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with jurisdiction bad on the ground that it has erred in law and the error is apparent on the face of the record. We have had occasion several times to point out that only that error will be corrected by this Court which is clearly apparent on the face of the record and which does not become apparent only by a process of examination or argument. With some hesitation Mr. Phadke has also attempted to argue that the decision of the Tribunal with regard to the competency of r. 17 (4) is a decision as to jurisdiction. It is obviously not, because r. 17 (4) has nothing to do with the jurisdiction of the Tribunal, but it has something to do with the jurisdiction of the Municipality, and the Tribunal was perfectly competent to decide whether the Municipality was right in dismissing its servant under r. 17 (4).

The result is that the petitioner fails. Rule discharged. No order as to costs.

Rule discharged.

M. W. P.

APPELLATE CIVIL

Before Mr. M. C. Chagla, Chief Justice, and Mr. Justice Gajendragadkar.

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MESSRS. RAMPRATAP JAIDAYAL (ORIGINAL DEFENDANTS), APPELLANTS *v.* THE UNION OF INDIA (ORIGINAL PLAINTIFF), RESPONDENT.*

Bombay Rents, Hotel and Lodging House Rates Control Act (Bom. LVII of 1947), s. 4 (1)—Constitution of India, art. 14—Exemption for Government owned premises from operation of Rent Act—Constitutional validity of provision—Essentials of classification—Relevancy between class exempted and object of legislation—Reasonable basis for exclusion of class— Expression "the Government" in s. 4 (1) of Bombay Act (LVII of 1947) whether includes Central Government—General Clauses Act (X of 1897), ss. 3 (23), 4A—Vested right of tenant to protection under Rent Act—Subsequent purchase of premises by Government—Applicability of presumption against interference with vested rights.

S. 4 (1) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, which exempts the Government from the operation of the Act does not offend against art. 14 of the Constitution of India.

Art. 14 is intended to safeguard against arbitrary or unreasonable discrimination between subject and subject and emphasises the equality

* First Appeal No. 937 of 1951.

of laws. But it does not prevent the State in proper cases from exempting certain classes of persons from the application of a particular law, nor does it compel the State to extend the application of a particular law to all classes of subjects or to all territories coming within the jurisdiction of the State.

The seventh principle enunciated by the Supreme Court in *The State of Bombay* v. *F. N. Balsara*,[1] emphasises that there must be a reasonable and just relation to the object sought to be attained in the legislation, and that the classification must not be without any relationship to that object whatsoever. That principle does not lay down that the relationship must be such that it must necessarily advance the object of the legislation *qua* the class exempted from its operation. What is emphasised is relevancy between the class exempted and the object of the legislation, or, in other words, the logical connection between the two. Further, whenever a class is exempted from the operation of the law it must be possible for the Court to say that there is some reasonable basis for the exclusion of that class. In exempting Government from the operation of the Rent Act, the Legislature has not created a class of which it could be said that it has no rational connection with the object the Legislature wanted to achieve by the Act, and therefore the presumption which always arises in favour of the constitutionality of an enactment is not rebutted.

The State of West Bengal v. *Anwar Ali*,[2] and *Kathi Raning Rawat* v. *The State of Saurashtra*,[3] referred to.

The expression "the Government" occurring in s. 4 (*1*) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, is used in a wider sense meaning not only the Government of the State but also the Central Government, and hence the Act is not applicable to premises belonging to the Central Government.

Under s. 3 (*23*) of the General Clauses Act, 1897, 'Government' or 'the Government' is defined as including both the Central Government and any State Government, but this definition only applies when the expression occurs in Central Acts and Regulations. By s. 4A of the Act whenever the word 'Government' occurs in any State legislation it means both the Central Government and the State Government. But s. 4A only refers to the expression 'Government' and not to the expression 'the Government'. Therefore, as far as the General Clauses Act, 1897, stands there is no definition of the expression 'the Government' which applies to State laws.

Unless the Legislature uses distinct and clear expression to that effect, the Court will not ordinarily construe a statute so as to take away vested rights. But there is a clear intention in the language used by the Legislature in s. 4 (*1*) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, that the Act is not to apply to any premises belonging to the Government, and once that condition is satisfied, viz. that the premises belong to Government, then the Act does not apply and the

[1] [1951] S. C. R. 682, 708, s. c. 53 Bom. L. R. 982, 994.

