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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 4497 OF 2021

Sharada Dayadhish Shetty Petitioner
Vs.
The Director, CSIR - NCL and anr. Respondents

Mr.Prathamesh Bhargude a/w Mr.Sumit Sonare, for the Petitioner.
Mr.K.P. Anilkumar a/w Ms.Priyanka Kumar & Ms.Roshni Vipani, for
Respondents.

CORAM : M. S.KARNIK, J.

DATE : 31st AUGUST, 2021

P.C. :

. Heard learned Counsel for the Petitioner and learned
Counsel for the Respondents. The Petitioner is an occupant in
respect of the premises admeasuring 110 sq. ft. where she is
running a 'Paan Shop'. The Petitioner claims through her
deceased husband in whose favour leave and licence agreement
was granted by the Respondent i.e. CSIR initially on 16/06/1994.
Thereafter the leave and licence agreement was renewed from
time to time. On 23/01/2004, the Petitioner's husband expired.
The leave and licence agreement was renewed in favour of the

Petitioner on 09/08/2007. The notice for eviction was issued on 20/01/2016. Upon hearing the Petitioner, an order of eviction came to be made on 08/02/2018. The Appeal under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (for short 'the said Act') was filed before the District Judge, Pune. The order of eviction came to be confirmed in Appeal, which order is under challenge in this Petition.

2. It is the contention of the learned Counsel for the Petitioner that the premises in question do not belong to the Central Government and therefore the provisions of the said Act will not apply. Relying on the definition of 'public premises' in section 2(e) of the said Act, it is submitted that there is no material to show that the premises are belonging to the Central Government. It is his contention that the Respondents have to establish the premises are owned by the Central Government. In any case, his submission is that the Respondent - CSIR is a Society registered under the Societies Registration Act, 1960, and therefore, in respect of the premises in question, CSIR can not claim through the Central Government to contend that the premises belong to the Central Government. It is further submitted that after expiration of the leave and licence, the Petitioner became the tenant of the said premises and thus,

proceedings under the said Act cannot be initiated. It is further submitted by him that there cannot be a leave and licence agreement in respect of commercial premises, as admittedly, the Petitioner is running a 'Paan Shop' in the said premises. According to him, the Appellate Court was not right in placing reliance in the case of **Pradeep Kumar Biswas Vs. Indian Institute of Chemical Biology and ors. (2002) 5 Supreme Court Cases 111**. In his submission, the said decision is only an authority for the proposition that CSIR is 'State' within the meaning of Article 12 of the Constitution and nothing further. He submits that on the basis of this decision, it cannot be concluded that the premises are owned by the Central Government. Learned Counsel placed reliance on the decision of the Apex Court in the case of **Union of India & ors. Vs Dhanwanti Devi and ors. (1996) 6 Supreme Court Cases 44** to contend that as Petitioner is a tenant, Rent Act is applicable and therefore, the present proceedings under the said Act are not maintainable.

3. Learned Counsel relied on the decision of the Delhi High Court in the case of **K.L.Ahuja Vs. The Director General CSIR & anr. 2009 SCC OnLine Del 4164** to contend that before the Delhi High Court, a specific stand was taken by the Respondents that there is no notification regarding applicability

of the said Act and CSIR is not governed by the Public Premises Eviction Act and that the said Act is not applicable. According to him, contrary stand now cannot be taken by the Respondents. Reliance is also placed on the order of this Court dated 15/11/2016 in the case of **Council of Scientific Industrial Research and anr. Vs. Mr.Raju Muthiya Shetty in Writ Petition No. 5953 of 2016** to contend that the question of applicability of rent laws and provisions of the Public Premises Eviction Act having been referred to the larger bench of the Apex Court, hearing of the Petition has been adjourned sine-die. Lastly, learned Counsel placed reliance on the decision of the **Hon'ble Supreme Court in the case of Suhas H. Pophale Vs. Oriental Insurance Company Limited and its Estate Officer** (2014) 4 Supreme Court Cases 657 to contend that once the Petitioner has acquired status as a tenant, the proceedings cannot be initiated under the provisions of the Public Premises Eviction Act.

4. Learned Counsel for the Respondents, on the other hand, submitted that the issue is well settled and attained finality in view of the decision in **Pradeep Kumar Biswas** (*supra*). He submits that the land in question belongs to the Central Government. The assets and funds of the CSIR though nominally

owned by the Society, are in the ultimate analysis owned by the Central Government.

5. Heard learned Counsel for the parties. Relevant portion of Section 2(e) of the said Act defines 'public premises' reads thus:

"Section 2(e) : "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 (61 of 1980), under the control of the Secretariat of either House of Parliament for providing residential accommodation to any member of the staff of that Secretariat; "

6. The question in the present case is whether the premises which are in the occupation of CSIR can be said to belong to the Central Government within the meaning of Section 2(e) of the said Act. In **Pradeep Kumar Biswas's** case, Their Lordships held that the Respondent - CSIR is an authority within the meaning of Article 12. It is held that CSIR is therefore both historically and in its present operation subject to the financial control of the Government of India. The assets and funds of CSIR though nominally owned by the Society are in the ultimate

analysis owned by the Government.

7. There is no dispute that the leave and licence agreement was entered into between the Respondent - CSIR and the Petitioner in respect of the premises. Pursuant to the expiry of the leave and licence agreement, notice for eviction was issued. In my opinion, the decision in **Suhas H.Pophale's** case (supra) can be of no assistance to the Petitioner. In **Suhas H.Pophale's** case, issue was whether the premises in question belong to the Central Government. The appellant therein had already acquired the status as a deemed tenant prior to the government occupying the premises. In the present case, right from inception of the leave and licence agreement, the premises in question belonged to the CSIR. It is much after CSIR occupied the premises that the leave and licence agreement was entered. The leave and licence is in respect of premises which belong to CSIR.

8. Even insofar as the order passed in Writ Petition 5953 of 2016 is concerned, there is no decision on merits, but the Petition is adjourned sine-die observing that the question of applicability of rent laws and provisions of the Public Premises

Eviction Act having been referred to the Larger Bench. The order passed in Writ Petition 5953 of 2016 can be of no assistance to the Petitioner. Admittedly, Petitioners leave and licence agreement is entered after CSIR came in possession of the land in question on which premises are situated. Furthermore, the learned Counsel for Respondent submits that in **K.L.Ahuja's case** (supra), wrong concession was made by the Advocate for CSIR that 'as there is no notification of Public Premises Eviction Act the Act will not be applicable'. In my opinion, having regard to the law laid down by the Apex Court in **Pradeep Kumar Biswas's** case, there is no manner of doubt that premises in question belong to the Central Government and therefore, Section 2(e) of the said Act will squarely apply in the present facts. I have no hesitation in holding that the premises belong to the Central Government. I have gone through the findings of the Appellate Court. I see no reason to interfere with the order passed by the Appellate Court as the findings cannot be said to be unreasonable or perverse to warrant interference. The Petition is rejected.

9. At this stage, it is requested by learned Counsel that the Petitioner being a widow, she may be granted a limited protection. In the interest of justice, the order of eviction not to

be executed for a period of 4 months from today subject to the
Petitioner clearing all arrears within 4 weeks from today.

(M.S.KARNIK, J.)