tion which came to be enacted after the lease was granted, the appellant can claim tenancy rights only as against his landlord viz. the mortgagee and not against the mortgagors. As soon as the mortgagee's rights became extinguished by the redemption of the mortgage, neither he nor anyone inducted by him has a right to be in possession of the mortgage property. Consequently, the mortgagors were entitled to seek ejectment of the mortgagee and the tenant inducted by him. The appellant, had no independent rights and hence it was not necessary that he should have been made a party to the suit filed by the mortgagee or the execution application taken out by the mortgagors after the redemption of the mortgage. His position was akin to that of a sub-tenant whose rights were co-terminus with those of the tenant himself. As such the execution application taken against the mortgagee will be binding on the appellant. Having no independent rights of his own, the appellant cannot contend that the decrees and the execution application are not binding on him as he was not made a party to the proceedings.

17. For all the reasons aforesaid we are of the view that the appeal deserves to fail. Accordingly the appeal stands dismissed with costs to the contesting respondents.

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(BEFORE SABYASACHI MUKHARJI AND S. NATARAJAN, JJ.)

PRABHAKARAN NAIR AND OTHERS .. Petitioners ;

Versus

STATE OF TAMIL NADU AND OTHERS .. Respondents.

Writ Petition No. 506 of 1986† with Writ Petitions Nos. 9921-24, 13385, 11736, 4237, 8298, 12223, 13690, 13489, 9078 of 1983 ; 12598, 11731, 11732, 387-93, 11207, 11208, 16948, 15943, 13532-33, 13429, 599, 1112 of 1984 and 1610 and 1616 of 1986, decided on September 3, 1987

Rent Control and Eviction — Eviction — Requirement of the building by landlord for demolition and reconstruction under Section 14 of T. N. Buildings (Lease and Rent Control) Act, 1960 (18 of 1960) — Absence of provision for re-induction of the evicted tenant after reconstruction — Constitutionality of Section 14(1)(b) read with Section 14(2)(b) — Held, not violative of Article 14 merely because of existence of provision for reinduction of tenant after repairs of the building under Section 14(1)(a) read with Section 14(2)(a) — Classification reasonable and rational — Constitution of India, Article 14

†Under Article 32 of the Constitution of India

It was contended that when in case of repairs, which also dislodges the tenants for limited period, the tenants have a right to get into the premises after repairs under Section 14(2)(a) of the Tamil Nadu Rent Act, it is unreasonable that tenants should not have the same right in case of reconstruction under Section 14(2)(b). It was, therefore, urged that the classification of reconstructed buildings differently in not enjoining re-induction of the evicted tenant after reconstruction is discriminatory and unconstitutional, having no relation to the object or purpose of the Act and violative of Article 14.

Held :

The provision for re-induction in the case of repairs and absence of such a provision in the case of demolition and reconstruction is quite understandable and rational. In the case of a building for repairs, a tenant may arrange for temporary accommodation for a few months and return to the building. On the other hand after demolition the reconstruction of a new building on the same site is bound to take time and such time depends upon the nature of the building to be erected and it might take years. It is not practicable and would be anomalous to expect a landlord to take back a tenant after a long lapse of time during which time the tenant must necessarily have found some suitable accommodation elsewhere. This is the true purpose behind Section 14(1)(b) read with Section 14(2)(b). (Paras 12 and 13)

Rent Control and Eviction — Eviction — Requirement of building by landlord for demolition and reconstruction under Section 14 of T. N. Buildings (Lease and Rent Control) Act, 1960 (18 of 1960) — Absence of provision for re-induction of the evicted tenant after reconstruction — Constitutionality of Section 14(1)(b) read with Section 14(2)(b) — Held, not violative of Article 14 merely because of existence of such provision in Rent Acts of other States

Constitution of India — Article 14 — A statutory provision cannot be held to be violative of Article 14 on the basis of comparison with similar provisions contained in statutes of other States or in any Central legislation

Held :

Article 14 does not authorise the striking down of a law of one State on the ground that in contrast with a law of another State on the same subject its provisions are discriminatory. Nor does it contemplate a law of the Centre or of the State dealing with similar subjects being held to be unconstitutional by a process of comparative study of the provisions of two enactments. The source of authority for the two statutes being different, Article 14 can have no application. (Para 14)

State of M. P. v. G. C. Mandawar, (1955) 1 SCR 599 : AIR 1954 SC 493, followed

Rent Control and Eviction — Eviction — Requirement of the building by landlord for demolition and reconstruction under Section 14 of T. N.

Buildings (Lease and Rent Control) Act, 1960 (18 of 1960) — Absence of provision for re-induction of evicted tenant after reconstruction — Not arbitrary, unreasonable and unfair and therefore not violative of Article 14 — Constitution of India, Article 14

Rent Control and Eviction — Generally — Extent of restriction to be imposed on or relaxation to be granted to landlord falls within the discretion of State legislatures — Courts not competent to judge unwisdom of legislations

Constitution of India — Article 14 — Legislature or executive has wide discretion in making classifications for imposition of restrictions or grant of relaxation

It was contended that the provisions of re-induction in most of the Rent Acts represented the standard of reasonableness in the landlord and the tenant law and the philosophy of Rent Control legislation. It represented the national consensus of reasonable standard. Therefore, any provision which was in variance with that standard was unreasonable and as such violative of Article 14.

Held :

Absence of provision for re-induction does not ipso facto make the provisions of the Act unfair or make the Act self-defeating. Section 14(1)(b) has sufficient in-built guide-lines. (Paras 26 and 29)

Mehsin Bhai v. Hale and Company, G. T. Madras, (1964) 2 MLJ 147, approved

For considering unreasonableness of the section the public purpose behind the section has to be borne in mind. Public policy does not remain static in any given community. It may vary from generation to generation and even in the same generation. (Para 23)

Murlidhar Agarwal v. State of U. P., (1974) 2 SCC 472 : (1975) 1 SCR 575 : AIR 1974 SC 1924, relied on

In the earlier T. N. Act 25 of 1949 which was repealed by Section 35 of the present Act 18 of 1960 there was no provision like Sections 14 to 16 of the present Act providing for eviction of the tenant on the ground of demolition and reconstruction. The legislature in view of experience gained from 1949 to 1960 enacted Sections 14 to 16 in the 1960 Act. The Act sought to restore the balance in the scale which is otherwise weighted in favour of the stronger party having larger bargaining power and regulates the rights of the parties fairly. It cannot be construed only in favour of the tenant. It balances both the sides, the landlord and the tenant. (Paras 22 and 23)

P. J. Irani v. State of Madras, (1962) 2 SCR 169 : AIR 1961 SC 1731 ; S. Kandaswamy Chettiar v. State of T. N., (1985) 1 SCC 290 : (1985) 2 SCR 398 : AIR 1985 SC 257 : (1985) 1 MLJ (SC) 11 and Raval

and Co. v. K. C. Ramachandran, (1974) 1 SCC 424 : (1974) 2 SCR 629 : AIR 1974 SC 818, relied on

