REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3674 OF 2009

HARBHAJAN SINGH ETC. ..... APPELLANT(S)

VERSUS

STATE OF PUNJAB AND OTHERS ..... RESPONDENT(S)

J U D G M E N T

SANJIV KHANNA, J.

The afore-captioned Civil Appeal impugns the judgment dated 6th July 2006 passed by the High Court of Punjab and Haryana which dismissed five writ petitions challenging the vires of the Punjab Religious Premises and Land (Eviction and Rent Recovery) Act, 1997 ('Religious Premises Act', for short).

2. The appellants before us are tenants in occupation of shops located in Gurudwara Singh Sabha, a gurudwara at Kukar Majra, G.T. Road, Mandi Gobindgarh, District Fatehgarh Sahib, Punjab. The appellants claim that they were inducted as tenants during the period 1965-69 by Gurudwara Singh Sabha. However, no formal lease or agreements were executed and *albeit*, over a period of

time, rents were progressively increased. The appellants further claim that they are small businessmen carrying on trade primarily connected with steel industry, while one of the appellants runs a *dhaba*. By the letter dated 2nd March 1978, the appellants were informed that the affairs of the gurudwara had come under the control of Shiromani Gurdwara Parbandhak Committee ('SGPC' for short) and they should, therefore, pay the rent to SGPC. It is alleged that the appellants have been paying rent to SGPC or the manager of the gurudwara but receipts have not been regularly issued.

3. In the year 1997, SGPC had filed an eviction petition against one of the appellants, Harbhajan Singh, under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 ('East Punjab Rent Act', for short) on two grounds, viz., (i) failure to pay rent, and (ii) SGPC needed the property for construction of shops. Harbhajan Singh had, thereafter, deposited arrears of rent on the first date of hearing. The eviction proceedings, however, had remained pending and were not decided.

4. On 29th January 1998, the Religious Premises Act was enforced, and thereby introduced a summary procedure for evicting unauthorised occupants from the premises/property belonging to the religious institutions. Thereafter, SGPC had filed ejectment

petitions under the Religious Premises Act before the Collector for eviction of the appellants stating that the appellants were in unauthorised occupation. The appellants, on receipt of notices from the Collector under Section 4 of the Religious Premises Act, had filed the writ petitions challenging the vires of the enactment before the High Court, which by the impugned judgment have been dismissed. The primary challenge before the High Court was to the explanation to clause (a) to Section 3 of the Religious Premises Act on the ground that the provision creates an unintelligible classification to the disadvantage of the tenants who are otherwise entitled to equal protection as other tenants under the East Punjab Rent Act.

5. The pleas raised by the appellants were rejected by the Division Bench of the High Court after referring to the object and purpose behind the impugned enactment, that is, to preserve the property of religious institutions, by observing that public at large has an inherent interest in the "religious institutions" which were prone to maladministration and mismanagement. Referring to the definition of "unauthorised occupants", it was observed that a person who is in occupation of the premises belonging to a "religious institution" on a valid allotment, lease or grant is not to be treated as an "unauthorised occupant" for the period of allotment, lease or grant.

The explanation states that mere payment of rent by the tenant who is in unauthorised occupation shall not raise any presumption that such person had entered into possession as an allottee, lessee or under a grant. Referring to the detailed and comprehensive procedure for eviction under Sections 4 and 5 of the Religious Premises Act, it was held that the Collector has to be satisfied that the opposite party was in “unauthorised occupation” and only thereupon an eviction order can be passed after following the due procedure. A person aggrieved against the order passed by the Collector can file an appeal before the Commissioner under Section 8 of the Act. Referring to the factual matrix, the High Court has observed that all contentions on merits should be raised before the authorities under the Religious Premises Act, in accordance with law.

