

M/s Rubber
Chappal Manu-
facturers Associa-
tion
v.
The Union of
India
and another
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enquiry as it deems fit, either through its own officer or through officers of the State Government of the Central Government or such other authorities, assess the amount of excise duty payable by such manufacturer." Rules 33(e) and 33(f) also show that after the Rubber. (Amendment) Rules, 1961 came into force the liability for payment of duty shall be on the manufacturers (consumers) except in cases provided under section 33(c). These rules clearly eliminate any possibility of discrimination.

This takes us to the third contention of Mr. Aggarwal, namely, that under section 12(2) the duty can be collected from the manufacturers only in accordance with the rules made in this behalf and since no rules have been made as required by section 25(xxa) laying down cases and circumstances in which the duty shall be payable by the manufacturers, the appellants can neither be assessed nor called upon to pay. The short answer to this argument is the Rubber (Amendment) Rules, 1961 which clearly lay down that the duty shall be payable by manufacturers except in cases provided in rule 33(c). In the result the appeal must fail and is dismissed with costs.

R. S.

LETTERS PATENT APPEAL

Before D. Falshaw, C. J., and Harbans Singh, J.

TIKKA BALBIR SINGH BEDI AND OTHERS,—*Appellants*

versus

BAKHSI SALIG RAM AND OTHERS,—*Respondents*

Letters Patent Appeal No. 389 of 1964.

1965
April, 22nd.

Punjab Co-operative Societies Act (XXV of 1961)—S. 28—Scope of—Property—Whether—includes immovable property—Interpretation of Statutes—Word capable of bearing different meanings—How to be interpreted in the particular context.

Held, that section 28 of the Punjab Co-operative Societies Act, 1961, is a drastic measure and is obviously meant for quick action in an emergency to prevent loss or destruction or damage to the property of the society, and on this point it does not even provide for the issue of notice to any person before a warrant is issued under sub-section (2). It cannot be believed that it was intended by the Legislature to empower the police to expel people from the land in their occupation without notice or any judicial determination of their right.

Held, that the words used in connection with 'property' in sub-section (2) of section 28 clearly are applicable only to movable property and cannot possibly be applied to immovable property which, in any ordinary sense of the words, is incapable of being misappropriated or misapplied and cannot be 'kept or believed to be kept' at a particular place and finally cannot be 'seized and handed over'.

Held, that there is no doubt that the word 'property' has very wide significance, and that ordinarily it will include the two generally recognised classes of property, movable and immovable, but it is a fundamental principle of the interpretation of statutes that where a word capable of being interpreted in a number of different ways is used in a context which indicates clearly that its use is confined to one particular sense, the statutory provisions must be interpreted accordingly.

Letters Patent Appeal under clause X of the Letters Patent against the judgment dated 9th October, 1964, delivered by Hon'ble Mr. Justice Jindra Lal in Criminal Writ No. 952 of 1964.

H. L. SONI, ADVOCATE, for the Appellants.

RAJINDER SACHAR, ADVOCATE AND N. N. GOSWAMI ADVOCATE, FOR THE ADVOCATE-GENERAL, for the Respondents.

JUDGMENT.

FALSHAW, C.J.—These are two appeals filed under clause 10 of the Letters Patent by Mrs. Ardaman Kaur and Tika Balbir Singh Bedi and four others against the orders of a learned Single Judge, dismissing petitions filed by them under Article 226 of the Constitution.

Falshaw, C.J.

Briefly the relevant facts are that about 10 years ago the Bhai-ka-Bagh Co-operative Society, Ltd., was formed

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on the initiative by Ardaman Singh, a big landowner, who prevailed on a number of persons, mostly related to him, to join in forming the society and to lease lands owned by them to it for cultivation. There were 29 members who became shareholders on payment of Rs. 1,000.00 each and who leased lands which were to be cultivated by the Society on payment of one-third *batai*. Out of its funds the Society also purchased 78 acres in its own name.

It seems that in the intervening period various complications have arisen and the Society has been split into two contending groups, one including the 7 persons who are the appellants in these cases and the other including the remaining 22 members, and among other things it is alleged that the petitioners have been allowed to take their lands into their own possession. I do not, however, propose to go into the details of this dispute, which, it seems to me, can only be properly settled either by arbitration under the Punjab Co-operative Societies Act of 1961 or by the determination of the parties' rights in the ordinary civil Court.

What is relevant for the purpose of the petitions is that after hearing the parties on the 12th of July, 1963, Mr. H. S. Achreja, Additional Secretary to the Punjab Government in the Department concerned, came to the conclusion that certain serious irregularities in the management of the Society appeared to have taken place, and that action should be taken by the Registrar, Co-operative Societies, under section 27 of the Act, which, in such a state of affairs empowers the Registrar either to order fresh election of the committee of management or to appoint one or more administrators who need not be members of the Society. An Inspector of Co-operative Societies, Bhag Singh was in fact appointed as Administrator under section 27(1)(b) on the 7th of August, 1963. On the 20th of December, 1963, the Assistant Registrar filed an application under section 28 of the Act in the Court of Shri Salig Ram Bakhshi, First Class Magistrate, for the seizure of the records and property of the Society, including some 300 acres of land alleged to be wrongly withheld by Tika Balbir Singh Bedi, as also the lands belonging to the various petitioners. Some of the petitioners appeared before the Magistrate and objected to the issue of warrants under section 28(2), and in particular they objected that in any case warrants under section

28(2) could only be issued in respect of the seizure of movable property, and they could not be issued in respect of immovable property comprising the land, the right to occupy which was in dispute. By his order, dated the 24th of February, 1964, the learned Magistrate rejected these objections and held on the strength of the ordinary wide meaning of 'property', and the terms of section 28(1) and (2) that warrants could be issued even in respect of immovable property. He accordingly ordered that warrants be issued to the Sub-Inspector of Dyalpur Police Station, for seizure of the property which was to be handed over to the Administrator appointed by the Registrar.