S. Kannappa Pillai v. B. Venkatarathnam, 79 Law Weekly 363, referred to

For eviction on ground of demolition and reconstruction under Section 14(1)(b) the Rent Controller has to be satisfied about the bona fide requirement of the landlord having regard to the totality of the circumstances and the relevant factors. That being the scheme of the section, it cannot be said that the section was arbitrary and excessive powers were given to landlords. (Para 26)

Murlidhar Agarwal v. State of U.P., (1974) 2 SCC 472 : (1975) 1 SCR 575 : AIR 1974 SC 1924 ; Shah Bhojraj Kuverji Oil Mills and Ginning Factory v. Subbash Chandra Yograj Sinha, (1962) 2 SCR 159 : AIR 1961 SC 1596 ; Metalware and Co. v. Bansilal Sharma, (1979) 3 SCC 398 : (1979) 3 SCR 1107 : AIR 1979 SC 1559 and Neta Ram v. Jiwan Lal, 1962 Supp 2 SCR 623 : AIR 1963 SC 499, relied on

The provisions of the Act imposed restrictions on the landlord's right under the common law or the Transfer of Property Act to evict the tenant after termination of his tenancy. The rationale of these restrictions on the landlord's rights is the acute shortage of accommodation and the consequent need to give protection to the tenants against unrestricted eviction. The nature, the form and the extent of the restrictions to be imposed on the landlord's right and the consequent extent of protection to be given to the tenants is a matter of legislative policy and judgment. It is inevitably bound to vary from one State to another depending on local and peculiar conditions prevailing in the State and the individual State's appreciation of the needs and problems of its people. There can be no fixed and inflexible criteria or grounds governing imposition of restrictions on the landlord's right or for relaxation of those restrictions in certain cases. Ultimately it is a matter of legislative policy and judgment. (Para 27)

Courts are not concerned with the unwisdom of legislation. The constitutional command for a State to afford equal protection of the law sets a goal not attainable by the invention and application of a precise formula. Therefore, a large latitude is allowed to the States for classification under any reasonable basis. It is entirely for the legislature to decide whether any measures, and if so, what measures are to be adopted for remedying the situation and for ameliorating the hardship of tenants. (Para 28)

Murthy Match Works v. Asstt. Collector of Central Excise, (1974) 4 SCC 428: (1974) 3 SCR 121 : AIR 1974 SC 497 : 1974 Tax LR 1851 ; Re the Special Courts Bill, 1978, (1979) 1 SCC 380 : (1979) 2 SCR 476 : AIR 1979 SC 478 ; Punjab Tin Supply Co., Chandigarh v. Central Govt., (1984) 1 SCC 206 and Mohinder Kumar v. State of Haryana, (1985) 4 SCC 221, relied on

Rent Control and Eviction — Applicability of Rent Act — Provision making Rent Act inapplicable for a specified period on demolition and reconstruction of a building by landlord under Section 16(2) of T. N. Buildings (Lease and Rent Control) Act, 1960 (18 of 1960) — Held, valid — Constitution of India, Article 14

Held :

Section 16(2) which provides that when a building is totally demolished and on which a new building is erected shall be exempt from all the provisions of the Act for a period of five years is not bad and unsustainable. (Para 31)

Metalware & Co. v. Bansilal Sharma, (1979) 3 SCC 398 : (1979) 3 SCR 1107 : AIR 1979 SC 1559 and Motor General Traders v. State of A.P., (1984) 1 SCC 222 : (1984) 1 SCR 594 : AIR 1984 SC 121, relied on

There is no such consensus among the different States about the right of re-induction of tenant in case of eviction required for demolition. It will depend on the particular State and appreciation of the need and problem at a particular point of time by the State concerned. The purpose underlying Section 14(1)(b) read with Section 16(2) of the Tamil Nadu Rent Act is to remove or mitigate the disinclination on the part of landlords to expend moneys for demolition of dilapidated buildings and reconstruct new buildings in their places. It is a matter of which judicial notice can be taken that the return from old and dilapidated buildings is very meagre and in several cases such buildings prove uneconomic for the landlords with the result that the condition of the building deteriorates and there are even collapses of such buildings. It is for this purpose that the landlord is given by Section 14(1)(b) read with Section 16 an incentive in the form of exemption from the provisions of the Rent Act in respect of reconstructed building for the limited and short duration of five years. The policy under Section 14(1)(b) read with Section 16 is not in essence different from the policy adopted by different States. These provisions, namely, exemption of new buildings from the provisions of the Rent Act for a period of five years or ten years has been upheld as constitutional. (Para 28)

The principle underlying such exemption for a period of five years is not discriminatory against tenants, nor is it against the policy of the Act. It only serves as an incentive to the landlord for creation of additional housing accommodation to meet the growing needs of persons who have no accommodation to reside or to carry on business. It does not create a class of landlords who will forever be kept outside the scope of the Act as the provision balances the interest of the landlords on the one hand and the tenants on the other in a reasonable way. (Para 31)

Atam Prakash v. State of Haryana, (1986) 2 SCC 249 and Panchamal Narayan Shenoy v. Basthi Venkatesha Shenoy, (1970) 1 SCC 499 : (1970) 3 SCR 734 : AIR 1971 SC 942, relied on

Jiwanlal & Co. v. Manot and Co. Ltd., 64 Cal WN 932, overruled

M/s Patel Roadways Pvt. Ltd., Madras v. State of Tamil Nadu, AIR 1985 Mad 119, referred to

Rent Control and Eviction — Exemption to new buildings under Section 30(i) of T. N. Buildings (Lease and Rent Control) Act, 1960 (18 of 1960) — Held valid (Para 20)

P. J. Irani v. State of Madras, (1962) 2 SCR 169 : AIR 1961 SC 1731 and S. Kandaswamy Chettiar v. State of Tamil Nadu, (1985) 1 SCC 290 : (1985) 2 SCR 398 : AIR 1985 SC 257 : (1985) 1 MLJ (SC) 11, relied on

Rattan Arya v. State of T. N., (1986) 3 SCC 385, referred to

The Court suggested that a National Housing Policy may be taken urgently and the idea of a National Rent Tribunal on an all-India basis with quicker procedure may be examined. (Para 36)

Writ petitions dismissed R-M/8261/C

Advocates who appeared in this case :

J. Ramamurthi, Senior Advocate (V. Shanker, B. Parthasarthi, Raju Ramchandran, S. Srinivasan, M. C. Verma, C. S. Vaidyanathan, K. R. R. Pillai, E. C. Aggarwala, V. Balachandran, N. K. Sharma, M. N. Krishnamani, Diwan Balakram, A. T. M. Sampath, Mukul Mudgal and V. Shekhar, Advocates, with him), for the Petitioners ;

K. Parasaran, Attorney General, Soli J. Sorabjee and Shanti Bhushan, Senior Advocates (A. K. Verma, D. N. Mishra, A. V. Rangam, P. N. Ramalingam, Mr Ranghuraman, S. Srinivasan and M. C. Verma, Advocates, with them), for the Respondents.

