

Gaya Parshad Vs. Basdeo and ors.

Gaya Parshad Vs. Basdeo and ors.

SooperKanoon Citation : sooperkanoon.com/754921

Court : Rajasthan

Decided On : Nov-20-1956

Reported in : AIR1957Raj220

Judge : Bhandari, J.

Acts : Jaipur Rent Control Order, 1947; Rajasthan Premises (Control of Rent and Eviction) Act, 1950 - Sections 30; Jaipur General Clauses Act, 1944 - Sections 6; Rajasthan Administration Ordinance, 1949 - Sections 3; [General Clauses Act, 1897](#) - Sections 6; [Code of Civil Procedure \(CPC\) , 1908](#) - Sections 9; Statute Law

Appeal No. : Second Appeal No. 347 of 1952

Appellant : Gaya Parshad

Respondent : Basdeo and ors.

Advocate for Def. : C.L. Agarwal, Adv.

Advocate for Pet/Ap. : R.A. Gupta, Adv.

Judgement :

Bhandari, J.

1. This is a civil second appeal by Gaya Parshad one of the defendants in suit No. 38 of 1951, filed for the recovery of rent by Basdeo and two others against him

and Baijnath respondent in the court of the Civil Judge, Sikar, on the 2-3-1951. The plaintiffs alleged that the defendants had taken one shop situated in the town of Fatehpur on rent from them on a monthly rent of Rs. 50/-, under the rent note dated the 12-6-1948, and that, on the non-payment of the rent by the defendants, the plaintiffs obtained a decree on the 18-12-1948. against them for the recovery of rent due upto 19-10-1948. The plaintiffs further alleged that a sum of Rs. 1415/- had become due as arrears of rent from the defendants from 20-10-1948, upto 28-2-1951, but the defendants did not pay the rent in spite of notice to them. The plaintiffs further added a sum of Rs. 155/- as interest at 1% P. M. to this amount and claimed the sum of Rs. 1600/-. Both the defendants filed separate written statements but the pleas raised by them are substantially the same. The defendants denied the execution of the rent note and further urged that they were the tenants of the shop from 6mt. 2000 and that upto the 12-6-1948, they never paid rent exceeding Rs. 200/- p. a. and that the rent note dated the 12-6-1948, was illegal and void under the Jaipur Rent Control Order, 1947, and that the plaintiffs were not entitled to recover any rent in excess of Rs. 200/- p. a.

2. The plaintiffs filed another suit No. 294 of 1951 claiming the amount of Rs. 369/8/- from 1-3-1950 to 26-10-1951 as rent and Rs. 16/8/- as interest. Similar written statements were filed by the defendants in that suit. The two suits were consolidated by the learned Civil Judge, Sikar, on 17-3-1952, and they were decided by one judgment dated 29-5-1952. The learned Civil Judge held that the rent of the disputed shop on 1-9-1939, was not more than Rs. 200/- p. a. and the standard rent was, therefore, Rs. 300/- p. a., under the Jaipur Rent Control Order. Calculating the arrears of rent at that rate, he passed a decree for Rs. 675/- in suit No. 38 of 1951, and for Rs. 200/- in suit No. 294 of 1951, in favour of the plaintiffs against the defendants and dismissed the rest of the claim of the plaintiffs. The plaintiffs filed two appeals.

Appeal No. 75 of 1952 was in suit No. 38 of 1951, and in this appeal the plaintiffs claimed that the decretal amount should be increased by Rs. 675/-. Appeal No. 74 of 1952 was in suit No. 294 of 1951 and in this the plaintiffs claimed an increase of Rs. 213/- in the decretal amount. The defendants also filed cross-objections in both these appeals, in which they claimed that the plaintiffs were not entitled to

any decree for rent in excess of Rs. 200/- p. a. and they claimed proportionate reduction in the decretal amount in both the suits.