6. The primary contention raised by the appellants before us is that as tenants they are entitled to protection against eviction under the East Punjab Rent Act, which protection it is submitted cannot be withdrawn and taken away under the Religious Premises Act. Further, the definition of “unauthorised occupants”, as a result of explanation to clause (a) of Section 3, is highly unjust and unfair as a tenant who has been paying rent over a long period is deemed to be in “unauthorised occupation” because of the

termination of the lease, licence or grant, or the time stipulated in the lease, license or grant has come to an end. This it is submitted is unjust and unfair. The Religious Premises Act creates an artificial classification as tenants of land and buildings belonging to or owned by "religious institutions" are no longer entitled to protection under the East Punjab Rent Act though such protection continues to be available to other tenants. Expansion or construction of a new building by a religious institution as was pleaded by SGPC in their eviction petition under the East Punjab Rent Act would not justify eviction. There is no public purpose or objective in enacting the law, that is, the Religious Premises Act, which has become a calculable device and means to increase income of the religious institutions. This Court in ***Ashoka Marketing Ltd. and Another*** v. ***Punjab National Bank and Others***[1] had examined and rejected the challenge to the vires of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 ('Public Premises Act', for short) after recording that the property belonging to the government would fall under a separate class and that the government, while dealing with the citizens in respect of the property belonging to it, would not act for its own purpose as a private landlord but would act in public interest. This is a crucial distinction between the government and private

[1] (1990) 4 SCC 406

landlords and, therefore, for the same reasoning in inverse, the present appeal should be allowed as the Religious Premises Act creates an artificial distinction and discriminates against the tenants of “religious institutions”, though “religious institutions” as landlords are not a separate class. Thus, the Religious Premises Act should be declared unconstitutional and illegal as it violates Article 14 of the Constitution.

7. The respondents, namely, the State of Punjab and also SGPC, have contested the said submissions and contentions. Their submissions and contentions would be noticed in the subsequent portion and in our reasoning below.

8. The East Punjab Rent Act was enacted in the year 1949, soon after the Partition, with a view to protect tenants and to curtail the right of the landlords to seek eviction notwithstanding the contract under the provisions of the Transfer of Property Act, 1882, (“Transfer of Property Act”, for short) which is a general enactment regulating landlord and tenant relationships. There cannot be any doubt that the State legislature, that is, the Legislative Assembly of the State of Punjab is entitled to enact the Religious Premises Act, despite the fact that they had enacted the East Punjab Rent Act. We must accept and take judicial notice by acknowledging that the State legislature while enacting the Religious Premises Act was

aware that it has enacted East Punjab Rent Act, an existing statute governing landlord and tenant relationship. However, the State legislature in its wisdom has deemed it appropriate to enact a law in respect of land and buildings belonging to "religious institutions". The vires of the Religious Premises Act, a special enactment concerning landlord and tenant relationships, cannot be challenged on the ground that there are already two other enactments governing general landlord and tenant relationships (Transfer of Property Act and East Punjab Rent Act). The Constitution confers the power and authority on the State to enact two separate enactments on a similar subject if they seek to achieve different objectives and protect and preserve different sets of rights and make necessary classification to serve such varied ends. The Religious Premises Act, unlike the East Punjab Rent Act and the Public Premises Act, concerns itself with the administration of premises belonging to religious institutions and seeks to regulate their rights as landlords vis-à-vis the tenants in occupation. In this regard, reference can be made to the object and purpose behind enacting the Religious Premises Act, which is as follows:

> "Since long various religious institutions have been representing to the Government for vacation of their premises under unauthorised occupation. On careful thought being given by the Government, the State Government is of the opinion that the religious

institutions are facing a lot of difficulties in this behalf. It is, therefore, expedient for the State Government to help the religious institutions in getting their premises which are under unauthorised occupation vacated through summary proceedings. Hence, the Punjab Religious Premises and Land (Eviction and Rent Recovery) Bill, 1996."

9. Section 2(d) of the Religious Premises Act defines "religious institution". Section 2(e) defines 'religious premises' and Section 3 defines "unauthorised occupation of religious premises by a person". These provisions read as under:

> "(d) "Religious Institution' means any gurudwara, temple, church, mosque, temple of Jains or Budhas - which is registered under the provisions of the Societies Registration Act, 1860 (Central Act No. XXI of 1860) or is established under any statute and includes any other place of worship by whatever name, it may be called, which is registered as aforesaid or is established under any statute;
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> (e) "religious premises", means any land whether used for agricultural or non-agricultural purposes, or any building or part of a building belonging to a Religious Institution and includes, -
> (i) the garden, grounds and out-houses, if any, appertaining to such building or part of a building; and
> (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;"
>
> xxx
>
> 3. Unauthorised occupation of religious premises. - For the purposes of this Act, a person shall be deemed to be in unauthorised occupation of any religious premises-
> (a) where he has, whether before or after the commencement of this Act, entered into possession thereof otherwise than under and in pursuance of any allotment, lease or grant; or