The Judgment of the Court was delivered by

SABYASACHI MUKHARJI, J.—There is 'much ado about nothing' about these cases. These petitions seek to challenge the vires of Section 14(1)(*b*) and Section 16(2) as well as incidentally Section 30(ii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (hereinafter called 'the Tamil Nadu Rent Act') on the ground of being arbitrary, discriminatory and unreasonable. Different petitions deal with different facts. It is not necessary to set these out exhaustively but it would be appropriate to deal with the facts of Writ Petition No. 506 of 1986 as a typical one in order to appreciate the points in issue. In Writ Petition No. 506 of 1986, the respondent landlord on or about March 21, 1978 after purchasing the premises No. 95, Thyagaraja Road, T. Nagar, Madras from the erstwhile owner, filed an eviction petition in the Court of Small Causes, Madras for eviction of the petitioner herein from the premises where the petitioner had been carrying on a hotel business serving meals etc. for four decades. The grounds in the eviction petition were non-payment of rent under Section 10(2)(1) of the Tamil Nadu

Rent Act, unlawful sub-letting under Section 10(2)(ii)(*a*), causing damages to the premises under Section 10(2)(iii) and also for the purposes of demolition and reconstruction under Section 14(1)(*b*).

2. The learned judge of the trial court ordered eviction under Section 14(1)(*b*) of the Tamil Nadu Rent Act only for demolition and reconstruction and dismissed the other grounds, and that is the only ground with which we are concerned in this appeal. On February 25, 1981 the appellate court dismissed the petitioner's appeal by saying that the landlords were rich people and capable of demolition and reconstruction in order to put the premises to a more profitable use by putting up their own showroom. On September 30, 1982 the High Court dismissed the civil revision petition of the petitioner and granted time till January 31, 1983 for the petitioner to vacate the premises in question. The petitioner thereafter filed a special leave petition against the judgment and order of the High Court in this Court. This Court initially ordered show cause notice and also granted ad interim ex parte stay of dispossession. On January 29, 1983 the City Civil Court, Madras granted interim injunction restraining the respondents from demolishing the building till the disposal of the application in the suit filed by the petitioner against the erstwhile owner and the present landlords for specific performance of an agreement to sell the premises to the petitioner. According to the petitioner the injunction was confirmed and was still continuing and the said suit for specific performance was also pending in the City Civil Court, Madras.

3. On February 17, 1986 this Court dismissed the special leave petition after notice but directed that the decree for eviction would not be executed till November 17, 1986. It was observed by this Court that the petitioner would be at liberty to file a writ petition under Article 32 of the Constitution, if so advised, challenging the validity of Section 14(1)(*b*) of the Tamil Nadu Rent Act as mentioned on behalf of the petitioner. The petitioner filed this writ petition challenging the validity of Section 14(1)(*b*) and Section 16(2) of the Tamil Nadu Rent Act on the ground that these were arbitrary, discriminatory, unreasonable and unconstitutional. The petitioner contends in this writ petition that consequently the eviction order passed under Section 14(1)(*b*) and confirmed in appeal is also illegal. The aforesaid several of the writ petitions are on this issue.

4. The main ground of attack on this aspect seems to be that while other Rent Acts in case of eviction for demolition permit and direct that after reconstruction the tenant should be inducted as tenant or given the opportunity to have the same space in the reconstructed building, in the instant Act no such option is given

and no such obligation imposed upon the landlord and as such the impugned provision is illegal as being discriminatory against the tenant. In order to examine the various aspects on this contention, it will be necessary to examine in detail the relevant provisions of the Act. It should be borne in mind, however, that this was an Act passed to amend and consolidate the law relating to the regulation of the letting of residential and non-residential buildings and the control of rents of such buildings and the prevention of unreasonable eviction of tenants in the State of Tamil Nadu. Section 14 of the Tamil Nadu Rent Act states as follows :

> 14. *Recovery of possession by landlord for repairs or for reconstruction.*—(1) Notwithstanding anything contained in this Act, but subject to the provisions of Sections 12 and 13, on an application made by a landlord, the Controller shall, if he is satisfied—
>
> (*a*) that the building is bona fide required by the landlord for carrying out repairs which cannot be carried out without the building being vacated ; or
>
> (*b*) that the building is bona fide required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the site of the building sought to be demolished,
>
> pass an order directing the tenant to deliver possession of the building to the landlord before a specified date.
>
> (2) No order directing the tenant to deliver possession of the building under this section shall be passed—
>
> (*a*) on the ground specified in clause (*a*) of sub-section (1), unless the landlord gives an undertaking that the building shall, on completion of the repairs, be offered to the tenant, who delivered possession in pursuance of an order under sub-section (1) for his re-occupation before the expiry of three months from the date of recovery of possession by the landlord, or before the expiry of such further period as the Controller may, for reasons to be recorded in writing, allow ; or
>
> (*b*) on the ground specified in clause (*b*) of sub-section (1), unless the landlord gives an undertaking that the work of demolishing any material portion of the building shall be substantially commenced by him not later than one month and shall be completed before the expiry of three months from the date he recovers possession of the entire

building or before the expiry of such further period as the Controller may, for reasons to be recorded in writing, allow.

(3) Nothing contained in this section shall entitle the landlord who has recovered possession of the building for repairs to convert a residential building into a non-residential building or a non-residential building into a residential building unless such conversion is permitted by the Controller at the time of passing an order under sub-section (1).

(4) Notwithstanding an order passed by the Controller under clause (*a*) of sub-section (1) directing the tenant to deliver possession of the building, such tenant shall be deemed to continue to be the tenant, but the landlord shall not be entitled to any rent for the period commencing on the date of delivery of possession of the building by the tenant to the landlord and ending with the date on which the building is offered to the tenant by the landlord in pursuance of the undertaking under clause (*a*) of sub-section (2).

(5) Nothing in this section shall entitle any landlord of a building in respect of which the government shall be deemed to be the tenant to make any application under this section.

5. Section 15 empowers the tenant to re-occupy after repairs. There is no such provision in case of eviction on the ground of bona fide need for demolition and reconstruction. This is one of the grounds of challenge.

6. Section 16 deals with the right of the tenant to occupy the building if it is not demolished. Sub-section (2) which was amended and introduced by Act 23 of 1973 dealing with the reconstructed building reads as follows :

16(2) Where in pursuance of an order passed by the Controller under clause (*b*) of sub-section (1) of Section 14, any building is totally demolished and a new building is erected in its place, all the provisions of this Act shall cease to apply to such new building for a period of five years from the date on which the construction of such new building is completed and notified to the local authority concerned.