3. Both the appeals were consolidated by the learned District Judge . The learned District Judge by one common judgment disposed them of by awarding rent at Rs. 600/- p. a. and increased the decretal amount by Rs. 740/- in suit No. 38 of 1951 and by Rs. 196/8/- in suit No. 294 of 1951. The cross-objections were dismissed, Gaya Prasad defendant filed one appeal against both the decrees of the learned District Judge. Sikar. In this appeal he has prayed that the judgments and decrees passed by the trial Courts be restored and the decretal amount be reduced by Rs.936/8/- which had been ordered to be increased under the judgment of the learned District Judge.

4. The first question that arises for decision relates to the effect of the Jaipur Rent Control Order, 1947. on the rent note Ex. p 1 dated the 12-6-1948. which was held proved by both the lower courts. The Jaipur Rent Control Order was made by the Government of the then Jaipur State in exercise of the powers conferred by Section 5 of the Jaipur Emergency Provisions (Continuance) Act, 1947. It came into force on the 18th Oct. In Clause 2(d) of the order 'Standard Rent' has been defined as follows:

'Standard rent', used in relation to any premises means-

- i. the standard rent of such premises as determined in accordance with the provisions of the second schedule, or
- ii. where the standard rent has been fixed by the Controller under Clause 6, the rent as so fixed, in Clause 3(2), it is further provided that: 'Any agreement for the payment of rent in excess of the standard rent shall be null and void and shall be construed as if it was an agreement for payment of the standard rent.'

It is further provided in Section 6(1) :

'If any dispute arises regarding the standard rent payable in respect of any premises it shall be determined by the Controller.'

The second schedule makes provisions for determining the standard rent.

5. After integration of the Former State of Jaipur in Rajasthan, the Rajasthan Premises (Control of Rent and Eviction) Act, 1950, (hereinafter called the Rajasthan Premises Act), was enacted by His Highness the Rajpramukh on 28-11-1950. By Section 30 of the Rajasthan Premises Act, all other corresponding laws of the covenanting States were repealed subject to the following proviso:

'Provided that anything done or action taken before such date under the laws hereby repealed shall, until varied or superseded under this Act, continue and be deemed to have been done or taken, as the case may be, under or in pursuance of this Act as if it were then in force.'

It may be mentioned that the provisions relating to the control of rents in the Rajasthan Premises Act are not applicable to the town in which the shop in dispute is situated.

6. On behalf of the appellant it is contended that the plaintiffs were not entitled to recover any rent in excess of the standard rent as provided in the Jaipur Rent Control Order as any agreement for the payment of rent in excess of the standard rent was null and void and Ex. P. 1 which provided for the payment of rent at Rs. 600/- p. a. Was, therefore, null and void to the extent it was in excess of the standard rent.

7. On behalf of the plaintiffs, it is urged that the Jaipur Rent Control Order was repealed by Section 30 of the Rajasthan Premises Act and the repeal had the effect of obliterating it as completely as if it were never made, and that the plaintiffs were, therefore, entitled to recover the rent as stipulated in their agreement Ex. P 1.

8. I have to determine which of the two contentions is correct.

9. The express saving made in the proviso to Section 30 of the Rajasthan Premises Act relates only to anything done or action taken before the date of the commencement of that Act, under the laws thereby repealed. In this case there was nothing done and no action taken under the Jaipur Rent Control Order. It is

true that the defendant executed the rent note EX. P 1 at a time when the Jaipur Rent Control Order was in force but the execution of the rent note cannot be taken to be anything done under that Order. Under these circumstances the express saving made in the repealing enactment is not of any help to the plaintiffs.