(b) where he, being an allottee, lessee or grantee has, by reason of the determination or cancellation of his allotment, lease or grant in accordance with the terms in that behalf therein contained, ceased, whether before or after the commencement of this Act, to be entitled to occupy or hold such religious premises; or
(c) where any person authorised to occupy any religious premises has, whether before or after the commencement of this Act, -
(i) sub-let, in contravention of the terms of allotment, lease or grant, without the permission of the Religious Institution, the whole or any part of such religious premises; or
(ii) otherwise acted in contravention of any of the terms, express or implied, under which he is authorised to occupy such religious premises.
Explanation. - For the purpose of clause (a), a person shall not merely by reason of the fact that he has paid any rent be deemed to have entered into possession as allottee, lessee or grantee."

"Religious institution" means any gurudwara, temple, church, mosque or temple of Jains or Buddhists which is registered under the provisions of the Societies Registration Act or established under any statute. It also includes any place of worship by whatever name called which is registered as aforesaid or established under any statute. The definition is clear and no contention or issue is raised that the definition of the term "religious institution" is vague or incomprehensible. Similarly, the expression "religious premises" has been defined in clear terms to mean land used for agricultural or non-agricultural purposes or any building or part of the building belonging to a religious institution. The definition clarifies that the expression "religious premises" would include garden, ground and out-house or any

fittings in the building or part of the building for more beneficial enjoyment. The expression “unauthorised occupation” is of some importance in view of the challenge and the contentions raised. A person is deemed to be in unauthorised occupation of any religious premises if he has, before or after commencement of the Religious Premises Act, entered into possession of a land or building belonging to a religious institution otherwise than under or pursuant to any allotment, lease or grant. A person who enters into possession of the land or building belonging to or owned by a religious institution and has valid and subsisting allotment, lease or grant is clearly not an unauthorised occupant. Such allottees, lessees or persons in whose favour there is a grant, allotment or lease that entitles the person to retain possession are fully protected and cannot be evicted. In other words, primacy to the terms of allotment, lease or grant is not interfered, and is duly accorded. The terms of the allotment, lease or grant would be binding. Clause (b) states that if the allotment, lease or grant has been determined or cancelled whether before or after the commencement of the Religious Premises Act, occupation of the person would be treated as unauthorised occupation. Clause (c) states that where a person is authorised to occupy any religious premises, before or after commencement of the Religious Premises Act, has sublet the religious premises in contravention of

the terms of allotment, lease or grant, or otherwise acted in contravention of the terms, express or implied, he shall be treated as an "unauthorised occupant". No contention, issue or objection has been raised viz. clause (c) to Section 3. Explanation to Section 3 states that for the purpose of clause (a), which makes the term of allotment, lease or grant as a basis for determining whether a person is in authorised or unauthorised occupation, shall not be affected by the mere reason or the fact that such person has paid rent and, therefore, is deemed to have entered into possession as an allottee, lessee or guarantee. In other words, payment of rent would not be a determinative and relevant factor in deciding the issue and question of "unauthorised occupation". The tenure of allotment, lease or the grant and terms and conditions as agreed or stated, and not mere payment of rent would be the crucial and determinative criterion.

10. Under Section 4 of the Religious Premises Act, a religious institution can make an application before the Collector if it is of the opinion that any person is in unauthorised occupation of any religious premises, situated within the Collector's jurisdiction. The Collector thereupon is required to issue notice in writing calling upon the person to show-cause why the eviction order should not be made. Sub-section (2) prescribes the requirement of a notice

and sub-section (3) to Section 4 prescribes the manner in which the notice is to be served. Under Section 5, the Collector is authorised and is competent to pass an order of eviction after considering the cause, if any, shown by the person to whom notice under Section 4 has been issued and after examining the evidence that may be produced by such person. The person in occupation has to be given reasonable opportunity of being heard. The statutory requirement is that the Collector should be satisfied that the religious premises are in unauthorised occupation before he can make the order of eviction. The Collector must also record reasons. The Collector is required to pass an order within a period of 45 days from the date of receipt of the application under Section 4 and the order passed has to be affixed on the outer door or on some other conspicuous part of the religious premises. If a person fails to comply with the order of eviction within 30 days from the date of the order, the Collector, or any other officer duly authorised by him, can evict the person and deliver possession of the religious premises to the religious institution. He is entitled to use force as may be necessary. The tenant, if aggrieved, can file an appeal against the Collector's order before the Commissioner. Thereafter, the tenant is entitled to also invoke the writ jurisdiction of the High Court under Articles 227 and 226 of the Constitution of India if the grievance still persists.