7. In this connection Section 30 which exempts certain buildings may be referred to and sub-section (i) is important. It reads as follows :

30. *Exemption in the case of certain buildings.*—Nothing contained in this Act shall apply to—

(i) any building for a period of five years from the date on

which the construction is completed and notified to the local authority concerned ; or

(ii) any residential building or part thereof occupied by any one tenant if the monthly rent paid by him in respect of that building or part exceeds four hundred rupees.

(iii) * * *

8. In this appeal we are not concerned with clause (ii) of Section 30 the challenge to whose validity has been accepted by this Court in *Rattan Arya* v. *State of Tamil Nadu*[1]. Section 30(ii) of the Tamil Nadu Rent Act has been struck down as violative of Article 14.

9. Various submissions were urged in support of the several writ petitions. Shri Raju Ramachandran contended that in most of the Indian statutes dealing with eviction of tenants, there are provisions of re-induction of the tenant where the eviction is obtained on the ground of reconstruction after the premises in question is reconstructed. It was submitted that in those statutes, there is obligation on the landlord to reconstruct within a certain period and the corresponding right on the tenant evicted to be re-inducted at the market rate to be fixed by the Rent Controller or by such authority as the court may direct.

10. Our attention was drawn to several statutes, namely, Maharashtra, Karnataka, Kerala, West Bengal and numerous others where there are provisions for re-induction of the tenants in the premises after reconstruction. Most of the provisions of other statutes provide for such induction while the Tamil Nadu Rent Act does not. On this ground it was submitted, firstly, that this is violative of Article 14 of the Constitution. It was further submitted that Section 16(2) of the Tamil Nadu Rent Act says that where in pursuance of an order of eviction passed by the Rent Controller under Section 14(1)(*b*) any building is totally demolished and a new building is erected in its place, all the provisions of the Act shall cease to apply to such new building for a period of five years. It was submitted that neither the old tenant nor any new tenant was thus entitled to protection of the Rent Control Act after reconstruction. The old tenant cannot also get into the new building as of right. This discrimination against the tenants in Tamil Nadu is invidious and violates Article 14 of the Constitution. Secondly, it was submitted that if in case of repairs which also dislodges the tenants for limited period, the tenants have a right to get into the premises after repairs under the Tamil Nadu Rent Act, it is unreasonable that

1. (1986) 3 SCC 385

tenants should not have the same right in case of reconstruction. It was urged that once the building is ready for occupation it should make no difference whether the readiness is after repairs or after construction. It was urged that in both cases the tenants go out during the period of building work, and they should equally come back into the building after repairs or reconstruction. It was submitted on this ground also that not enjoining re-induction of the evicted tenant after reconstruction is discriminatory and unconstitutional. The classification of buildings reconstructed differently from the buildings repaired is not valid, as it has no relation to the object or purpose of the Act. Furthermore, that all the tenants belong to one class and they could not be treated differently. On this aspect it was further submitted that the provisions of re-induction in most of the Rent Acts represented the standard of reasonableness in the landlord and the tenant law and the philosophy of Rent Control legislation. It represented the national consensus of reasonable standard. Therefore, any provision which according to learned counsel appearing for the different parties in the writ petitions, was in variance with that standard was unreasonable and as such violative of Article 14 of the Constitution. In aid of this submission various contentions were urged. We are, however, unable to accept this submission.

11. Learned Attorney General appearing for the respondents submitted before us that the main provision of Section 14(1)(*b*) enables a landlord to make an application to the Rent Controller and the Rent Controller, if he was satisfied that the building was bona fide required by the landlord for the immediate purpose of demolishing it for the purpose of erecting a new building on the site of the building sought to be demolished might pass an order directing the tenant to deliver possession of the building to the landlord before a specified date. In the case of an application under Section 14(1)(*a*) of the Tamil Nadu Rent Act namely bona fide requirement for carrying out repairs it cannot be carried out without the building being vacated and it has to be done within three months to enable the tenant to re-occupy the building. It has further to be borne in mind that in the case of demolition and reconstruction, the landlord has to undertake that the work of demolishing any material portion of the building shall be substantially commenced by him not later than one month and the entire demolition work shall be completed before the expiry of three months from the date he recovers possession of the entire building. See in this connection the provisions of Section 16 of the said Act. The demolition has therefore to be completed within three months. In the case of massive buildings demolition can overtake six months or even a year and hence the provision that for reasons to be recorded in writing, the Controller may allow such further period.

12. It has further to be borne in mind that after such demolition the reconstruction of a new building on the same site is bound to take time and such time depends upon the nature of the building to be erected and it might take years it was argued. During that period a tenant was bound to have found some other suitable alternative accommodation ; on the other hand in the case of a building for repairs, a tenant may arrange for temporary accommodation for a few months and return back to the building. Therefore provision for re-induction in the case of repairs and absence of such a provision in the case of demolition and reconstruction is quite understandable and rational.

13. It has to be borne in mind that it is not practicable and would be anomalous to expect a landlord to take back a tenant after a long lapse of time during which time the tenant must necessarily have found some suitable accommodation elsewhere. This is the true purpose behind Section 14(1)(*b*) read with Section 14(2)(*b*). In the aforesaid view of the matter, we are unable to accept the submission that in providing for re-induction of the tenant in case of repairs and not providing for such re-induction in case of reconstruction, there is any unreasonable and irrational classification without any basis.

14. The other submission as noted above was that in most of the Rent Acts, there was provision for re-induction of the tenants but there was no such provision in case of reconstruction in the Tamil Nadu Rent Act. In *State of Madhya Pradesh* v. *G. C. Mandawar*[2], a Constitution Bench of this Court observed that Article 14 of the Constitution does not authorise the striking down of a law of one State on the ground that in contrast with a law of another State on the same subject its provisions are discriminatory. Nor does it contemplate a law of the Centre or of the State dealing with similar subjects being held to be unconstitutional by a process of comparative study of the provisions of two enactments. The source of authority for the two statutes being different, Article 14 can have no application it was observed.

15. It is necessary now to deal with the submission that the section is unreasonable. For this, one has to bear in mind the public purpose behind the legislation. The Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 was passed in 1960. A similar enactment which was in operation from 1949 to 1960 did not contain any provision like Sections 14 to 16 providing for eviction of the tenant on the ground of demolition and reconstruction.

2. (1955) 1 SCR 599 : AIR 1954 SC 493

16. In 1949, however, the enactment contained a provision empowering the government to exempt any building or class of buildings from all or any of the provisions of the Act. When the landlords desired to evict tenants on the ground of demolition and reconstruction, they resorted to the remedy of moving the government by an application for exemption under Section 13 of the 1949 Act. The government by notification used to exempt any building or class of buildings from all or any of the provisions of the Act. In this connection reference may be made to the decision in *S. Kannappa Pillai* v. *B. Venkataraihnam*[3]. The government in that case when passing the order of exemption used to impose condition that the landlord should complete the reconstruction within four months from the date on which the premises were vacated by the tenants and that he should take back the old tenants into the reconstructed building at the rate demanded by the landlord subject to the fixation of fair rent. However, in view of the tenants' conduct in resorting to writ proceedings challenging the order of exemption and in filing suits and having delayed the process of demolition and reconstruction, the court in the exercise of discretion refused to extend the benefit of the condition as to re-induction in favour of the tenants. The further remedy was by writ proceedings before the High Court by the landlord or the tenant who felt aggrieved as the case may be.