10. At the time of the coming into force of the Jaipur Rent Control Order, the Jaipur General Clauses Act was in force. After the integration of the Former Jaipur State in Rajasthan, the Rajasthan Administration Ordinance. (No. I of 1949), 1949. was promulgated by His Highness the Raj-pramukh on 7-5-1949. Under Section 3 of that Ordinance all the laws in force in any Covenanting States immediately before the commencement of that Ordinance in that State continued in force in that State subject to the modification that reference therein to the Ruler or Government of that State was to be construed as a reference to the Rajpramukh or as the case may be to the Government of Rajasthan. The Jaipur General Clauses Act, 1944, thus remained in force by virtue of Section 3 of the aforesaid Ordinance. Section 6 of the Jaipur General Clauses Act so far as relevant for the purpose of this case runs as follows:

'Where any Act or Regulation made before or after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears the repeal shall not--

Section 6(c). affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed.'

It is urged by the learned counsel for the plaintiffs relying on a Division Bench case of this Court in the case of Lalchand v. The State 1952 Raj LW 480: (AIR 1954 Raj 10) (A) that as the Jaipur General Clauses Act could not apply to the whole of Rajasthan and that if it were to be held that it applied only to those parts which were in the former Jaipur State, a very anomalous position would arise inasmuch as different consequences would follow in regard to the rights and liabilities which had been acquired or incurred under the enactment which was repealed by Rajasthan enactment in different parts of Rajasthan. It is further urged that if the Jaipur General Clauses Act is not applicable, the Jaipur Rent Control Order should be taken to have been totally obliterated from the statute and it cannot be called in

assistance by the defendants for the purpose of the reduction of the rent. (11) So far as the case of Lalchand v. State (A) is concerned, it may be mentioned that it was a case of prosecution for an offence under the Jaipur Essential Supplies (Temporary Powers) Act of 1947, which was repealed by the Rajasthan Essential Supplies (Temporary Powers) Ordinance, 1949. The accused in that case was prosecuted before the date of repeal but was not punished till then. The question arose whether in view of the repeal of the Jaipur Essential Supplies (Temporary Powers) Act which prescribed the sentence for the offence which the accused was alleged to have committed it was permissible for the court to punish him after its repeal. On behalf of the Prosecution reliance was placed on Section 6 of the Jaipur General Clauses Act. But in view of the fact that whatever the legislature intended to save was contained in Section 20(2), it was held that the accused could not be punished after the repeal of the Jaipur Essential Supplies (Temporary Powers) Act. Reference may be made to the following observations in that judgment:

'On a careful consideration, we are driven to the conclusion that it could not be the intention of the Rajasthan Ordinance that the prosecutions under the different Essential Supplies (Temporary Powers) Acts or Ordinances which were repealed by Section 20 of the Rajasthan Ordinance should be treated differently in different areas. By the Rajasthan Ordinance a unified Act was given to the whole of Rajasthan and we do not think that it was intended that subjects of different parts of Rajasthan should be treated differently in the matter of prosecutions arising under the repealed laws. Section 20(2) clearly makes a saving in favour of the orders made under the repealed Act, Ordinances and laws in force immediately before the commencement of the Ordinance and also in favour of appointments made, licences or permits granted, directions issued, things done and action taken under any such order and in force immediately before the commencement of the Rajasthan Ordinance.

If it were the intention of the law making authority that prosecutions launched under the different Acts repealed by the Rajasthan Ordinance were to survive after its enactment there was no difficulty in saying that things done or action taken under any of the repealed laws and in force immediately before the

commencement of the Ordinance would also continue in force.

In the face of the facts that there was no unified General Clauses Act for the whole of Rajasthan at the time when the Rajasthan Ordinance came into being and that the Central General Clauses Act was not adopted in Rajasthan and that the legislature clearly made a saving in favour of the things it wanted to save, our only inference is that the legislature did not intend that prosecutions under the different repealed laws would continue in spite of the repeal of the laws themselves.

We are strengthened in this view by a later amendment of the Rajasthan Ordinance which was brought to our attention by the learned Deputy Government Advocate. This is Section 20A of the Ordinance which was inserted by Section 2 of the Amendment Ordinance No. XLIX of 1949 and runs as follows:

'2. Insertion of Section 20A.