11. The issue of whether the properties of the religious institutions for the purpose of rent control legislations can be treated as a separate category is no longer *res integra* as this aspect was examined in several decisions where this Court has held that separate classification of properties of religious institutions for rent legislations will pass a challenge under Article 14 of the Constitution. In ***State of Andhra Pradesh and Others*** v. ***Nallamilli Rami Reddi and Others***[2], this Court was faced with a challenge to the validity of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 which had cancelled the leases of tenants of properties belonging to or given or endowed for the purpose of any charitable or any religious institution or endowment falling under the enactment, notwithstanding the prevailing tenancy laws in the State of Andhra Pradesh, in order to augment the rents payable for such properties which stood frozen on account of the tenancy laws and since sale of such lands was not feasible. While examining the question of religious institutions as a separate and distinguishable class, this Court had expounded on the scope of Article 14 of the Constitution and the kind of classification that would stand the test of Article 14 of the Constitution, as under:

[2] AIR 2001 SC 3616

> "8. What Article 14 of the Constitution prohibits is "class legislation" and not "classification for purpose of legislation". If the legislature reasonably classifies persons for legislative purposes so as to bring them under a well-defined class, it is not open to challenge on the ground of denial of equal treatment that the law does not apply to other persons. The test of permissible classification is twofold: (i) that the classification must be founded on intelligible differentia which distinguishes persons grouped together from others who are left out of the group, and (ii) that differentia must have a rational connection to the object sought to be achieved. Article 14 does not insist upon classification, which is scientifically perfect or logically complete. A classification would be justified unless it is patently arbitrary. If there is equality and uniformity in each group, the law will not become discriminatory, though due to some fortuitous circumstance arising out of peculiar situation some included in a class get an advantage over others so long as they are not singled out for special treatment. In substance, the differentia required is that it must be real and substantial, bearing some just and reasonable relation to the object of the legislation."

Holding the above, this Court in ***Nallamilli Rami Reddi*** (supra) had reversed the decision of the Division Bench of the Andhra Pradesh High Court observing that religious institutions fall into a separate category and land or property held by them have a special character. Clearly, the tenants under a religious institution would form a separate class by themselves and such classification, if made, would achieve the object of promoting the interests of the religious institutions. Therefore, classification of properties of "religious institutions" as a separate and distinctive class of properties would not fall foul or be violative of Article 14 of

the Constitution. It was elucidated that whether a tenancy act should be applicable to religious institutions or should be kept out is not an aspect which the Court would decide. It is instead for the legislature to determine the extent of applicability of such tenancy laws to religious institutions and the extent of protection that should be made available. This Court has, therefore, rejected the argument that religious institutions as landlords or tenants of religious institutions cannot be treated and regarded as a separate category in respect of whom protection as available to other tenants under the rent law would not be available. Such classification cannot be a ground or the basis to interfere with the validity of an act or provision. However, the Courts can interfere when the policy is irrational. Summing up the ratio, this court in ***Nallamilli Rami Reddi*** (supra) had held:

> "15. We may sum up the upshot of our discussion:
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> 1. That charitable or religious institutions or endowments fall into a separate category and form a class by themselves. If that is so, tenants coming under them also form a separate class. Therefore, they can be treated differently from others.
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> 2. In operation of the Act it is possible that it may result in hardship to some of the tenants but that by itself will not be a consideration to condemn the Act.
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> 3. The manner in which the charitable or religious institution or endowment would deal with the properties that are resumed after the provisions of Section 82 of the Act come into force by cancelling the existing leases, is in the region of speculation.

4. Fresh tenancy can be entered into and there is no material before the court as to what was the rent paid by tenants at the time when the Act came into force, in terms of Section 18(2) of the Act or as provided under the Andhra Act or under the Telangana Act. In the absence of such a material, it would be hazardous for the court to reach any conclusion, one way or the other, to state that the tenants would be frozen and, therefore, there is no likelihood of charitable or religious institution or endowment getting higher rents. If there is no material one way or the other, the presumption that the Act is good should prevail.