17. It was submitted on behalf of the respondents by the learned Attorney General that the legislature in view of the experience gained from 1949 to 1960 enacted Sections 14 to 16 of the Act and which were introduced in the Act of 1960.

18. It was urged that the 1960 Act had improved the position. It had provided as a ground of eviction of the tenant the requirement of the landlord for demolition and reconstruction of the building leaving it to a judicial authority viz. Rent Controller to decide the matter with one statutory right of appeal and a further right of revision to the District Court or the High Court as the case may be. It was on this ground urged that leaving the matter to judicial adjudication as to the ground for eviction, it cannot be held to be arbitrary, unreasonable or unjust. This point has to be judged keeping in view the main purpose of the Act in question and the relevant submissions on this aspect.

19. It may be borne in mind that historically the constitutionality of Section 13 of the Act of 1949 was upheld on the touchstone of Article 14 both by the Madras High Court and on appeal by this Court in *P. J. Irani* v. *State of Madras*[4]. It was held that Section 13 of

3. 79 Law Weekly 363
4. (1962) 2 SCR 169 : AIR 1961 SC 1731

the Act did not violate Article 14 and was not unconstitutional. Enough guidance, according to the judgment of the majority of learned judges, was afforded by the preamble and the operative provisions of the Act for the exercise of the discretionary power vested in the government. It was observed that the power under Section 13 of the Act was to be exercised in cases where the protection given by the Act caused great hardship to the landlord or was the subject of abuse by the tenants. It was held by Sinha, C.J., Ayyangar and Mudholkar, JJ. that Section 13 was ultra vires and void. An order made under Section 13 was subject to judicial review on the grounds that (*a*) it was discriminatory, (*b*) it was made on grounds which were not germane or relevant to the policy and purpose of the Act, and (*c*) it was made on grounds which were male fide. While S. K. Das and A. K. Sarkar, JJ. emphasised that the order passed by the government under Section 13 was a competent and legal order. All that the court had to see was whether the power had been used for any extraneous purpose, i.e. not for achieving the object for which the power was granted.

20. The Act of 1960 contains a corresponding provision for exemption in Section 29 of the Act which corresponds to Section 13 of the Act of 1949 was also upheld by this Court in *S. Kandaswamy Chettiar* v. *State of Tamil Nadu*[5]. Dealing with Section 29 of the Act this Court observed that the rationale behind the conferral of such power to grant exemptions or to make exceptions was that an inflexible application of the provisions of the Act might under some circumstances result in unnecessary hardship entirely disproportionate to the good which will result from a literal enforcement of the Act and also the practical impossibility of anticipating in advance such hardship to such exceptional cases. In the matter of beneficial legislations also there were bound to be cases in which an inflexible application of the provisions of the enactment might result in unnecessary and undue hardship not contemplated by the legislature. The power to grant exemption under Section 29 of the Act, therefore, has been conferred not for making any discrimination between tenants and tenants but to avoid undue hardship or abuse of the beneficial provisions that might result from uniform application of such provisions to cases which deserve different treatment. The decision reiterated that the Tamil Nadu Rent Act was a piece of beneficial legislation intended to remedy the two evils of rackrenting (exaction of exorbitant rents) and unreasonable eviction generated by a large scale of influx of population to big cities and urban areas in the post Second World War period creating acute

5. (1985) 2 SCR 398 : (1985) 1 SCC 290 : AIR 1985 SC 257 : (1985) 1 MLJ (SC) 11

shortage of accommodation in such areas and the enactment avowedly protects the rights of tenants in occupation of buildings in such areas from being charged unreasonable rents and from being unreasonably evicted therefrom. In that view of the matter it had made a rational classification of buildings belonging to government and buildings belonging to religious, charitable, educational and other public institutions and the different treatment accorded to such buildings under Section 10(3)(*b*) of the Act.

21. The scope of this Act was discussed by this Court in *Raval and Co.* v. *K. C. Ramachandran*[6], where the majority of the court at pages 635 to 636 observed : (SCC pp. 431-32, para 16)

> All these show that the Madras legislature had applied its mind to the problem of housing and control of rents and provided a scheme of its own. It did not proceed on the basis that the legislation regarding rent control was only for the benefit of the tenants. It wanted it to be fair both to the landlord as well as the tenant. Apparently it realised that the pegging of the rents at the 1940 rates had discouraged building construction activity which ultimately is likely to affect everybody and therefore in order to encourage new constructions exempted them altogether from the provisions of the Act. It did not proceed on the basis that all tenants belonged to the weaker section of the community and needed protection and that all landlords belonged to the better off classes. It confined the protection of the Act to the weaker section paying rents below Rs 250. It is clear, therefore that the Madras legislature deliberately proceeded on the basis that fair rent was to be fixed which was to be fair both to the landlords as well as to the tenants and that only the poorer classes of tenants needed protection. The facile assumption on the basis of which an argument was advanced before this Court that all Rent Acts are intended for the protection of tenants and, therefore, this Act also should be held to be intended only for the protection of tenants breaks down when the provisions of the Act are examined in detail. The provision that both the tenant as well as the landlord can apply for fixation of a fair rent would become meaningless if the fixation of fair rent can only be downwards from the contracted rent and the contract rent was not to be increased. Of course, it has happened over the last few years that rents have increased enormously and that is why it is argued on behalf of the tenants that the contract rents should not be changed. If we could contemplate a situation where rents and prices are coming down this argument will break down. It is

6. (1974) 2 SCR 629 : (1974) 1 SCC 424 : AIR 1974 SC 818

a realisation of the fact that prices and rents have enormously increased and therefore if the rents are pegged at 1940 rates there would be no new construction and the community as a whole would suffer that led the Madras legislature to exempt new buildings from the scope of the Act. It realised apparently how dangerous was the feeling that only "fools build houses for wise men to live in". At the time the 1960 Act was passed the Madras legislature had before it the precedent of the Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956. That Act provides for fixation of fair rent. It also provides that the contract rent, if lower, will be payable during the contract period. Even if the contract rent is higher only the fair rent will be payable. After the contract period is over only the fair rent is payable. The Madras legislature having this Act in mind still made only the fair rent payable and not the contract rent if it happens to be lower. It is clear, therefore, that the fair rent under the present Act is payable during the contract period as well as after the expiry of the contract period.

22. The Act sought to restore the balance in the scale which is otherwise weighted in favour of the stronger party which had larger bargaining power. The Act balances the scales and regulates the rights of the parties fairly and cannot be construed only in favour of the tenant.