After Section 20 of the Rajasthan Essential Supplies (Temporary Powers) Ordinance, 1949 (No. XIII of 1949). the following section shall be and deemed always to have been inserted, namely.

20A. Saving of certain orders made before promulgation of Ordinance. Notwithstanding anything contained in Sub-section (3) of Section 1 any order made or notification issued, thing done or action taken under any of the laws repealed by Section 20 after the commencement Of this Ordinance but before its publication in the Rajasthan Gazette shall continue in force and be deemed respectively to be made, issued, done or taken under this Ordinance.' The above observations clearly show that the savings contained in Section 20(2) of the Rajasthan Essential Supplies (Temporary Powers) Ordinance were considered as pointing out that the legislature hadj no intention to save the prosecution and the punishment of the accused in that case. Section 6 of the Jaipur General Clauses Act clearly says that if there is a different intention to be read from the repealing enactment regarding the consequences that are to follow on the repeal of any enactment, they must prevail in spite of Section 6. It may also be mentioned that Lalchand's case (A), was a case of criminal prosecution in which uniformity of the law in the State could be a very important consideration for the purpose of

interpretation.

12. In the present case the Rajasthan Premises Act itself makes provisions that the Act is to apply to such area in Rajasthan as may be notified by the Government in the Rajasthan Gazettee. The express saving in the provision of Section 30 is not of such general nature as made in Section 20(2) of the Rajasthan Essential Supplies (Temporary Powers) Ordinance. I do not think that the considerations that were before this Court while deciding the case of Lalchand (A), arise in the present case. I am, therefore, of opinion that Section 6 of the Jaipur General Clauses Act saved the rights of the defendant to pay the reduced rent during the continuance of the Jaipur Rent Control Order.

13. Even if I do not take the assistance of Section 6 of the Jaipur General Clauses Act, I arrive at the same conclusion, Under Ex. P 1 the defendant is liable to pay rent at Rs. 50/- p. m., (taking the tenancy as monthly tenancy). The defendant had acquired the right to pay the reduced rent every month under the provisions of the Jaipur Rent Control Order. This right of the defendant could not be lost by the subsequent repeal of the law under which he had acquired that right. The following observations in Craies on Statute Law, Fifth Edition at p. 383 clearly support me in this view :

'If a right has once been acquired by virtue of some statute, it will not be taken away by the repeal of the statute under which it was acquired, 'The law itself, says Puffendorf, in his Law of Nature and Nations', bk. 1, c., 6, s. 6,' may be disannulled by the author, but the right acquired by virtue of that law whilst in force must still remain; for together with a law to take away all its precedent effects would be a high piece of injustice.

Sometimes when an Act is repealed it is expressly enacted in the repealing Act and 'this repeal shall not affect any right or liability acquired, accrued or incurred.' But as the rule of law is as above stated, such a clause as this is apparently unnecessary, and only inserted ex abundanti cautela; and this is now the general canon of construction as to repeals made after 1889.'

14. Reliance is placed by the learned counsel for the plaintiffs on the following passage in the same book at p. 322:

'The effect of repeal without any express savings is thus stated by Tindal, C. J., in *Kay v. Goodwin* (1830) 6 Bing 576: 130 ER 1403' (B) where he says: 'I take the effect of repealing a statute to be to obliterate it as completely from the records of the Parliament as if it had never been passed; and it must be considered as a law that never existed except for the purpose of those actions which were commenced, prosecuted and concluded whilst it was an existing law. And in *Surtees v. Ellison* (1829) 9 B & C 750: 109 ER 278(C), Lord Tenterden says;' It has long been established that, when an Act of Parliament is repealed, it must be considered (except as to transactions past and closed) as if it had never existed.'