5. It is a matter of policy with the legislature as to whether all provisions of the Tenancy Acts should be exempt in its application to the charitable or religious institution or endowment in their entirety.

6. The identification of "landless poor persons" and protection given to them is justified as enunciated earlier.

7. It will be very difficult to predict at this stage that the result of Section 82 of the Act would be so hazardous as not to achieve the object for which it was enacted. It would not only result in displacing the old tenants by new tenants, it may also achieve other social objectives in another manner. If appropriate provisions are made under the Rules and if the leases are given to small holders of land, another social objective could be achieved.

8. In what manner charitable or religious institution or endowment would deal with matters of this nature is mere guesswork at this stage. On some hypothetical approach the High Court could not have declared a law to be invalid."

Therefore, it was clearly held that tenants of religious institutions fall in a separate class which is identifiable. Further, on the question, whether cancellation of a "lease" in their favour would achieve the objectives of the act in question, it was

observed, that there was no material before the Court to show that such cancellation would not carry out the purposes of the "religious institutions".

12. There have been number of central and state legislations wherein religious institutions with or without other charitable organisations have been treated as a separate and distinct class and accorded legal treatment concomitant to such distinctiveness within the scope of the same enactment or other enactments. {See – Sections 11 and 115BBC, the Income Tax Act, 1961; Karnataka Rent Act, 1999 and Karnataka Hindu Religious Institutions and Charitable Endowments Act, 1997; Orissa Hindu Religious Endowments Act, 1951; Himachal Pradesh Hindu Public Religious Institutions and Charitable Endowments Act, 1984 as amended in 2018; Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 and Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968, among others}.

13. We would like to refer to a decision of this Court in ***S. Kandaswamy Chettiar*** v. ***State of Tamil Nadu and Another***[3] wherein challenge was made to the exemption granted to buildings owned by Hindu, Christian and Muslim religious public trusts and public charitable trusts from the provisions of the Tamil

[3] AIR 1985 SC 257

Nadu Buildings (Lease and Rent Control) Act, 1960, by delegated legislation, in the form of an exemption notification issued under Section 29 of the above Act. A three Judge Bench of this Court in ***S. Kandaswamy Chettiar*** (supra) referred to the judgment of a five Judge Bench of this Court in ***P.J. Irani*** v. ***State of Madras***[4] wherein identical provisions contained in earlier enactment, namely, the Madras Buildings (Lease and Rent Control) Act, 1959 were upheld in the context of Article 14 of the Constitution of India on the basis that the Preamble and operative provisions of that Act gave sufficient guidance for exercise of discretionary power vested with the State Government. Whether a notification granting exemption to buildings belonging to charities, religious or secular institutions would violate the equal protection mandate of Article 14, it was observed, that Article 14 requires that the classification must be based on rational grounds, that is, grounds germane to carrying out the policy or the purpose of the Act and by way of illustration it was stated that if such exemptions were granted in favour of all the buildings belonging to charities, religious or secular institutions, such classification would be reasonable and proper being based on intelligible differentia having nexus to the object sought to be achieved. Rent Act, it was observed, would unquestionably be a piece of beneficial

[4] AIR 1961 SC 1731

legislation intended to remedy the two evils, that is, rack-renting extraction of exorbitant rents and unreasonable eviction orders generated by a largescale influx of population to big cities and urban areas post the Second World War creating acute shortage of accommodation in such areas. Rent enactments overtly protect the rights of the tenants in occupation of buildings in such areas from being charged unreasonable rents and from being unreasonably evicted. Therefore, such enactments even protect tenancy after determination or end of their contractual periods by enlarging the definition of the term 'tenant'. At the same time, the rent enactments often contain other significant provisions which indicate that the legislature itself felt that there may be areas and cases where these two evils were neither prevalent nor apprehended, and as such landlords' freedom need not be curtailed at all. It is in this context that several enactments give wider latitude to the landlords of religious, charitable, educational and other public institutions if the possession is required for purposes of such institutions. In other words, the legislature is entitled and can make rational classification of buildings belonging to government and those belonging to religious, charitable, educational and other public institutions which are accorded different treatment on the well-founded assumption that such landlords are not expected to and would not indulge in rack-