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A good deal of contentious matter relating to the disputes between the parties has been introduced into the petitions and the replies, but as I have already said, and, as has been held by the learned Single Judge, these are matters which cannot possibly be decided in the writ petitions. The only point dealt with by the learned Single Judge, was whether the terms of section 28 were wide enough to cover immovable property in the form of land, and he has held that the order of the learned Magistrate on this point was not erroneous. Section 28 reads as follows:—

“(1) (a). If the record, registers or the books of account of a co-operative society are likely to be tampered with or destroyed and the funds and property of a society are likely to be misappropriated or misapplied; or

(b) if the committee of a co-operative society is re-constituted at a general meeting of the society or the committee of a society is removed by the Registrar under section 27 or if the society is ordered to be wound up under section 57 and the outgoing members of the committee refuse to hand over charge of the records and property of the society to those having or entitled to receive such charge, the Registrar may apply to the Magistrate, within whose jurisdiction the society functions, for securing the records and property of the society.

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- (2) On receipt of an application under sub-section (1), the Magistrate may, by a warrant, authorise any police officer, not below the rank of Sub-Inspector, to enter and search any place where the records and the property are kept or are believed to be kept and to seize such records and property; and the records and property so seized shall be handed over to the new committee or administrator of the society or the liquidator, as the case may be."

There is no doubt that the word 'property' has very wide significance, and that ordinarily it will include the two generally recognised classes of property, movable and immovable, but it is a fundamental principle of the interpretation of statutes that where a word capable of being interpreted in a number of different ways is used in a context which indicates clearly that its use is confined to one particular sense, the statutory provisions must be interpreted accordingly. In my opinion, the mere perusal of section 28 can leave no doubt that the word 'property' in this context is confined to movable property. The intended meaning may perhaps not be quite so clearly indicated in the words used in sub-section (1), but in my opinion, sub-section (1), is merely stating the circumstances under which action can be taken and the operative part of the section is sub-section (2) which prescribes the action which is to be taken. Even as regards sub-section (1) the words 'and the funds and property of a society are likely to be misappropriated or misapplied' appear to be more appropriate to movable property, since it is difficult to conceive how land can be misappropriated or misapplied. However, the words in sub-section (2) 'to enter and search any place where the records and the property are kept or are believed to be kept and to seize such records and property and the records and property so seized shall be handed over to the new committee or administrator' to my mind cannot possibly be applied to land. Land is in itself a place, and it cannot be a place where the records and property of the society are kept or believed to be kept, nor can land be seized and handed over to anybody. I have never yet seen any statute in which the words 'seize' and 'hand over' have been used in respect of immovable property, nor has the learned counsel for the respondent been able to point to any such use of the words.

The main argument was that the words should be so interpreted as to implement the object of the Act as a whole and in particular section 28 read with section 27, but I am not at all convinced on this point. Section 55 provides for the settlement of disputes by arbitration, and dispute would certainly include such question as whether the petitioners are entitled to remain in possession of the lands now occupied by them, and the decision on such a dispute would include provision for payment of damages or mesne profits in case their occupation is found to be wrongful.

Section 28 is a drastic section and is obviously meant for quick action in an emergency to prevent loss or destruction or damage to the property of the society, and on this point it does not even provide for the issue of notice to any person before a warrant is issued under sub-section (2). I cannot believe that it was intended by the Legislature to empower the police to expel people from the land in their occupation without notice or any judicial determination of their right.

The matter obviously is largely one of first impression and I can only repeat what I have already said that the words used in connection with property in sub-section (2) clearly are applicable only to movable property and no argument, however elaborate or ingenious can persuade me that they can possibly be applied to immovable property which, in any ordinary sense of the words, is incapable of being misappropriated or misapplied and cannot be 'kept or believed to be kept' at a particular place and finally cannot be 'seized and handed over'. The result is that I would accept these appeals and accept the writ petitions to the extent of quashing the order of the Magistrate so far as it applies to immovable property. I do not think it is necessary to pass any order regarding the costs.

HARBANS SINGH, J.—I agree.

B.R.T.

APPELLATE CIVIL

Before Mehar Singh, J.

SULTAN SINGH JAIN,—*Appellant*

versus

JAI CHAND AND ANOTHER,—*Respondents*

S.A.O. 55-D of 1963.

Delhi Rent Control Act (LIX of 1958)—S. 39—Bonafide requirement of landlord—Whether a finding of fact—Court fees Act (VII of

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