The above statement of law is correct if there remains something to be done under the repealing statute but if a person who during the continuance of statute had obtained certain rights under it. it cannot be said that those rights are also wiped out by the repeal of that enactment. The above passage in *Craies on Statute Law* has also been cited by Fazal AH J, in the case of *Keshavan Madhava Menon v. State of Bombay* AIR 1951 SC 128 (D) in connection with the interpretation of Article 13(1) of the Constitution of India. I may refer to the following observations:

'There can be no doubt that Article 13(1) will have no retrospective operation, and transactions which are past and closed and rights which have already vested will remain untouched. But with regard to inchoate matters which were still not determined when the Constitution came into force, and as regards proceedings whether not yet begun or pending at the time of the enforcement of the Constitution and not yet prosecuted to a final judgment, the very serious question arises as to whether a law which has been declared by the Constitution to be completely ineffectual can yet be applied. On principle and on good authority, the answer to this question would appear to me to be that the law having ceased to be effectual can no longer be applied.'

Mukherjea J, agreed with Fazal Ali, J, while the other learned judges of the Supreme Court took the view that Article 13(1) could have no retrospective operation but was only prospective and that if an act was done before the

commencement of the Constitution in contravention of the provisions of any law which, after the Constitution, becomes void, with respect to the exercise of any of the fundamental rights, the inconsistent law is not wiped out so far as the past act is concerned. In this view of the matter, the majority, held that the proceedings under Section 18(1) Press (Emergency Powers) Act pending at the date of the Constitution were not affected. Even the minority which relied on the law relating to repeal in the matter of interpretation of Article 13(1) of the Constitution, was of the view that the rights which had already vested in a person remained untouched.

15. I am humbly of opinion that both under Section 6 of the Jaipur General Clauses Act and also under the general law the rights of the defendant to treat the agreement for the payment of rent contained in Ex. P 1 in excess of the standard rent as void up to the time when the Jaipur Rent Control Order was not repealed, remained unaffected by the repeal of the Jaipur Rent Control Order.

16. It is urged on behalf of the plaintiffs that even if this be the position it is only the Controller appointed by the Government for the purposes of the Jaipur Rent Control Order who could determine any dispute regarding the standard rent and that civil court had no jurisdiction to determine the standard rent.

In other words it is urged that during the continuance of the Jaipur Rent Control Order the defendant did not get the standard rent determined by the Controller who had exclusive jurisdiction to determine it under Section 6 (1) and he cannot get it determined now by any court as the court of the Controller has been abolished. Section 2(d) which defines the standard rent contains two alternative definitions of standard rent. The second alternative defined in Clause 2(d) (ii) has reference to the standard rent fixed by the Controller in Clause 6. but the definition in Clause 2 (d) (i) defines the standard rent as determined in accordance with the provisions of the second schedule. The second schedule lays down certain principles on the basis of which the standard rent may be determined.

Clause 3(2) of the Jaipur Rent Control Order has reference to both, these definitions, whichever is applicable, when it makes any agreement for the payment of the rent in excess of the standard rent as null and void and lays down that such an agree-ment has to be construed as if it was an agreement for the payment of

the standard rent only.

The agreement in excess of the standard rent is null and void from its inception. It is not as if it is to be declared null and void at a later date: when the standard rent has been determined by the Controller. Further that agreement is to be treated as an agreement for the payment of standard rent from the date it is executed. It is not after the determination of the standard rent under Clause 6 of the Jaipur Rent Control Order that it has to be construed for payment of standard rent only. Clause 3(2) does not prescribe that some steps must be taken before it could have effect as contemplated in that clause. The forum for the determination of the standard rent under Clause 6 could be utilised by the parties, but that did not stop the operation of Clause 3(2). Viewed in this light, I do not think that the right of the defendants, not to pay anything in excess of the standard rent is contingent on the determination of the standard rent by the Controller under Clause 6. The defendants can very well urge before the civil courts when faced with a suit by the landlord for the recovery of rent in excess of the standard rent that they are not liable to pay it and that any agreement between the parties for payment of rent in excess of the standard rent was null and void. It has been urged that under the Jaipur Rent Control Order the Controller had the exclusive jurisdiction to determine the standard rent and that the civil courts had no jurisdiction to determine it as it was impliedly barred.

