increase after a period of five years over the last rent paid. Since the said decision was taken by the Rent Negotiation Committee of the respondent after having discussions with the petitioners, therefore, it cannot be said that the petitioners had never agreed to accept the said decision. In fact the petitioners started paying the revised rent @ Rs. 4,500/- w.e.f. 1st March, 2002 and had also deposited an amount of Rs. 29,000/- i.e. one time payment of Rs. 20,000/- towards the old arrears and advance rent for the months of March and April, 2002. What was left to be performed was the formal execution of the lease deed between the parties. It is quite intriguing and rather shocking to find that the respondent LIC, which is an instrumentality of the State, instead of withdrawing the proceedings from the

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Court of the Estate Officer kept on pursuing the same after the said decision of revising the rate of rent and renewal of the tenancy of the petitioners was taken by them. This Court also cannot subscribe to the view taken by both the Courts below that the termination notice dated 12/27.1.2001 sent by the respondent under Section 106 of the Transfer of Property Act will still hold good after the decision of the respondent to renew the tenancy of the petitioners. The tenancy of the petitioners was terminated by the respondent on the ground that the respondent required the tenanted premises for their own bona fide use but such a bona fide need clearly turned mala fide as the real intention of the respondent behind seeking eviction of the petitioners was to enhance the rate of rent and not the alleged bona fide requirement.

12. The Apex Court in a catena of judgments has taken a view that every action of the State or instrumentality of the State must be fair and reasonable and not arbitrary, unfair, unbridled or mala fide. It would be useful to refer to the judgment of the Apex Court in the case of ***Dwarkadas***

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Marfatia and Sons vs. Board of Trustees of the Port of Bombay (1989) 3 SCC 293 here:

"22. Our attention was drawn to the observations of this Court in *Radhakrishna Agarwal and Ors. v. State of Bihar and Ors.* : [1977]3SCR249 . Reliance was also placed on the observations of this Court in *Life Insurance Corporation of India v. Escorts Ltd. and Ors.* :1985 3 Suppl. SCR 909, in support of the contention that the public corporations' dealing with tenants is a contractual dealing and it is not a matter for public law domain and is not subject to judicial review. However, it is not the correct position. The Escorts' decision reiterated that every action of the State or an instrumentality of the State, must be informed by reason. Indisputably, the respondent is an organ of the State under Article 12 of the Constitution, In appropriate cases, as was observed in the last mentioned decision, actions uninformed by reason may be questioned as arbitrary in proceedings under Article 226 or Article 32 of the Constitution. But it has to be remembered that Article 14 cannot be construed as a charter for judicial review of State action, to call upon the State to account for its actions in its manifold activities by stating reasons for such actions.

23. The contractual privileges are made immune from the protection of the Rent Act for the respondent because of the public position occupied by the respondent authority. Hence, its actions are amenable to judicial review only to the extent that the State must act validly for a discernible reason not whimsically for any ulterior purpose. Where any special right or privilege is granted to any public or statutory body on the presumption that it must act in certain manner, such bodies must make good such presumption while acting by virtue of such privileges. Judicial review to oversee if such bodies are so acting is permissible.

24. The field of letting and eviction of tenants is normally governed by the Rent Act. The Port Trust is statutorily exempted from the operation of the Rent Act on the basis of its public/Governmental character. The legislative assumption or expectation as noted in the observations of Chagla C.J. in *Rampratap Jaidayal's case* (supra) cannot make such conduct a matter of contract pure and simple. These corporations must act in accordance with certain constitutional conscience and whether they have so acted, must be discernible from the conduct of such corporations In this connection, reference may be made on the observations of this Court in *S.P. Rakhi v. Union*

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of India 1982 2 SCR 111, reiterated in *M.C. Mehta and Anr. v. Union of India and Ors.* : [1987]1SCR819 , wherein at p. 148, this Court observed:

It is dangerous to exonerate corporations from the need to have constitutional conscience; and so, that interpretation, language permitting, which makes governmental agencies, whatever their mien amenable to constitutional limitations must be adopted by the court as against the alternative of permitting them to flourish as an imperium in imperio.