renting or unreasonable eviction. Relying upon the observations in ***P.J. Irani*** (supra), it was held that constitutional validity of granting exemption to buildings belonging to charities, religious or secular institutions, from rent control legislation, would not offend the equal protection clause of Article 14 of the Constitution as it is a reasonable classification based on intelligible differentia and also satisfies the test of nexus as such institutions not only serve public purpose but disbursement of their income is governed by the objects for which they are created. The income and activities are not for private benefit. Reference in this regard was made to the counter affidavit wherein the government had explained that they were satisfied that the rents received by exempted religious institutions were very low, meagre and that the provisions of fixation of fair rent under the rent act would not meet the ends of justice and would in fact result in the tenant exploiting the situation. Consequently, withdrawal of protection to the tenants of such buildings was justified. It was observed in ***S. Kandaswamy Chettiar*** (supra) as under:

> "11... In our view, the aforesaid material clearly shows that buildings belonging to such public religious and charitable endowments or trusts clearly fell into a class where undue hardship and injustice resulting to them from the uniform application of the beneficial provisions of the Act needed to be relieved and the exemption granted will have to be regarded as being germane to the policy and purposes of the Act. In other words the classification made has a clear nexus with the object

with which the power to grant exemption has been conferred upon the State Government under S.29 of the Act.

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14... It is obvious that if the trustees of the public religious trusts and public charities are to be given freedom to charge the normal market rent then to make that freedom effective it will be necessary to arm the trustees with the right to evict the tenants for non-payment of such market rent. The State Government on materials before it came to the conclusion that the 'fair rent' fixed under the Act was unjust in case of such buildings and it was necessary to permit the trustees of such buildings to recover from their tenants reasonable market rent and if that be so non-eviction when reasonable market rent is not paid would be unreasonable and if the market rent is paid by the tenants no trustee is going to evict them. It is, therefore, clear that granting total exemption cannot be regarded as excessive or unwarranted.

15. Apart from this aspect of the matter it is conceivable that trustees of buildings belonging to such public religious institutions or public charities may desire eviction of their tenants for the purpose of carrying out major or substantial repairs or for the purpose of demolition and reconstruction and the State Government may have felt that the trustees of such buildings should be able to effect evictions without being required to fulfil other onerous conditions which must be complied with by private landlords when they seek evictions for such purposes. In our view, therefore, the total exemption granted to such buildings under the impugned notification is perfectly justified."

14. These two judgments were followed by the two Judge Bench decision of this Court in ***Christ the King Cathedral*** v. ***John Ancheril and Another***[5] wherein similar exemption notification

[5] (2001) 6 SCC 170

under the Kerala Buildings (Lease and Rent Control) Act, 1965 granting exemption in public interest to the buildings of all churches/mosques of all minority religions and of all Dioceses, Archdioceses, Monasteries, etc. was challenged. One of the contentions raised was that no data or material was produced by the State and hence the decision and ratio in ***S. Kandaswamy Chettiar*** (supra) would not be applicable. Rejecting the said contention, it was observed:

> "6. The law had been stated by this Court to the effect that public religious or charitable endowments or trusts constitute a well-recognised group which serves not only public purposes, but disbursement of their income is governed by the objects with which they are created and buildings belonging to such endowments or trusts clearly fall into a class distinct from the buildings owned by private landlords. It is in respect of three areas a regulation would be made under the Act, as has been done in other similar enactments and these areas are: (i) with respect to regulation of lease of buildings (residential or non-residential); (ii) control of rent of such buildings; and (iii) control of eviction of tenants from such buildings. A public trust, as has been held in *S. Kandaswamy Chettiar case* is not likely to act unreasonably either in the matter of enhancement of rent or eviction of tenants being institutions of religion or charity. On that basis, this Court upheld the validity of the exemption granted under the Tamil Nadu Act in favour of such trust or endowment. In the present case, the contention has been specifically put forth that the appellants fall into that very category which came up for consideration before this Court in *S. Kandaswamy Chettiar case*. Therefore, no distinction can be made between that class of owners of the buildings in that case and in the present case. We do not understand as to what other material was required by the Court in a matter of this nature if the contention put forth before this Court is not that churches or mosques, dioceses, archdioceses, monasteries, convents, wakfs and madarsas are not religious and charitable in nature.