23. In *Murlidhar Agarwal* v. *State of U.P.*[7], this Court had occasion to deal with this matter. In that case, powers of High Court to interfere with revisional orders passed by State Government under Section 7-F of U.P. Temporary Control of Rent and Eviction Act, 1947 were challenged. The court was of the view that if a provision was enacted for the benefit of a person or class of persons, there was nothing which precluded him or them from contracting to waive the benefit, provided that no question of public policy was involved. In doing so, the question arose what was the 'public policy' involved in the said Rent Act. There can be no doubt about the policy of the law, namely, the protection of a weaker class in the community from harassment of frivolous suits. But the question is, is there a public policy behind it which precludes a tenant from waiving it? Mathew, J. reiterated that public policy does not remain static in any given community. It may vary from generation to generation and even in the same generation. Public policy would be almost useless if it were to remain in fixed moulds for all time. The Rent Act, however, balances both the sides, the landlord and the tenant.

7. (1975) 1 SCR 575 : (1974) 2 SCC 472 : AIR 1974 SC 1924

24. The main provision of Section 14(1)(*b*) enables a landlord to make an application to the Rent Controller and the Rent Controller, if he is satisfied that the building is bona fide required by the landlord for the immediate purpose of demolishing it for the purpose of erecting a new building on the site of the building sought to be demolished may pass an order directing the tenant to deliver possession of the building to the landlord before a specified date.

25. Section 16 provides for the tenant to occupy the building if it is not demolished in certain contingencies. The scheme of the section was very carefully analysed in *Shah Bhojraj Kuverji Oil Mills and Ginning Factory* v. *Subbash Chandra Yograj Sinha*[8].

26. In *Metalware and Co.* v. *Bansilal Sharma*[9], this Court emphasised that the phrase used in Section 14(1)(*b*) of the Act was "the building was bona fide required by the landlord" for the immediate purpose of demolition and reconstruction and the same clearly referred to the bona fide requirement of the landlord. This Court emphasised that the requirement in terms was not that the building should need immediate demolition and reconstruction. The state or condition of the building and the extent to which it could stand without immediate demolition and reconstruction in future would not be a totally irrelevant factor while determining "the bona fide requirement of the landlord". This Court emphasised that if the Rent Controller had to be satisfied about the bona fide requirement of the landlord which meant genuineness of his claim in that behalf the Rent Controller would have to take into account all the surrounding circumstances including not merely the factors of the landlord being possessed of sufficient means or funds to undertake the project and steps taken by him in that regard but also the existing condition of the building, its age and situation and possibility or otherwise of its being put to a more profitable use after reconstruction. All these factors being relevant must enter the verdict of the Rent Controller on the question of the bona fide requirement of the landlord under Section 14(1)(*b*). The fact that a landlord being possessed of sufficient means to undertake the project of demolition and reconstruction by itself might not be sufficient to establish his bona fide requirement if the building happened to be a very recent construction in a perfectly sound condition and its situation might prevent its being put to a more profitable use after reconstruction. The Rent Controller has thus to take into account the totality of the circumstances and the factors referred to in the judgment by lesser or greater significance depending upon whether in the scheme of the concerned enactment there is or there is not a

8. (1962) 2 SCR 159 : AIR 1961 SC 1596
9. (1979) 3 SCR 1107 : (1979) 3 SCC 398 : AIR 1979 SC 1559

provision for re-induction of the evicted tenant into the new construction. Reference was made to the decision of this Court in *Neta Ram* v. *Jiwan Lal*[10]. There must be bona fide need of the landlord on all the conditions required to be fulfilled. That being the scheme of the section, it cannot be said, in our opinion, that the section was arbitrary and excessive powers were given to the landlords. Absence of provision for re-induction does not ipso facto make the provisions of the Act unfair or make the Act self-defeating.

27. It has been borne in mind that the provisions of the Act imposed restrictions on the landlord's right under the common law or the Transfer of Property Act to evict the tenant after termination of his tenancy. The rationale of these restrictions on the landlord's rights is the acute shortage of accommodation and the consequent need to give protection to the tenants against unrestricted eviction. The nature, the form and the extent of the restrictions to be imposed on the landlord's right and the consequent extent of protection to be given to the tenants is a matter of legislative policy and judgment. It is inevitably bound to vary from one State to another depending on local and peculiar conditions prevailing in the State and the individual State's appreciation of the needs and problems of its people. When we are confronted with the problem of a legislation being violative of Article 14, we are not concerned with the wisdom or lack of legislative enactment but we are concerned with the illegality of the legislation. There may be more than one view about the appropriateness or effectiveness or extent of the restrictions. There may be also more than one view about the relaxation of the restrictions on the landlord's right of eviction. This fact is reflected in the different provisions made in different Acts about the grounds of eviction. For example, in case of Assam, Meghalaya. Andhra Pradesh, Delhi, Haryana, Orissa, Tripura, East Punjab, Madhya Pradesh, Tamil Nadu, Kerala, Mysore, Himachal Pradesh and Pondicherry, no particular duration for arrears of rent is prescribed, which would entitle a landlord to maintain an action for ejectment of his tenant. However, in other cases a certain period is prescribed. For instance, two months in Bihar, West Bengal and Jammu and Kashmir, three months in Goa and Tripura, four months in Uttar Pradesh, six months in Bombay and Rajasthan. Again some Rent Acts require that before an action for ejectment on the ground of arrears is instituted, a notice demanding rent should be served on the tenant — for example — Bombay, Delhi, Kerala, Tripura, Jammu and Kashmir, Madhya Pradesh and U.P. Rent Acts. In such cases the tenant is given one chance to pay up the arrears. Again different Rent Acts provide different facts and circumstances

10. 1962 Supp 2 SCR 623 : AIR 1963 SC 499

on the basis of which premises could be recovered on the ground of bona fide personal requirement. Generally the bona fide requirement extends both to residential as well as commercial premises. However, the Delhi Rent Control Act restricts the right on account of the bona fide need of the landlord's right to premises let for residential use only. Further, Bihar, Bombay, Goa, Jammu and Kashmir, Karnataka, Tamil Nadu, U.P. and West Bengal Rent Acts provide for partial eviction. But there is no such provision in the other Acts. It is obvious from the above that there can be no fixed and inflexible criteria or grounds governing imposition of restrictions on the landlord's right or for relaxation of those restrictions in certain cases. Ultimately it is a matter of legislative policy and judgment.