25. Therefore, Mr. Chinai was right in contending that every action/ activity of the Bombay Port Trust which constituted "State" within Article 12 of the Constitution in respect of any right conferred or privilege granted by any Statute is subject to Article 14 and must be reasonable and taken only upon lawful and relevant grounds of public interest. Reliance may be placed on the observations of this Court in *E.P. Royappa v. State of Tamil Nadu* : (1974)ILLJ172SC , *Maneka Gandhi v. Union of India* : [1978]2SCR621 , *R.D. Shetty v. The International Airport Authority of India and Ors.* : (1979)IILLJ217SC , *Kasturi Lal Lakshmi Reddy v. State of J & K and Anr.* : [1980]3SCR1338 and *Ajay Hasia v. Khalid Mujib Sehravardi and Ors. etc.* : (1981)ILLJ103SC . Where there is arbitrariness in State action, Article 14 springs in and judicial review strikes such an action down. Every action of the Executive authority must be subject to rule of law and must be informed by reason. So, whatever be the activity of the public authority, it should meet the test of Article 14. The observations in paras 101 & 102 of the *Escorts'* case (*supra*) read properly do not detract from the aforesaid principles,

26. The High Court had relied on the observations of this Court in *Kasturi Lal Lakshmi Reddy v. State of Jammu & Kashmir and Anr.* (*supra*) that the State was not totally freed of the duty to act fairly and rationally, merely because it could do so under a contract. The High Court stated that though it might be accepted that a public body like the respondent should not act unreasonably or unfairly but it did not follow that every time they decided to take action against the contractual tenants, they had to decide the said action in terms of fairness, equity and good faith. In support of this proposition, reliance was placed on the observations of this Court in *L.I.C. v. Escorts* (*supra*). In this connection, Mr. Chinai appearing for the appellant reiterated before us as he did before the High Court, that the basis of the legitimate assumption or expectation of which the statutory exemption had been granted by the Legislature to the Bombay Port Trust provided a guideline or touch-stone by which the

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conduct of the public authority which had been granted exemption, should be judged. And, according to him, the necessity of eviction in the instant case, must have been only in public interest. Reliance was placed on several decisions referred to hereinbefore.

27. We are inclined to accept the submission that every activity of a public authority especially in the background of the assumption on which such authority enjoys immunity from the rigours of the Rent Act, must be informed by reason and guided by the public interest. All exercise of discretion or power by public authorities as the respondent, in respect of dealing with tenants in respect of which they have been treated separately and distinctly from other landlords on the assumption that they would not act as private landlords must be judged by that standard. If a governmental policy or action even in contractual matters fails to satisfy the test of reasonableness, it would be unconstitutional. See the observations of this Court in Kasturi Lal Lakshmi Reddy (supra), and R.D. Shetty v. The International Airport Authority of India and Ors. : (1979)IILLJ217SC".

13. The above observations were reiterated by the Apex Court in the case of ***New India Assurance vs. Nusli Neville Wadia 2008(3) SCC 279*** where augmenting the legal position in *Dwarkadas(Supra)*, it further held that the landlord being a State within the meaning of Article 12 of the Constitution of India, it is not only required to prove fairness and reasonableness on its part in initiating a proceeding but also for it to show that how its actions meet the constitutional requirements of Article 14 of the Constitution of India. In the present case, the petitioners no doubt are guilty of absenting

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themselves before the learned Estate Officer on various dates, but the said guilt of the petitioners or negligence on their part in comparison with the guilt and conduct of the respondent looks petty and ignorable.

14. Before proceeding further it would be useful to reproduce the guidelines issued by the Ministry of Urban Development for Public Sector Undertakings as under:-

"THE GAZETTE OF INDIA JUNE 8, 2002 (JYAISTRA 18, 1924) Section 209A of the Companies Act, 1956(1) of 1956), the Central Government hereby authorize Shri V.C.Dayey, Joint Director (Inspection) in the Department of Company Affairs for the purpose of the said section 209A.