7. Shri Nageswara Rao, the learned counsel appearing for the contesting respondents submitted that there is total non-application of mind by the Government in the matter of grant of exemption and the guidelines indicated in *S. Kandaswamy Chettiar case* have not been followed in the present case and, therefore, the exemption should not have been granted in the present case. In *S. Kandaswamy Chettiar case* an affidavit had been filed as to the lower rents that were being paid and that the tenants were exploiting the situation and had brought the charitable institutions to a situation of helplessness and that position not having been challenged the Court made those orders. If we bear in mind the fact that the purpose of the Act is apparently to prevent unreasonable eviction and also to control rent and if the trustees of religious and public charities are given freedom to charge normal market rent with the further freedom to evict the tenants for not paying such market rent, the result would be unjust and cause hardship to them. But apprehension, by itself, is not sufficient. There is no material on record to show that in any of these cases the landlords would resort to such a course of action. On the other hand, if the building belonging to such public trust or religious institution is exempt from the Act, the purpose of the trust could be carried out much better, is quite clear. If that is the object with which the Government has granted exemption, we do not think there is any reason to quash the notifications impugned before the High Court.

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9. An argument is sought to be raised on the basis of ownership of property that there should not have been a distinction as is being made in the present case. That was the very basis of distinction made in case of statutory bodies like the Housing Board, local authorities which was noticed in *Jayakaran* v. *Kerala Health R & W Society case* or registered wakfs which was considered in *Lakshmanan* v. *Mohamood*. When such bodies or institutions fall into a distinct class by themselves and exemption granted to them would serve a public purpose, namely, to carry out the objects of the trust or the endowment or religious activity in a broad sense, we do not think that the fine distinction

sought to be made by the High Court in this regard is justified.

15. Appropriate at this stage would also be reference to two earlier decisions of this Court which had examined the provisions of the rent control legislations, namely, ***Kewal Singh*** v. ***Smt. Lajwanti***[6] and ***Ravi Dutt Sharma*** v. ***Ratan Lal Bhargava***[7].

16. In ***Kewal Singh*** (supra), the challenge made was to the provisions of summary eviction in case of *bona fide* requirement under the Delhi Rent Control Act, 1958. It was observed that the rent control legislations are a piece of social legislations and are meant mainly to protect tenants from frivolous evictions but, at the same time, they must do justice to the landlord and to this extent the enactment should avoid placing such restrictions on their right to evict the tenants so as to destroy the legal right to property. Therefore, the landlords have been given certain statutory rights under the rent enactments to seek eviction and these provisions provide relief. In the absence of such rent control legislations, a landlord has the right in law to evict the tenant either on the termination of tenancy by efflux of time or other grounds after giving notice under the Transfer of Property Act. Such rights have been curtailed by the rent control legislations to give protection to

[6] AIR 1980 SC 161
[7] AIR 1984 SC 967

tenants having regard to the genuine and dire needs but these should not be construed to destroy the rights which have been given to the landlords. It was observed:

> "21. There is yet another important aspect of the matter which may be mentioned here. Prior to the enactment of the rent control legislation in our country, the relationship of landlord and tenant was governed by our common law viz. the Transfer of Property Act (Sections 107 to 111). The tenant was inducted with his tacit agreement to be regulated by the conditions embodied in the contract and could not be allowed to repudiate the agreement reached between him and the landlord during that period. The tenant was, therefore, bound in law to vacate the premises either voluntarily or through a suit after he was given a notice as required by the Transfer of Property Act under the terms and conditions of the lease. However, as a piece of social reform in order to protect the tenants from capricious and frivolous eviction, the legislature stepped in and afforded special protection to the tenant by conferring on him the status of a statutory tenant who could not be evicted except under the conditions specified and the procedure prescribed by the Rent Control Acts. Thus to this extent, the agreement of lease and the provisions of the Transfer of Property Act stood superseded. At the same time, the Rent Control Acts provided the facilities of eviction to the landlord on certain specified grounds like bona fide personal necessity or default in payment of rent, etc. Thus any right that the tenant possessed after the expiry of the lease was conferred on him only by virtue of the Rent Control Act. It is, therefore, manifest that if the legislature considered in its wisdom to confer certain rights or facilities on the tenants, it could due to changed circumstances curtail, modify, alter or even take away such rights or the procedure enacted for the purpose of eviction and leave the tenants to seek their remedy under the common law.
>
> 22. Thus, we do not see how can the tenant challenge the validity of such a provision enacted by the legislature from which the tenant itself derived such rights."