28. Courts are not concerned with the unwisdom of legislation. "In short, unconstitutionality and not unwisdom of a legislation is the narrow area of judicial review." See in this connection the observations of Krishna Iyer, J. in *Murthy Match Works* v. *Asstt. Collector of Central Excise*[11]. This Court approved the above passage from the *American Jurisprudence* and emphasised that in a classification for governmental purposes there cannot be an exact exclusion or inclusion of persons and things. It is important to bear in mind the constitutional command for a State to afford equal protection of the law sets a goal not attainable by the invention and application of a precise formula. Therefore, a large latitude is allowed to the States for classification upon any reasonable basis. See also in this connection the observations of this Court in *In Re the Special Courts Bills,* 1978[12], where Chandrachud, C.J. speaking for the Court at pages 534 to 537 of the report (SCC pp. 424-26, para 72) laid down the propositions guiding Article 14 and emphasised that the classification need not be constituted by an exact or scientific exclusion nor insist on delusive exactness or apply doctrinaire tests for determining the validity of classification in any given case. Classification therefore, is justified if it is not palpably arbitrary. We also in view of the different provisions we have discussed bear in mind the fact that there is no such consensus among the different States about the right of re-induction of tenant in case of eviction required for demolition. It will depend on the particular State and, appreciation of the need and problem at a particular point of time by that State concerned. The purpose underlying Section 14(1)(*b*) read with Section 16(2) of the Tamil Nadu Rent Act is to remove or mitigate the disinclination on the part of landlords to expend moneys for demolition of dilapidated buildings and reconstruct new buildings in their places. It is a matter of which

11. (1974) 3 SCR 121 : (1974) 4 SCC 428 : 1974 SCC (Tax) 278 : AIR 1974 SC 497
12. (1979) 2 SCR 476 : (1979) 1 SCC 380 : AIR 1979 SC 478

judicial notice can be taken that the return from old and dilapidated buildings is very meagre and in several cases such buildings prove uneconomic for the landlords with the result that the condition of the building deteriorates and there are even collapses of such buildings. It is for this purpose that the landlord is given by Section 14(1)(*b*) read with Section 16 an incentive in the form of exemption from the provisions of the Rent Act in respect of reconstructed building for the limited and short duration of five years. The policy under Section 14(1)(*b*) read with Section 16 is not in essence different from the policy adopted by different States of giving exemption for a limited duration to newly constructed buildings. These provisions, namely, exemption of new buildings from the provisions of the Rent Act for a period of five years or ten years has been upheld as constitutional. See in this connection the observations of this Court in the case of *Punjab Tin Supply Co., Chandigarh* v. *Central Govt.*[13] and *Mohinder Kumar* v. *State of Haryana*[14]. There the court emphasised that it is entirely for the legislature to decide whether any measures, and if so, what measures are to be adopted for remedying the situation and for ameliorating the hardship of tenants. The legislature may very well come to a conclusion that it is the shortage of buildings which has resulted in scarcity of accommodation and has created a situation where the demand for accommodation is far in excess of the requiste supply, and, it is because of such acute scarcity of accommodation the landlords are in a position to exploit the situation to the serious detriment of the tenants. The court observed at pages 226 to 227 of the report (para 11) as under :

> The legislature in its wisdom may properly consider that in effecting an improvement of the situation and for mitigating the hardship of the tenanted class caused mainly due to shortage of buildings, it will be proper to encourage construction of new buildings, as construction of new buildings will provide more accommodation, easing the situation to a large extent, and will ultimately result in benefiting the tenants. As in view of the rigours of Rent Control legislation, persons with means may not be inclined to invest in construction of new house, the legislature to attract investment in construction of new houses may consider it reasonable to provide for adequate incentives so that new constructions may come up. It is an elementary law of economics that anybody who wants to invest his money in any venture will expect a fair return on the investment made. As acute scarcity of accommodation is to an extent responsible for the landlord and tenant problem, as measure adopted by the legislature for seeking

13. (1984) 1 SCC 206, 216-17
14. (1985) 4 SCC 221, 226-27

to meet the situation by encouraging the construction of new buildings for the purpose of mitigating the hardship of tenants must be considered to be a step in the right direction. The provision for exemption from the operation of the Rent Control legislation by way of incentive to persons with means to construct new houses has been made in Section 1(3) of the Act by the legislature in the legitimate hope that construction of new buildings will ultimately result in mitigation of the hardship of the tenants. Such incentive has a clear nexus with the object to be achieved and cannot be considered to be unreasonable or arbitrary. Any such incentive offered for the purpose of construction of new buildings with the object of easing the situation of scarcity of accommodation for ameliorating the conditions of the tenants, cannot be said to be unreasonable, provided the nature and character of the incentive and the measure of exemption allowed are not otherwise unreasonable and arbitrary. The exemption to be allowed must be for a reasonable and a definite period. An exemption for an indefinite period or a period which in the facts and circumstances of any particular case may be considered to be unduly long, may be held to be arbitrary. The exemption must necessarily be effective from a particular date and must be with the object of promoting new constructions. With the commencement of the Act, the provisions of the Rent Act with all the restrictions and rigours become effective. Buildings which have been constructed before the commencement of the Act were already there and the question of any kind of impetus or incentive to such buildings does not arise. The legislature, therefore, very appropriately allowed the benefit of the exemption to the buildings, the construction of which commenced or was completed on or after the commencement of the Act. This exemption in respect of buildings coming up or to come up on or after the date of commencement of the Act is likely to serve the purpose of encouraging new buildings to be constructed. There is therefore nothing arbitrary or unreasonable in fixing the date of commencement of the Act from which the exemption is to be operative.

29. Section 14(1)(*b*) has sufficient inbuilt guidelines. The requirements to be satisfied before initiating action under this provision have been judicially laid down by the Madras High Court by Anantanarayanan, J. as he then was, in *Mehsin Bhai* v. *Hale and Company, G. T. Madras*[15]. Anantanarayanan, J. observed at page 147 as follows :

15. (1964) 2 MLJ 147

> What the section really required is that the landlord must satisfy the court that the building was bona fide required by him, for the immediate purpose of demolition. I am totally unable to see how the present state of the building, and the extent to which it could stand without immediate demolition and reconstruction, in the future, are not relevant considerations in assessing the bona fides of the landlord. On the one hand, landlords may bona fide require such buildings, particularly old buildings, in their own interest, for demolition and reconstruction. On the other hand, it is equally possible that the mere fact that the building is old, is taken advantage of by the landlord to put forward such pretext his real object being ulterior, and not bona fide for the purpose of reconstruction. The courts have to apply several criteria, and to judge upon the totality of the facts. But the courts cannot exclude the possibility that the ancient or relatively old character of the building which may nevertheless be in quite a good and sound condition, is being taken advantage of by a landlord in order to make such an application with an ulterior purpose, which purpose might be, for instance, to obtain far more advantageous terms of rent in the future. What the section really contemplates is a bona fide requirement ; that necessarily implied that it is in the interests of the landlord to demolish and reconstruct the building, and that the fact that the building is old is not merely a pretext for advancing the application, with the object of evicting the tenant, and of obtaining higher rentals.