N.C.BEHERA, Under Secretary.

MINISTRY OF URBAN DEVELOPMENT AND POVERTY ALLEVIATION.
(DIRECTORATE OF ESTATES)
RESOLUTION

New Delhi, the 30th May 2002

Subject: Guidelines to prevent Arbitrary use of powers to evict genuine tenants from public Sector Undertakings, financial institutions.

No.21013/1/2000-Pol.1 – The question of notification of guideline to prevent arbitrary use of powers to evict genuine tenants from public premises under the control of Public Sector Undertakings/financial institutions has been under consideration of the Government for some time past.

2. To prevent arbitrary use of powers to evict genuine tenants from public premises and to limit the use of powers by the Estate Officers appointed under Section 3 of the PP (E) Act, 1971, it has been decided by Government to lay down the following guidelines:-

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- (i) The provisions of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (P.P.(E) Act, 1971) should be used primarily to evict totally unauthorized occupants of the premises of public authorities or subletees, or employees who have ceased to be in their service and thus ineligible for occupation of the premise.
- (ii) The provisions of the P.P.(E) Act, 1971 should not be resorted to either with a commercial motive or to secure vacant possession of the premises in order to accommodate their own employees, where the premises were in occupation of the original tenants to whom the premises were let either by the public authorities or the persons from whom the premises were acquired.
- (iii) *A person in occupation of any premises should not be treated or declared to be an unauthorized occupant merely on service of notice of termination of tenancy, but the fact of unauthorized occupation shall be decided by following the due procedure of law. Further, the contractual agreement shall not be wound up by taking advantage of the provisions of the P.P.(B) Act, 1971. At the same time, it will be open to the public authority to secure periodic revision of rent in terms of the provisions of the Rent Control Act in each State or to move under genuine grounds under the Rent Control Act for resuming possession. In other words, the public and herein would have rights similar to private landlords – Rent Control Act in dealing with regularizations.*
- (iv) *It is necessary to give no room for allegations that evictions were selectively resorted to for the purpose of securing unwarranted increase in rent, or that a change in tenancy was permitted in order to benefit particular individuals or institutions. In order to avoid such imputations or abuse of discretionary powers, the release of premises or change of tenancy should be decided at the level of Board of Directors of Public Sector Undertakings.*
- (v) *All the Public Undertakings should immediately review all pending cases before the Estate Officer or Courts with reference to these guidelines, and withdraw eviction proceedings against genuine tenants or grounds, otherwise than as provided under these guidelines. The provisions*

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*under the P.P (E) Act, 1971 should be used henceforth only
in accordance with these guidelines.*

3. *These orders take immediate effect.*

*sd/-
VINEETA RAI
ADDITIONAL SECY."*

15. Indisputably, the above guidelines issued by the Central Government under the Public Premises Act in the matter of eviction of tenants cannot override the statutory provisions as they are advisory in nature, the same, however, would not mean that these guidelines should be ignored blatantly by the Government or Government Corporations. In ***New India Assurance Company (supra)***, the Apex Court has clearly held that action of the State in terms of the provisions of the Act should not be arbitrary, unreasonable or mala fide. The observations of Hon'ble Apex Court also referred to the guidelines issued by the Government from time to time relating to public sector undertakings for seeking eviction of the tenants under the Public Premises Act and referring to such guidelines, the Apex Court observed:

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"21. A tenant of a public premise although ordinarily does not get any protection from eviction from the tenanted premises under the provisions of the Maharashtra Rent Control Act, 1999, it is accepted that the action of the part of the landlord, which is a State within the meaning of Article 12 of the Constitution of India must in this behalf be fair and reasonable. In other words the action of the State in terms of the provisions of the Act should not be arbitrary, unreasonable or mala fide. With that end in view only, and for determining the legal effect arriving thereunder, the Central Government had, from time to time, issued several guidelines. The guidelines so issued are dated 14th January, 1992 ; 5th August, 1992 ; 7th July, 1993 ; 14th July, 1993 ; 23rd July, 1993; 9th June, 1998, 2nd September, 2002 and 23rd July, 2003. In terms of the said guidelines, however, a distinction is sought to be made between a tenant who is rich or industrialist etc. vis-a-vis a person who is poor and uses the tenanted premises only for his residence as would appear from the guidelines dated 23rd July, 2003, the relevant portion whereof reads as under:

3. The Government Resolution dated 30.05.2002 embodies the guidelines dated 14.01.1992 for observance by the Public Sector Undertakings. However, clarification was issued vide OM No.21011/790 Pol.1 IV.H.11 dated 07.07.1993 that the guidelines are meant for genuine non affluent tenants and these are not applicable to the large business houses and commercial entrepreneurs.

22. Issuance of such guidelines, however, is not being controlled by statutory provisions. The effect thereof is advisory in character and thereby no legal right is conferred upon the tenant. (See 1990 (Supp) SCC 440 at 508 : Narendra Kumar Maheshwari v. Union of India and Ors. : AIR1981SC234 : Maharao Sahib Shir Bhim Singhji v. Union of India and Ors. : 1988(38)ELT225(SC) : J.R. Raghupathy and Ors. v. State of A.P. and Ors.; (2002) 100 DLT 487 : Uttam Parkash Bansal and Ors. v. L.I.C. of India : 100(2002)DLT497 : Punjab National Bank v. The Lord Krishna Paper Industries and Ors."

16. Apparently, the case in hand does not concern either a large business house or commercial entrepreneur,

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but the same pertains to the premises which were let out by the respondent in favour of one late Shri J.P.Bhargava for residential purposes, who later on expired and on his demise his legal heirs became co-tenants by operation of law. The respondent has not disputed the fact that the petitioners did deposit an amount of Rs.29,000/- pursuant to the decision taken by the Rent Negotiation Committee of the respondent-LIC which was communicated to the petitioners vide letter dated 08.03.2002. The respondent has also admitted the fact that the petitioner No.1 kept on depositing the said amount and the last payment of Rs.9,000/- was made by the petitioner on 10.02.2010 as per the deposit receipt placed on record by the respondent itself. So far the contention of counsel for the respondent that the said amount was being kept by the respondent in a suspense account is concerned, the same can hardly be of any concern to the petitioners as from the side of the petitioners the amount was being paid/deposited at the revised rate and to which account the said amount was kept was within the exclusive domain of the respondent.

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17. In any event of the matter, here is a case where the respondent had agreed to renew the tenancy of the petitioners, but still kept on pursuing the remedy of eviction and recovery of damages against the petitioners. Such a conduct of the Government Corporation under no circumstances can be acceptable. No doubt the Government or Public Corporation is entitled to deal with its property in the best manner to their advantage for commercial exploitation as held by the Apex Court in ***Jiwan Das Vs. LIC (supra)***. The legal proposition settled in the above case cannot be of any dispute. Undoubtedly, the Public Authorities or Government Corporations have every right to seek eviction of their tenants on legally permissible grounds. These authorities also have indefeasible right to ask for periodical enhancement in the rate of rent. The said legal position, however, would be of no help to the plea taken by the respondent, as in the present case the rent was revised by the petitioner in terms of the decision taken by the Rent Negotiation Committee of the respondent itself.

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18. The other argument of the counsel for the respondent was that mere acceptance of revised rent by the respondent after the termination of the tenancy will not amount to waiver of the termination notice. In support of this argument, counsel relied on the judgment of the Apex Court in the case of *Basant Lal v. State of U.P* 1971 RCR Rent 354 and of the Karnataka High Court in *Sri Mahanthara Mutt Trust vs. A.R Mankikya Vyasgam Chettiar* AIR 2008 (NOC) 740 (Kar). There cannot be any doubt about the abovesaid legal position but again, the case of the petitioners herein is not that they started paying the revised rent on their own sweet will and without there being any request or consent from the respondent. Clearly, in the present case, the rent was paid by the petitioners after the decision taken by the Rent Negotiation Committee of the respondent to revise the same from Rs.200/- to Rs.4,500/- per month.