But the jurisdiction of the civil courts to entertain a suit for the arrears of rent had not been taken away. Even under that order, suits for the arrears of rent were to be entertained by the civil courts. During the course of trial of such a suit it may be necessary to determine the rate of rent which will be payable by the tenant to the landlord. It cannot be said that because of Clause 6 of the Jaipur Rent Control Order, the right of the civil court to determine that question is taken away by implication. This contention of the learned counsel has, therefore, no force.

17. Then it is urged that the trial court has not properly determined the standard rent in accordance with its definition. The trial court has held that the rent of the shop in dispute on the 1st day of September, 1939, was not more than Rs. 200/- p. a. and that it may be treated as basic rent under the second schedule. It has relied

on Ex. D. 1 rent note executed by the defendants in favour of the plaintiff on 28-3-1946. Ex. D. 1 mentions that the rent agreed upon was Rs. 200/-P. A. There is also oral evidence to the effect that the defendants were paying Rs. 200/- P. A. on 1-9-1939. This evidence has been believed. I think the trial court was right in fixing an amount not more than Rs. 300/- as standard rent in accordance with the provisions of the second schedule.

13. In this view of the matter, the plaintiffs were entitled to recover at the rate of Rs. 25/-p. m. as rent from the defendant from 20-10-1948 to 27-11-1950 before the date when the Rajasthan Premises Act came into force.

19. The next question that arises in this appeal is that at what rate the plaintiffs were entitled to recover the rent from the 28th November 1950 to 26-11-1951. On behalf of the defendant appellant it is argued that the agreement in Ex. P 1 for the payment of rent in excess of the standard rent was null and void under the law then in force and the agreement was to be construed as if it was an agreement for the payment of the standard rent only. It is, therefore, urged that Ex. P 1 should be treated as if it was an agreement only for the payment of Rs. 300/-p. a. On behalf of the plaintiffs it is replied that Clause 3(2) of the Jaipur Rent Control Order should be construed as disabling the plaintiffs from recovering anything more than the standard rent during the period it remained in force but that disability ceased as soon as that law was repealed.

This point is not free from difficulty. As already mentioned, the Jaipur Rent Control Order was made under the Jaipur Emergency Provisions (Continuance) Act, 1947. The preamble of that Act shows that it was enacted to provide for the continuance of certain powers till that time exercised by the Government under the Jaipur Defence Act. 1945. That Act provided for the continuance of certain emergency provisions which were thought necessary as a result of second world war. That Act is not specified to be temporary in the provisions enacted therein but in the nature of the circumstances in which it was enacted, it is clear that it was in the nature of a temporary, legislation. Further the Jaipur Rent Control Order superseded the general law of contract in the mat-ter of rent. Such a law must be construed strictly.

Its scope must be limited to the purpose for which it was enacted. If the legislature in its wisdom repealed such a law, it may be taken that it had served its purpose. Clause 3(2) of the Jaipur Rent Control Order which encroached upon the right of the landlord to recover the rent agreed upon between the tenant was efficacious for the period it was enforced, but once that law is repealed, it cannot be said that even after the repeal, the rights of the parties continued to be governed even in future by the provisions of the repealed law.

