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Court : Karnataka

Decided On : Aug-08-1955

Reported in : AIR1955Kant121; AIR1955Mys121

Judge : Sreenivasa Rau and ;Hombe Gowda, JJ.

Acts : Mysore House Rent and Accommodation Control Act, 1951 - Sections 1(2), 13, 20 and 23; [Constitution of India](#) - Articles 14, 19 and 19(1); Madras Buildings (Lease and Rent Control) Act, 1949 - Sections 13

Appeal No. : Writ Petition Nos. 113 and 114 of 1955

Appellant : M.R. Puttiah and anr.

Respondent : Mysore City Municipality and anr.

Advocate for Pet/Ap. : S.K. Venkataranga Ayengar, Adv.

Judgement :

Sreenivasa Rau, J.

1. In these two petitions the respective petitioners occupying shops situated in the Devaraja Market, Mysore City, as tenants of respondent 1, Mysore City Municipality, have prayed that Section 20 of Act 30 of 1951 (the Mysore House Rent and Accommodation Control Act, 1951) be declared void and [or the issue of a writ of certiorari or other appropriate writ or order or direction to quash the

notification of respondent 2, i.e., the State Government, bearing No. 797 dated 2-11-1951 exempting houses owned by any local authority or muzrai institution from all the provisions of the Act.

2. It may be mentioned that Section 20 of the Act authorises the State Government by notification in the Mysore Gazette to exempt any house or class of houses from all or any of the provisions of the Act and that the notification referred to above has been issued in exercise of the powers conferred by Section 20.

3. The petitioners' case is that they have been tenants in occupation of the shop premises for many years under the Municipality and taking advantage of the exemption granted in the above mentioned notification the Municipality has filed suits against them for eviction in the Civil Court which it would not have been able to do under the provisions of the House Rent and Accommodation Control Act, 1951. The petitioners contend that Section 20 empowering Government to grant exemption to a house or class of houses vests unregulated and arbitrary powers in the hands of Government and as it enables discrimination it offends Article 14 of the Constitution and is therefore void. It is further contended that even assuming that Section 20 itself is not void, the notification goes beyond the scope of Section 20 and the exemption granted under the notification is unrelated to the policy and object of the Act and is clearly discriminatory and has therefore to be struck down as unconstitutional.

4. As regards the constitutionality of Section 20 of the Act, a similar question arose in respect of Section 13, Madras Buildings (Lease and Rent Control) Act, 1949. The scheme of that Act is similar to the scheme of the Mysore Act, and the wording of Section 13 of that Act is identical with the wording of Section 20 of the Mysore Act. The case is reported in -- 'Globe Theatres Ltd. v. State of Madras, : AIR1954 Mad690 (A) and was referred to by the learned Advocate for the petitioners. The matter had apparently come up for consideration in previous cases; but in view of the importance of the question the learned Judges went into all aspects of the matter testing the constitutionality of Section 13 with reference to the general considerations governing the principles of equality before the law as also with reference to criteria laid down by the Supreme Court of India. They

expressed their conclusion as follows :

'If such power is improperly exercised in any particular case, that is, not in furtherance of the policy and object of the Act, but arbitrarily, then the Court can strike down the exercise of such power on every such occasion.'

They then proceeded to ascertain whether any such policy and object could be discovered within the four corners of the Act and whether the discretion vested in the Government under Section 13 was in furtherance of such policy and object. They held after considering the scheme of the Act including the preamble that the two main objects were the control of rent and the regulation of letting with a view to prevent unreasonable eviction of tenants. They also took into consideration the circumstance that the Act was a temporally measure declared to remain in force only up to a particular date. They held that the discretion given to Government was not an un-guided and arbitrary discretion. They added, however, that the exercise of such discretion was subject to judicial review and that if it be shown in any given case that discretion had been exercised in disregard of the standard or contrary to the declared policy and object of the legislation or arbitrarily or mala fide, the exercise could be challenged and declared void under Article 14 of the Constitution. It may be mentioned that the title and the preamble of the Mysore Act also are in almost identical terms except that the word 'houses' is used in the latter Act instead of the word 'buildings' found in the Madras Act. With great respect, we agree with the view taken by the Madras High Court in the decision mentioned above.

5. We may also add that Section 1, (2) (a) & (b) of the Mysore Act exempts any house belonging to the State Government or Central Government and any tenancy or other like relationship created by a grant from the State Government in respect of houses taken on lease or requisitioned by the State Government from the operation of the provisions of the Act except Section 23. This exemption itself would indicate that the Legislature while deciding that buildings owned, requisitioned or taken on lease by Government should be exempted by making a provision in the Act itself, it felt that there might be other categories of houses in respect of which provision could not be made in advance and that some authority

should be vested with the discretion to grant exemption in conformity with the needs and circumstances and vested such power in Government as the appropriate authority. It has to be remembered that the Act curtails the rights of landlords under the general law and it would be quite in conformity with the objects of the Act to mitigate the rigours of the Act by providing for exemption in appropriate cases or categories of cases. We therefore see no substance in the petitioners' contention that Section 20 of the Mysore Act is void as opposed to Article 14 of the Constitution.

6. It is next contended that the notification exempting houses belonging to local bodies is beyond the purview of Section 20 as that section permits only a classification of houses and not a classification of owners. It is difficult to accept this contention. Classification with reference to ownership is also a mode of classification. As mentioned above, the exemption granted in favour of Government by the Legislature itself under Section 1, (2) (a) and (b) is an exemption on the basis of ownership. It may be added that in the Madras case referred to above the building belonged to a charitable trust and it would therefore appear that even there the exemption was granted on the basis of the character held by the owner. The exemption in favour of local bodies is also based on the same principle as that relating to Government, i.e., in favour of a public authority. It cannot therefore be said that the exemption in favour of local bodies is beyond the scope of the powers granted under Section 20 of the Act. Nor can such exemption be regarded as unguided or arbitrary as the object of the exemption is clearly to enable local bodies to discharge their functions unhampered by the restrictions of the House Rent and Accommodation Control Act so that they could deal with the buildings owned by them in conformity with the general law and the particular Act governing the functioning of such bodies. We are therefore of the view that the notification in question does not offend Article 14 of the Constitution.

7. The petitioners also contend that the notification infringes Article 19 of the Constitution. The reference is apparently to Article 19(1)(f). It cannot be said that either Section 20 of the Act or the notification in question affects any right of the tenants to acquire, hold and dispose of property since under the operation of the general law the tenants are liable to be evicted and such security as is conferred

on them under the House Rent and Accommodation Control Act is necessarily subject to all the provisions of the Act including the provision for exemption.

8. We accordingly dismiss these petitions. The interim applications are also dismissed.

9. Petitions dismissed.

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