17. Similar are the observations of this Court in ***Ravi Dutt Sharma*** (supra) which had quoted several passages from ***Kewal Singh*** (supra) to observe that it is open to the legislature to pick out one class of landlords out of several covered under a specific provision of a rent enactment so long as they form a class by themselves and the legislature was free to provide benefit of a special procedure to them in the matter of eviction against the tenants as long as the legislation had the object to achieve and a special procedure has reasonable nexus to the object to be achieved.

18. In ***Ashoka Marketing Ltd.*** (supra), the five Judge Constitution Bench of this Court had upheld applicability of the Public Premises Act to a corporation established by a Central Act that is owned and controlled by the Central Government, therein a nationalised bank. After referring to several judgments, this Court had explained the effect of Article 14 of the Constitution observing that the two statutes, namely, the Rent Control Act and the Public Premises Act were enacted by the same legislature, that is, the Parliament, in exercise of powers for matters enumerated in the Concurrent List. The Public Premises Act being a later enactment would prevail over the provisions of the Rent Control Act in respect of public premises. Referring to the provisions of the Rent Control Act, it was observed:

> "55. The Rent Control Act makes a departure from the general law regulating the relationship of landlord and tenant contained in the Transfer of Property Act inasmuch as it makes provision for determination of standard rent, it specifies the grounds on which a landlord can seek the eviction of a tenant, it prescribes the forum for adjudication of disputes between landlords and tenants and the procedure which has to be followed in such proceedings. The Rent Control Act can, therefore, be said to be a special statute regulating the relationship of landlord and tenant in the Union territory of Delhi. The Public Premises Act makes provision for a speedy machinery to secure eviction of unauthorised occupants from public premises. As opposed to the general law which provides for filing of a regular suit for recovery of possession of property in a competent court and for trial of such a suit in accordance with the procedure laid down in the Code of Civil Procedure, the Public Premises Act confers the power to pass an order of eviction of an unauthorised occupant in a public premises on a designated officer and prescribes the procedure to be followed by the said officer before passing such an order. Therefore, the Public Premises Act is also a special statute relating to eviction of unauthorised occupants from public premises. In other words, both the enactments, namely, the Rent Control Act and the Public Premises Act, are special statutes in relation to the matters dealt with therein. Since, the Public Premises Act is a special statute and not a general enactment the exception contained in the principle that a subsequent general law cannot derogate from an earlier special law cannot be invoked and in accordance with the principle that the later laws abrogate earlier contrary laws, the Public Premises Act must prevail over the Rent Control Act."

19. What has been said about the Public Premises Act would be equally applicable to the legislations made by the State legislature of the State of Punjab in respect of the two enactments under consideration, that is, the East Punjab Rent Act and the Religious Premises Act. No doubt, in this decision it has been observed that the underlying reason for exclusion of property belonging to the

government from the ambit of the Rent Control Act is that the government while dealing with the citizens in respect of property belonging to it would not act as a private landlord but would act in public interest, *albeit* this reasoning would equally apply to "religious institutions" as defined. The religious institutions as held are meant to carry out public purpose and the legislature can proceed accordingly that the religious institutions would act in public interest for which they were established. {*See above* ***S. Kandaswamy Chettiar*** (supra) and ***Christ the King Cathedral*** (supra)}

20. As noticed above, valid grants, leases and allotments are not construed and treated as unauthorised occupation. It is only when the terms of the grant, lease or allotment are not adhered to or have been determined or the period of allotment, lease or grant as fixed has come to an end, that the person in occupation is treated to be in unauthorised occupation. This is a pre-condition which confers the right on the religious institution to seek eviction of a person in unauthorised occupation of the religious premises. Further, an order passed by the Collector is appealable before the Commissioner and if still aggrieved, a tenant can invoke the writ jurisdiction of the High Court, as mentioned above. Therefore,

power of judicial review is always available and can be exercised by the High Court when required and necessary.

21. Accordingly, we do not find any merit in the present appeal and the same is dismissed. However, in the facts of this case, there would be no order as to costs.

.....J.
(N. V. RAMANA)

.....J.
(SANJIV KHANNA)

.....J.
(KRISHNA MURARI)

NEW DELHI;
DECEMBER 04, 2019.