

CIVIL MISCELLANEOUS

*Before Harbans Singh, J.*HARI SINGH AND OTHERS,—*Petitioners.**versus*THE MILITARY ESTATE OFFICER AND ANOTHER,—
Respondents.

Civil Writ No. 665 of 1962.

- *Public Premises (Eviction of Unauthorised Occupants) Act (XXXII of 1958)—Whether ultra vires—S. 2(b)—Agricultural land—Whether falls within the definition of public premises—Constitution of India—List I, Item 32—Parliament—Whether competent to legislate with regard to agricultural land belonging to the Central Government.*

1963

March, 13th.

Held, that the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 is *intra vires*.

Held, that the word premises as defined in section 2(c) of the Act means any land. *Prima facie*, therefore, any type of land—whether it is used for agricultural or other purposes—would be covered by the word “premises”.

Held, that under item 32 in List I (Union List) of the Constitution, the Parliament is competent to legislate in respect of the property of the Union and the impugned Act is a valid piece of legislation even when it deals with the agricultural land which is the property of the Union.

Petition under article 226 of the Constitution of India praying that a Writ of Certiorari, or any other appropriate Writ, Order or Direction be issued quashing the orders of the respondents Nos. 1 and 2 dated 28th November, 1961 and 18th April, 1962, respectively.

B. S. CHAWLA, ADVOCATE, for the Petitioner.

H. S. DOABIA, ADDITIONAL ADVOCATE-GENERAL, for the Respondents.

ORDER

Harbans Singh,
J.

HARBANS SINGH, J.—The petitioners in this case were the sub-lessees of one Behari Lal to whom the land in dispute had been leased by the Military Estate Officer, Delhi Circle, having jurisdiction over the land in dispute which is situated within Ambala Cantonment. This Behari Lal was evicted some time back and it is admitted that till his eviction the lease money was being paid by the present petitioners to Behari Lal and after he had been evicted they did not pay any amount to anyone. Treating them to be unauthorised occupants notice was served on them by the military authorities concerned under section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (Central Act, 32 of 1958), hereinafter referred to as the Act, and after giving them a hearing the eviction order was passed. They went up in appeal to the District Judge, who is the appellate authority under section 9 of the Act. The only ground taken before this authority was that the petitioners had not been given proper opportunity. This argument was negatived and their appeal was dismissed. Thereafter they filed the present writ challenging the order of eviction mainly on two grounds. The first that the Act was *ultra vires* and secondly that the land in dispute being an agricultural land did not fall within the definition of the word 'premises' as given in the Act and that the Parliament is not authorised to legislate in respect of agricultural land which is exclusively within the purview of the State Legislature according to List II, item 18. With regard to the first point it has already been decided by a Full Bench of this Court in *The Northern India Caterers, Private Ltd., and another v. The State of Punjab and others* (1), that the

(1) I.L.R. (1963) 1 Punj. 761.

relevant provisions of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1959 (Punjab Act, 31 of 1959), were *intra vires*. As has been submitted in paragraph 8 of the present writ petition, the words of the Punjab Act are modelled on the words of the Central Act, and in view of this Full Bench decision the first point raised in this petition must be negatived.

Hari Singh
and others
v.
The Military
Estate Officer
and another

Harbans Singh,
J.

With regard to the second point, it is necessary to refer to definitions of 'public premises' and 'premises' as given in section 2 of the Act. These are as follows:—

"2(b) 'public premises' means any premises belonging to * * * * * the Central Government * * *

(i) * * * * *

(ii) * * * * *

(c) 'premises' means any land or any building or part of a building and includes:—

(i) the garden, grounds and outhouses, if any, appertaining to such building or part of a building, and

(ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof."

It is not disputed that the land in dispute belongs to the Central Government. Therefore, if the word 'land' falls within the word 'premises', then it would be public premises. Now 'premises' includes any land. *Prima facie*, therefore, any type of land—whether it is used for agricultural or other purposes—would be covered by the word

Hari Singh
and others
v.
The Military
Estate Officer
and another

Harbans Singh,
J.

'premises'. The argument of the learned counsel for the petitioners, however, is that if we compare the definition of the 'premises' given in the Act with the definition given in the Punjab Act, the inference would be that the word 'land' used in the Central Act does not cover agricultural land. In the Punjab Act 'premises' has been defined as "any land, whether used for agricultural or non-agricultural purposes * * *". The mere fact that in the Punjab Act, which came subsequent to the Central Act, it was made specifically clear that the land would include agricultural or non-agricultural land, would not mean that 'land' as used in the Central Act must necessarily be confined to land other than agricultural land. Without the use of any qualifying words restricting the meaning of 'land', it should be given its natural meaning as land used for any purpose. The learned counsel, however, contended that the Parliament is not authorised by the Constitution to legislate with regard to agricultural land even if the same belongs to the Central Government; that item 18 in List II (State List) gives exclusive jurisdiction to the State Legislature to legislate about agricultural land, and that proceedings, if any, could be taken only under the Punjab Act for the eviction of the petitioners from the agricultural land in dispute. I am afraid I cannot accept this argument. Item 32 in List I (Union List) is as follows:—

"32. Property of the Union and the revenue therefrom, but as regards property situated in a State subject to legislation by the State, save in so far as Parliament by law otherwise provides."

Now, there can be no question that the land in dispute is the property of the Union and *Prima facie* the Parliament is authorised to legislate

about the same, and if there is a legislation of the Parliament dealing with the matter, the property would not be subject even to legislation of the State. The Act under consideration is an Act of Parliament dealing with the property of the Union and the mere fact that subsequently the Punjab Legislature also passed a similar Act which dealt only with "premises belonging to, or taken on lease or requisitioned by, or on behalf of, the State Government * * * * * " would not mean that that Act is a legislation of the State Government dealing with the property in dispute. In fact, in view of the definition of 'public premises' as given in the Punjab Act, that Act has nothing to do except with the property belonging to the State Government. In view of the above, therefore, it is obvious that under item 32 the central legislation can and has dealt with the property belonging to the Union and the legislation in dispute cannot be impugned on that ground.

For the reasons given above, I find no force in this petition and consequently dismiss the same and discharge the rule. There would, however, be no order as to costs.

B.R.T.

APPELLATE CIVIL

Before Shamsher Bahadur, J.

DEBI RAM AND ANOTHER,—Appellants.

versus

CHAMBELI AND ANOTHER,—Respondents.

Regular Second Appeal No. 1466 of 1962.

Punjab Pre-emption Act (I of 1913)— S. 15(1) and (2)—Respective scope of—Sub-section (2)—Whether overrides sub-section (1).

Hari Singh
and others

“
The Military
Estate Officer
and another

Harbans Singh,
J.

1963

March, 13th.