19. Another argument on which strong emphasis was laid by the counsel for the respondent was that no fresh lease deed was executed between the parties and in the absence of

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the same, no renewal of the fresh tenancy could take place between the parties. In support of this argument counsel placed reliance on the judgment of this court in the case of *Shakti Vats vs. Dr. Fatima Raja AIR 2008 2442 (Delhi)*. This argument of counsel for the respondent in the first blush looked attractive, but found to be of no substance, especially looking into the facts of the present case. The present case is not a case of new tenancy. Mr. J.P. Bhargava was the old tenant of the respondent and even after his demise on 18.04.1983, the tenancy of the legal heirs being the co-tenants continued. The said tenancy of the co-tenants came to be terminated by the respondent vide their notice dated 12/27.1.2001 served by them under Section 106 of the Transfer of Property Act. It is this termination of the tenancy through which the petitioners were termed as unauthorized occupants of the tenanted premises. Based on this very notice, the respondent proceeded to invoke the provisions of the Public Premises Act against the petitioners. The fundamental question before the Courts below and before this

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Court as well has been whether the decision of the Rent Negotiation Committee of the respondent taking a decision to renew the tenancy of the petitioners would have the effect of nullifying the said notice dated 12/27.1.2001 or the notice would still prevail after the said decision. Another argument raised with equal force by the counsel for the respondent was that in the absence of execution of fresh lease deed the decision of the Rent Negotiation Committee of the respondent will have no effect. This Court does not subscribe to both the said contentions raised by the respondent-LIC. Once the respondent had taken a decision to regularize the tenancy of the petitioners on the revised rate of rent then in all fairness the respondent should have dropped the proceedings initiated by it against the petitioners under the provisions of the Public Premises Act. The respondent even did not do so when an application to this effect was moved by the petitioners before the Estate Officer seeking closure of the proceedings. So far the question of execution of a fresh lease deed is concerned, it is the case of the petitioners that the petitioner No.1 had

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signed the lease papers and the same were also submitted by her to the respondent-LIC. In response to this, the respondent-LIC took a stand that they had informed the petitioner No.1 vide their letter dated 8.9.2003 about their decision to accept the petitioner No.2 as a tenant in place of the petitioner No.1 subject to the condition of the petitioner No.1 and her daughter giving no objection. This response of the respondent-LIC would again demonstrate that the respondent was prepared to accept one of the co-tenants as the sole tenant on the submission of 'no objection' by the remaining legal heirs. The petitioner No.2 is none else but the son of the deceased tenant Mr.J.P.Bhargava and, therefore, he continued to be a co-tenant of the said premises after the decision taken by the respondent to revise and regularize the tenancy in favour of the co-tenants. Simply because a fresh lease deed was not executed between the parties, that will not obliterate or nullify the decision of the Rent Negotiation Committee of the respondent-LIC more so when it was fully accepted and acted upon by the petitioners.

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19. In the light of the above discussion, the present petition is allowed and consequently the orders passed by both the Courts below are set aside. The premises in question bearing No. 8 in the building known as Tropical Building, H-Block, Connaught Circus, New Delhi were got vacated by the respondent on 21.10.2009 and vide order dated 18.11.2009 this Court directed the respondent to maintain status quo with regard to the possession and allotment of the said property. Since the present petition filed by the petitioners is being allowed, therefore, the petitioners deserve to be put back in possession of the said premises. The respondent is accordingly directed to restore back the possession of the said premises to the petitioners within a period of one month from the date of this order. The petitioners on the other hand shall clear the entire arrears of the upto-date rent within a period of one month from the date of restoration of possession and they shall continue to pay the rent amount month-by-month in terms of the decision taken by the Rent Negotiation Committee vide their letter dated 8.3.2002.

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20. With the aforesaid directions, the present petition stands disposed of.

JANUARY 20, 2011
dc/rkr


KAILASH GAMBHIR, J