[2] [1952] S. C. R. 284.

[3] [1952] S. C. R. 435.

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tenant cannot claim its protection even though he was entitled to it prior to the acquisition of the premises by the Government. Moreover, the first part of that section is sufficiently wide to apply to any premises belonging to the Government and does not require it as a condition that the premises referred to in it must be premises in respect of which the tenancy has been created by Government.

FIRST APPEAL from the decision of K. M. Vakil, Esquire, Judge of the City Civil Court at Bombay in Suit No. 1753 of 1949.

Suit for possession.

Since 1942 Messrs. Rampratap Jaidayal (defendants) were occupying flat No. 4 and garage No. 6 in a privately owned building known as "Roshera" situate at Bombay as monthly tenants.

On January 27, 1948, the Government of India (plaintiff) purchased the building and in the month of May of that year the Government served a notice on the defendants terminating their tenancy. On their failure to vacate the premises, the Government brought the present suit on September 15, 1949, to recover possession of the premises.

The trial Court decreed the suit in plaintiff's favour on September 28, 1951.

The defendants appealed to the High Court.

M. M. Jhaveri and *V. J. Taraporewala,* with *Messrs. Gagrat and Co.,* for the appellants.

G. N. Joshi with *Messrs. Little and Co.,* for the respondent.

CHAGLA C. J. This appeal arises out of a decree of ejectment passed by the learned City Civil Judge Mr. K. M. Vakil. It would appear that the defendants became tenants of flat No. 4 and garage No. 6 in a building known as "Roshera". This building was owned by a private individual. But in January 1948 the property was purchased by the Union of India. In May 1949 the Union of India served upon the defendants a notice to quit, and as the defendants failed to give possession, the suit was filed from which this appeal arises.

The defendants sought protection of the Rent Restriction Act. The answer given to that plea by the plaintiff was that under s. 4 of the Rent Restriction Act the Union Government was exempted from the application of the provisions of the Act and, therefore, the defendants could not claim the protection of the Act. This contention was accepted by the learned Judge, who

in a well-considered Judgment considered the various pleas advanced by the defendants and decided against them.

Before us it has been contended by Mr. Javeri in the first instance that s. 4 (*1*) of the Act does not apply to the Union Government and that it only applies to the State Government. That section is in the following terms:

"This Act shall not apply to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government or a local authority."

The short submission made by Mr. Javeri is that the expression 'the Government' as used in s. 4 (*1*) means the State Government, and not both the State Government and the Union Government. Now, 'the Government' is not defined in the Act, nor do we find any definition of that expression in the Bombay General Clauses Act. But there is a definition given in the Central General Clauses Act and it is necessary to turn to that definition. Under s. 3 (*23*) 'Government' or 'the Government' is defined as including both the Central Government and any State Government; but by reason of s. 3 this definition only applies when this expression occurs in Central Acts and Regulations. But we have s. 4A which applies the definitions of certain expressions set out in s. 3 to all Indian laws, and one of such expressions is 'Government.' Therefore, it is clear that when 'Government' occurs in any State legislation it means both the Central Government and the State Government. But what is rightly pointed out by Mr. Javeri is that s. 4A only refers to the expression 'Government' and not to the expression 'the Government', and it seems this has been done for obvious reasons. If a State legislation refers to 'the Government', ordinarily that expression would mean the Government of that particular State; it is only when the State legislation would refer to 'Government' and not 'the Government', that 'Government' in that indefinite sense would mean both the Central Government and the State Government, and, therefore, there was good reason why by s. 4A both the expressions 'Government' and 'the Government' were not made applicable to all Indian laws. Therefore, as far as the General Clauses Act stands, there is no definition of the expression 'the Government' which applies to State laws. Therefore, we must approach the subject unassisted by any definition appearing in either the all

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India General Clauses Act or the local General Clauses Act which would help us in construing this section.