30. This Court also emphasised this aspect in the decision of *Metalware & Co.* v. *Bansilal Sharma*[16].

31. We are therefore unable to accept the submission that absence of the right of re-induction of tenants in reconstructed premises is either arbitrary or unreasonable. The submission that Section 16(2) which provides that when a building is totally demolished and on which a new building is erected shall be exempt from all the provisions of the Act for a period of five years is bad is also unsustainable. See in this connection the observations of this Court in *M/s Punjab Tin Supply Co., Chandigarh* v. *Central Government*[13] and *Motor General Traders* v. *State of Andhra Pradesh*[17]. It was submitted that the fact that in these cases exemption was after the first construction of the building and not after demolition and reconstruction but that would not make any difference to the principle applicable. The principle underlying such exemption for a period of five years is not discriminatory

16. Supra FN 9, pp. 1117-18
17. (1984) 1 SCR 594 at 605 : (1984) 1 SCC 222 : AIR 1984 SC 121

against tenants, nor is it against the policy of the Act. It only serves as an incentive to the landlord for creation of additional housing accommodation to meet the growing needs of persons who have no accommodation to reside or to carry on business. It does not create a class of landlords who will forever be kept outside the scope of the Act as the provision balances the interests of the landlords on the one hand and the tenants on the other in a reasonable way. This Court in *Atam Prakash* v. *State of Haryana*[18] also judged the rules of classification in dealing with the Punjab Pre-emption Act, 1913.

32. This Court emphasised in *Panchamal Narayan Shenoy* v. *Basthi Venkatesha Shenoy*[19] that in considering the reasonable and bona fide requirements of the landlord under this clause, the desire of the landlord to put the property to a more profitable use after demolition and reconstruction is also a factor that may be taken into account in favour of the landlord. It was also emphasised that it was not necessary that the landlord should go further and establish under this clause that the condition of the building is such that it requires immediate demolition.

33. Our attention was drawn to certain observations of Chatterjee, J. of the Calcutta High Court in *Jiwanlal & Co.* v. *Manot and Co. Ltd.*[20] that where the landlord had established a case of building and rebuilding the tenants undoubtedly would suffer on ejectment. The learned Judge was of the view that though the landlords required the premises for the purpose of building and rebuilding, it was not desirable that the tenants should be ejected. The learned Judge emphasised that the purpose of the Act was to protect the tenants as long as possible and to eject them only when it was not otherwise possible. The landlords did not require it for their own use and occupation. They wanted it for the advantage of increased accommodation. The learned Judge was of the view that if the tenants were ejected, then for the time being, far from the problem being solved, it would create difficulties for the public as well as for themselves. We are, however, unable to accept this principle. It is true that the Act must be so construed that it harmonises the rights of the landlords and at the same time protects the tenants and also serves best the purpose of the Act and one of the purposes of the Act is to solve the acute shortage of accommodation by making a rational basis for eviction and to encourage building and rebuilding which is at the root of all causes of shortage of accommodation.

18. (1986) 2 SCC 249
19. (1970) 3 SCR 734 : (1970) 1 SCC 499 : AIR 1971 SC 942
20. 64 Cal WN 932 at 937

34. It was held by a learned Single Judge of the Madras High Court (one of us — Natarajan, J.) in *M/s Patel Roadways Pvt Ltd., Madras* v. *State of Tamil Nadu*[21] that the provisions of the Tamil Nadu Act were not violative of Article 14 and Article 19(1)(*f*) of the Act. But that was in a slightly different context.

35. Post-war migration of human beings en bloc place to place, the partition of the country and uprooting of the people from their hearth and home, explosion of population, are the various vital factors leading to the present acute shortage of housing. It has to be borne in mind that the urge for land and yearning for hearth and home are as perennial emotions as hunger and sex are,

ধন নয়, মান নয়, এতটুকু বাসা
করেছিনু আশা ।

as Poet Rabindranath would say meaning thereby, it is not wealth I seek, it is not fame that I want, I crave for a home expressing the eternal yearning of all living beings for habitat.

36. It is common knowledge that there is acute shortage of housing, various factors have led to this problem. The laws relating to letting and of landlord and tenant in different States have from different States' angles tried to grapple the problem. Yet in view of the magnitude of the problem, the problem has become insoluble and the litigations abound and the people suffer. More houses must, therefore, be built, more accommodation and more spaces made available for the people to live in. The laws of landlord and tenant must be made rational, humane, certain and capable of being quickly implemented. Those landlords who are having premises in their control should be induced and encouraged to part with available accommodation for limited periods on certain safeguards which will strictly ensure their recovery when wanted. Men with money should be given proper and meaningful incentives as in some European countries to build houses, tax holidays for new houses can be encouraged. The tenants should also be given protection and security and certain amount of reasonableness in the rent. Escalation of prices in the urban properties, land, materials and houses must be rationally checked. This country very vitally and very urgently requires a National Housing Policy if we want to prevent a major breakdown of law and order and gradual disillusionment of people. After all shelter is one of our fundamental rights. New national housing policy must attract new buildings, encourage new buildings, make available new spaces, rationalise the rent structure and rationalise the rent provisions and bring certain amount of uniformity though leaving scope

21. AIR 1985 Mad 119

for sufficient flexibility among the States to adjust such legislation according to its needs. This Court and the High Court should also be relieved of the heavy burdens of this rent litigations. Tier of appeals should be curtailed. Laws must be simple, rational and clear. Tenants are in all cases not the weaker sections. There are those who are weak both among the landlords as well as the tenants. Litigations must come to end quickly. Such new Housing Policy must comprehend the present and anticipate the future. The idea of a National Rent Tribunal on an All India basis with quicker procedure should be examined. This has become an urgent imperative of today's revolution. A fast changing society cannot operate with unchanging law and preconceived judicial attitude.

37. For the reasons aforesaid the contentions urged in writ petitions fail and are accordingly dismissed. In the facts and circumstances of the case there will be no order as to costs. Interim orders if any are vacated.

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(BEFORE SABYASACHI MUKHARJI AND G. L. OZA, JJ.)

DR SAROJ KUMAR DAS .. Appellant;

Versus

ARJUN PRASAD JOGANI .. Respondent.

Civil Appeal No. 8295 of 1983†,
decided on September 1, 1987

Rent Control and Eviction — Eviction — Premises reasonably required for landlord's own occupation — Fact that landlord owned alternative accommodation in the same city would not be detrimental to landlord's claim for eviction if the accommodation is not reasonably suitable for landlord's purpose — Landlord's statement regarding unsuitability of another flat subsequently acquired by him, held, borne out from the facts and circumstances of the case — High Court erred under Section 100 CPC in setting aside the eviction decree, passed by trial court and confirmed by first appellate court, by drawing inferences on the basis of some insignificant facts and circumstances — W. B. Premises Tenancy Act, 1956, Section 13(1)(f) — Civil Procedure Code, 1908, Section 100

The appellant-landlord, a doctor, was living and doing medical practice in the suit premises viz. the second floor rear portion of the house owned by him in C.I.T. Road in Calcutta. He let out the premises to the respondent-tenant and went to Ghana (Africa) along with his family on an

†From the Judgment and Order dated July 29, 1982 of the Calcutta High Court in Appellate Decree No. 385 of 1979