20. Learned counsel for the appellant has laid emphasis on the provision that any agreement for the payment of rent in excess of the standard rent was not only null and void, but was also to be construed as if it was agreement for the payment of the standard rent only. He has relied on the following authorities in support of his contention that the agreement being null and void, cannot be given effect to for the part for which it has been declared null and void by the law in force at the time of the execution of the agreement. 1. Saleh Abraham v. Manekji Cowasji AIR 1924 Cal 57 (E). 2. Sundarbai Sitaram v. Manohar Dhondur AIR 1933 Bom 362 (F). 3. Sannamma v. Radhabhai, AIR 1918 Mad 123 (FB) (G). I agree with Saleh Abraham's case (E) so far it goes but no question arose in that case as to what is the effect of repeal. In Sundarbai Sitaram's case (F) it has been decided that where an Act is in force on the date of a transaction, subsequent repealment of Act does not affect the merits and liabilities of the parties as on the date of transaction. The plaintiff in that case brought a suit for setting aside the sale dated 22-4-1925 executed by his grandmother in favour of the defendant.

The decision depended upon the question whether the plaintiff's father could purchase the property as he was a police constable and whether the transaction of the purchase and the contract on which it was founded were not void under Section 33 of the Bombay District Police Act 4 of 1890. It was argued that as that section was repealed at the time when the plaintiff's suit was pending and had not concluded, the plaintiff was not affected by the prohibition contained in that section. It was held that the section was in force when the transaction was effected and any subsequent repeal of the section did not affect the merits, rights or liabilities of the parties as on the date of the transaction. For that reason it was held that the plaintiff's father had acquired no title and interest in the property. I

agree with the proposition laid' down in that case. If a transaction is void under the law in force at the time when that transaction took place, the subsequent repeal of that law cannot confer any rights on the basis of that transaction.

21. In the case of Vaddadi Sannamma (G) a mortgage of village service inam lands in a proprietary estate executed after the grant of the title deed of enfranchisement but before the notification referred to in Section 17, Act 2 of 1894 was held , invalid and inoperative in spite the fact that such notification was later on issued.

22. These decisions support the case of the defendant appellant, to the extent that if an alie-nation is void at the time it was made, it confers no right on the alienee even if the law which made it void was subsequently repealed. But in the present case the defendants are in occupation of the shop in dispute and are liable to pay monthly rent. Their liability is recurring. They had 'to pay monthly rent during the period the Jaipur Rent Control Order remained in force when anything in excess of the standard rent was not legally recoverable by the landlord. They have to pay the rent even after the repeal of the Jaipur Rent Control Order when no such prohibition against the recovery of any amount in excess of the standard rent remained in force. If Clause 3(2) of the Jaipur Rent Control Order is taken to be limited in its operation for the time during which that law remained in force, then there is nothing to debar the plaintiffs from recovering the stipulated rent, after the repeal of the Jaipur Rent Control Order. It is true that Clause 3(2) is in very emphatic language. It not only makes an agreement for payment of rent in excess of the standard rent as null and void but also lays down that such an agreement shall be construed for the payment of standard rent only.

But in spite of this, it cannot be lost sight of that the Jaipur Rent Control Order was made by virtue of the powers conferred on the Government of Jaipur under the Jaipur Emergency Provisions (Continuance) Act. It cannot also be ignored that the Jaipur Rent Control Order is an encroachment on the general law of contract. Under these circumstances it will be proper to construe Clause 3(2) of the Jaipur Rent Control Order as limited in its operation to the period the Jaipur Rent Control Order remained in force. I may quote in support of the view that I have adopted the

following passage from Maxwell on Interpretation of Statutes page 20

'The true meaning of any passage, it is said, is to be found not merely in the words of that passage, but in comparing it with other parts of the law, ascertaining also what were the circumstances with reference to which the words were used and what was the object appearing from those circumstances which the legislature had in view.'

23. The result is that the plaintiffs are entitled to recover Rs. 25/- p.m. from 20-10-1948, to 27-11-1950. Thereafter, they are entitled to recover the rent at Rs. 50/ p. m. up to 26-10-1951. In the light of the above decision, the decree of the lower appellate court in suit No. 38 of 1951 is modified by substituting Rs. 780/13/- in place of Rs. 1415/- and the decree of the lower appellate court in suit No. 294 of 1951 is maintained. As to costs of this appeal, the parties shall give and receive costs in proportion to their success.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com