Now, turning to the Act itself, it is significant that in s. 4 itself the Legislature has used the expression 'the Government' in sub-s. (*1*) and the expression 'the State Government' in sub-ss. (*2*) and (*3*). Now, it is a well-established canon of construction that when the Legislature uses different expressions in the same statute—and the more so in the same section—, as far as possible the Court must attribute to the Legislature the intention of conveying different meanings by the use of different expressions. Now, this difficulty has been sought to be got over by Mr. Javeri by pointing out that s. 4 (*1*) is a new section which finds a place for the first time in the Act of 1947; in the earlier legislation on the same subject, the Act of 1944, the Ordinance of 1942 and the Act of 1939, there was no such exemption in favour of Government as is to be found in s. 4 (*1*). The provision contained in s. 4 (*2*) is reproduced from a similar provision in the Act of 1944, and therefore Mr. Javeri's rather ingenious argument is that when the draftsman was copying a provision from the old statute he used the same language because in the earlier statute the expression used was 'the Provincial Government'; but when he came to a new provision he used a different expression. Now, that argument loses all its force when we turn to sub-s. (*3*) of s. 4. That also is a new provision which was introduced for the first time in the Act by an amendment in 1950 and yet in that sub-section the Legislature has used the expression 'the State Government' and not 'the Government'. Then Mr. Javeri suggests that the draftsman who had an eye to style and an ear for the euphony of the English language did not like to repeat the same expression 'the State Government' several times in s. 4, and Mr. Javeri says that if he had used the expression 'the State Government' in s. 4 (*1*), he would have had to use that expression four or five times because that expression occurs so many times in that sub-section. Now, there again the answer to the question is that if in s. 4 (*1*) the Legislature had used the expression 'the State Government' where it occurred for the first time, it would not have been necessary to repeat the same expression when it occurred subsequently in the same section, because it would have been sufficient for the purposes of grammar if the expression 'the Government' had been used for the expression 'the State Government'. But I think it is a dangerous argument to attribute to the Legislature a greater desire for style than a desire

for precision. It is indeed significant that the word "the Government" occurs only once in the whole statute in s. 4 (*1*); in all other places the expression 'the State Government' occurs. Therefore, as I said before, by the ordinary canon of construction we must try and see whether a different connotation cannot be given to the expression 'the Government' from the connotation to be given to the expression 'the State Government' when it occurs in other parts of the statute; and as far as s. 4 (*1*) is concerned the only different meaning that can be given to the expression 'the Government' in contra-distinction to the expression 'the State Government' is that 'the Government' indicates both the Central Government and the State Government. This construction which we propose to place on s. 4 (*1*) is further strengthened by the consideration that there seems to be no reasonable explanation forthcoming as to why if the Legislature wanted to exempt the local authorities and the State Government, it did not intend equally to exempt the Union Government. Our attention has been drawn by Mr. Javeri, and rightly drawn, to the fact that when in a State legislation the expression "the Government" appears, it should ordinarily mean the Government of the State and not the Union Government. We would undoubtedly have placed that construction upon the expression "the Government" occurring in s. 4 (*1*) but for the fact that when we look at the whole scheme of the Act and when we notice that two different expressions are used by the Legislature, viz., "the State Government" and "the Government". The only conclusion we come to is that the Legislature in this particular case wanted to draw a distinction between "the State Government" and "the Government" and the only distinction that the Legislature could possibly have drawn under these circumstances was that "the State Government" meant the Government of the State and "the Government" was used in a wider sense meaning not only the Government of the State but also the Central Government.

The second contention urged by Mr. Javeri on the construction is that it must be presumed that the Legislature does not lightly interfere with vested rights and ordinarily the Legislature respects vested rights. It is perfectly true that unless the Legislature uses distinct and clear expression to that effect, the Court would not ordinarily construe a statute so as to take away vested rights. It is pointed out that in this case when the appellant became a tenant in 1942 he was protected by the Rent

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Act. The property was purchased by the Union of India in January 1948 and the notice to quit was given in May 1949. Therefore, before the Government purchased the property the appellant had certain rights and those rights are sought to be affected by the fact that the Union Government purchased the property in January 1948 and therefore Mr. Javeri asks us not to give a retrospective effect to s. 4 (*1*). But unfortunately we find in the language used by the Legislature in s. 4 (*1*) a clear intention that the Act was not to apply to any premises belonging to the Government, and once that condition was satisfied, viz. that the premises belonged to Government, then the Act did not apply and the tenant could not claim the protection of the Rent Act. Therefore, in this particular case the argument of vested rights has not much substance.

The further argument that was advanced on the construction of s. 4 (*1*) is that on a true construction of that section that sub-section did not apply to tenancies created before the Government became the owner of the property, and the section only applies to those cases where Government itself created the tenancy. The argument, in other words, is that as the appellant was not made a tenant by the Government as the landlord, but he was already a tenant before Government became the owner of the property, the sub-section has no application. This really is the same argument which we have just noticed in a different form and the answer to this argument also is the clear language used by the Legislature in s. 4 (*1*). The language used is: "The Act shall not apply to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government or a local authority." Therefore, as far as the first part of s. 4 (*1*) is concerned, it is sufficiently wide to apply to any premises belonging to the Government. That part of the sub-section does not require as a condition that the premises referred to in s. 4 (*1*) must be premises in respect of which tenancy has been created by Government.

The final argument urged by Mr. Javeri and very strenuously urged before us is that the legislation offends against art. 14 of the Constitution. Now, art. 14 has come up before the Courts very often recently for consideration. As has been pointed out,

art. 14 is intended to safeguard against arbitrary or unreasonable discrimination between subject and subject and it emphasises the equality of laws. But it has been also pointed out that art. 14 does not prevent the State in proper cases from exempting certain classes of persons from the application of a particular law, nor does it compel the State to extend the application of a particular law to all classes of subjects or to all territories coming within the jurisdiction of the State. But what is emphasised in this case by Mr. Javeri is that the classification made by the State is not a reasonable classification and does not satisfy certain tests laid down by the Supreme Court. It is urged that there must be a nexus between the classification brought about by the legislation and the object sought to be achieved by the legislation, and according to Mr. Javeri the only nexus which is permissible is a nexus which would advance the object of the legislation. If the classification is such as is destructive of the very object, then that classification is not a permissible classification under the Constitution. From this point of view it is pointed out that the whole object of the Rent Restriction Act is to control rents and to control evictions. If Government are to be exempted from this legislation, then the result would be that it would be open to the Government to raise rents and also to evict their tenants. Clearly such a result would be destructive of the very object that the Legislature had in view. The argument so presented seems to be very plausible, but as we shall presently point out, what the Supreme Court has laid down is very different from what Mr. Javeri suggests it is.

Now, the matter was considered at some length by the Supreme Court in *State of Bombay* v. *F. N. Balsara*,[1] better known as the Prohibition case. At p. 993 Mr. Justice Fazl Ali who delivered the judgment of the Court deduced seven principles from the case of *Chiranjitlal Chowdhuri* v. *The Union of India*[2] as applying to a case falling under art. 14 of the Constitution. Those seven principles are very interesting and very important and perhaps attention might be drawn to the very first where the Supreme Court emphasises the fact that the presumption is always in favour of the constitutionality of an enactment and this presumption arises from the fact that the Legislature understands and correctly appreciates the needs of

[1] [1951] S. C. R. 682. [2] [1950] S. C. R. 869.

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its own people and that its laws are directed to problems made manifest by experience and therefore it must always be presumed that discriminations are based on adequate grounds. But what Mr. Javeri relies upon is the 7th principle enunciated in that case and that principle is (p. 994):

> "While reasonable classification is permissible, such classification must be based upon some real and substantial distinction bearing a reasonable and just relation to the object sought to be attained, and the classification cannot be made arbitrarily and without any substantial basis."

What this principle emphasises is that there must be a reasonable and just relation to the object sought by the Legislature to be attained in the legislation, and that the classification must not be without any relationship to that object whatsoever. This principle does not lay down that the relationship must be such that it must necessarily advance the object of the legislation *quae* the class exempted from its operation. It is impossible to understand how in any conceivable case when a class is exempted from the operation of a law the object of that legislation can ever be advanced *quae* the exempted class. If Mr. Javeri's contention were right, then no class can ever be exempted from the operation of any legislation. Take the very Prohibition case which the Supreme Court was considering. The question that fell for determination was whether the Legislature was justified in exempting the Army from the operation of the Prohibition Act. If what Mr. Javeri says was correct, then the exemption could not have been upheld because it is impossible to contend that the policy of Prohibition was furthered and the moral principle underlying that legislation was advanced by the Army being permitted to consume liquor as against the civilians who could not do so. But the Supreme Court upheld the classification on the ground that it was a reasonable classification, that the Army had a discipline of its own, that the Army, looking to its traditions, its past and the dangerous profession which it had to practise, was entitled to certain relaxations which the civilians as a class were not entitled to, and it is from this point of view that the Supreme Court came to the conclusion that there was a reasonable and just relation of the class exempted to the object sought by the legislation to be attained. In our opinion in the judgment from which this was an appeal to the Supreme Court we have laid down the same principles and they are to be found in *Fram*

Nusserwanji Balsara v. *State of Bombay.*[1] This is what the judgment says (p. 820):—

" . . . Although it is for the Legislature to determine what classification to make, the classification must have a reasonable and just relation to the subject of the particular legislation, or, as it has been differently put, differences made by the Legislature must be pertinent to the subject in respect of which the classification is made."

Therefore, what is emphasised is relevancy between the class exempted and the object of the legislation, or, in other words, the logical connection between the two. What is emphasised is not the fact that in exempting a class the Legislature must carry out the entire legislation *quae* the exempted class. It is further pointed out in that judgment that whenever a class is excluded from the operation of the law, it must be possible for the Court to say that there must be some reasonable basis for the exclusion of that class. Therefore, really that is the substantial test. Can it be said in this case that there is no reasonable basis for the exclusion of the Government from the operation of this Act, and the burden must lie upon the appellant to satisfy us that the exemption is so arbitrary and so capricious that the Legislature, knowing the problem it had to deal with, being the representatives of the people, indulged in an illogical and irrational classification and not a classification which was based on any true principle. Now, it is clear that in this case the Legislature was not in any sense exempting the Government from the operation of the Act in order to permit the Government to do the very thing which the Legislature was prohibiting in the case of landlords who were not a local authority or Central or State Government. It is not too much to assume, as the Legislature did in this case assume, that the very Government whose object was to protect the tenants and prevent rent being increased and prevent people being ejected, would not itself when it was the landlord do those very things which it sought to prohibit its people from doing, and therefore the underlying assumption of this exemption is that Government would not increase rents and would not eject tenants unless it was absolutely necessary in public interest and unless a particular building was required for a public purpose.

Mr. Javeri has also relied on two later cases of the Supreme Court. One is *The State of West Bengal* v. *Anwar Ali Sarkar,*[2] and what is relied upon is a passage in the judgment of

[1] (1950) 52 Bom. L. R. 799, F. B. [2] [1952] S. C. R. 284.

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Mr. Justice Das at p. 333. At the bottom of p. 334 the learned Judge says:

" . . . In order to pass the test, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia which distinguishes those that are grouped together from others and (2) that that differentia must have a rational relation to the object sought to be achieved by the Act."

Here again, what is emphasised is a rational relationship between the object to be achieved and the classification, not the relationship of the type which Mr. Javeri contends for. Further the learned Judge says (p. 335):

" . . . The differentia which is the basis of the classification and the object of the Act are distinct things and what is necessary is that there must be a nexus between them."

Undoubtedly there must be a nexus between those two things which the learned Judge emphasises, but the question is what is the nexus contemplated by the learned Judge. Then there is a later judgment of the Supreme Court reported in *Kathi Raning Rawat* v. *The State of Saurashtra*,[1] and at p. 471 the same learned Judge Mr. Justice Das is dealing with art. 14 of the Constitution and at that page the learned Judge reiterates what he had stated in the earlier case to which reference has been made. He again lays down the two conditions which must be fulfilled and the second of the two conditions is that the differentia must have a rational relation to the object to be achieved by the Act. In these two judgments, with respect, we do not see any new principle being laid down which was not laid down in *Balsara's* case.

Therefore, in our opinion, in exempting Government from the operation of the law, the Legislature has not created a class of which it could be said that it has no rational connection with the object the Legislature wanted to achieve by the Act. In our opinion the classification is not unreasonable and the presumption that the Legislature knew best how to tackle a particular problem which it had to surmount has not been rebutted by the appellant.

The result is that the appeal fails and must be dismissed with costs.

On Mr. Javeri giving an undertaking to the Court on behalf of his clients that they will hand over vacant possession to the plaintiffs on or before September 30, 1952, Mr. Joshi agrees not to execute the decree till the end of September.

Appeal dismissed.

M. W. P.

[1] [1952] S. C. R. 435.