

SAVATRAM RAMPRATAP MILLS

A

v.

RADHEYSHYAM S/O LAXMINARAYAN GOENKA (D) THR.
LRS. & ANR.

(Civil Appeal No. 751 of 2008)

B

AUGUST 20, 2018

[ABHAY MANOHAR SAPRE AND
SANJAY KISHAN KAUL, JJ.]

C

Public Premises (Eviction of Unauthorized Occupants) Act, 1971: s.3(b) – Public Premises situated at Akola – Notice issued under the Act to attend proceedings at Mumbai – Whether the proceedings in relation to such public premises can be initiated under the Act at Mumbai or it has to be initiated at Akola – Held: The Estate Officer has to exercise its jurisdiction in relation to the public premises falling in the local limits in the notification – In the instant case, the proceedings in relation to such public premises could only be initiated at Akola, that being the area falling in the local limits specified in the notification for exercise of powers by Estate Officer.

D

E

Dismissing the appeals, the Court

HELD: Construing the expression “*local limits within which*” occurring in Section 3(b) of the Act, the High Court rightly held that the Estate Officer has to exercise its jurisdiction in relation to the public premises falling in the local limits specified in the notification. Since in this case, the notification in clear terms, specified that the Mill is situated at Akola, a *fortiori*, the proceedings in relation to such public premises under the Act could only be initiated at Akola-that being the area falling in the local limits specified in the notification for exercise of powers by the Estate Officer. The High Court was, therefore, right in interpreting Section 3(b) of the Act and, in consequence, was legally justified in quashing the notices impugned in the writ petition as being without jurisdiction. [Paras 15, 16] [932-E-G]

F

G

H

From the Judgment and Order dated 16.01.2007 of the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in Letters Patent Appeal No. 46 of 2004.

C.A. Nos. 9700/2014 and 9704/2014

The Judgment of the Court was delivered by

In Civil Appeal No. 751 of 2008

1. This appeal is filed against the final judgment and order dated 16.01.2007 passed by the Division Bench of the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in L.P.A. No.46 of 2004 whereby the Division Bench of the High Court dismissed the appeal filed by the appellant herein and upheld the order dated 25.11.2003 passed by the Single Judge of the High Court in Writ Petition No.1795 of 2003 by which the writ petition filed by respondent No.1 herein was allowed and the order passed by the Estate Officer of the National Textile Corporation Ltd. (respondent No.2 herein) was set aside.

2. Few facts need to be mentioned *infra* for disposal of the appeal, which involves a short question.

F 3. The appellant was originally a privately owned Company situated at Akola (Maharashtra). It was engaged in the business of manufacture of cotton. This Mill was later taken over by the National Textile Corporation (Maharashtra) Ltd., which is a subsidiary of NTC-a Government of India Undertaking.

G 4. Since the appellant became the Government of India Undertaking, the provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as “the Act”) became applicable to the appellant’s Mills.

5. On 25.06.1993 and 04.04.2003, the Estate Officer of the appellant issued the notices under Sections 4 and 7 (3) of the Act to respondent No.1's predecessor, who was alleged to be in an unauthorized

H

occupation of the appellant's premises, and called upon him to vacate the premises specified in the notices. He was, however, asked to attend the proceedings, pursuant to the notices, at **Mumbai**. A

6. Respondent No.1's predecessor felt aggrieved by the issuance of the notices, particularly, that part of the notices, which had directed him to attend the proceedings at Mumbai, and filed a writ petition in High Court of Bombay at Nagpur questioning the legality and validity of the notices. B

7. The challenge to the notices was essentially on the ground that when the public premises in question is situated at Akola then the proceedings in relation to such public premises has to be held only at Akola rather than at Mumbai where no part of the cause of action had arisen. C

8. In other words, the contention was that when admittedly the entire cause of action to initiate the proceedings under the Act had arisen at Akola within the local limits specified in notification issued under Section 3 where the public premises in question is situated, the respondent No.1's predecessor cannot be asked to attend the proceedings at Mumbai and the proceedings under the Act can only be validly initiated at Akola that being within the local limits specified in the notification issued under Section 3 of the Act. D

9. The Single Judge of the High Court accepted the ground raised by the respondents herein (writ petitioners) and by his order dated 25.11.2003 allowed the writ petition, in consequence, quashed the impugned notices. It was held that the appellant would be free to initiate the proceedings under the Act in relation to public premises in question at Akola. The appellant felt aggrieved and filed Letters Patent Appeal before the Division Bench. E F

10. By impugned order, the Division Bench upheld the order passed by the Single Judge and dismissed the appeal, which has given rise to filing of the present appeal by way of special leave by the appellant-Mills in this Court. G

11. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to dismiss the appeal finding no merit therein.

H

A 12. In our considered opinion, the Division Bench in the impugned order rightly upheld the view taken by the Single Judge calling for no interference in this appeal.

B 13. The short question, which arose for consideration before the High Court, was that when the public premises in question is situated at Akola, whether the proceedings in relation to such public premises can be initiated under the Act at Mumbai or it has to be initiated at Akola, that being the place falling in the local limits specified in the notification issued under Section 3 of the Act for exercise of jurisdiction by the Estate Officer.

C 14. Section 3(b) of the Act, which is relevant for this case, reads as under:

“3. Appointment of estate officers- The Central Government may, by notification in the Official Gazette-

(a).....

D **(b) define the local limits within which, or the categories of public premises in respect of which, the estate officers shall exercise the powers conferred, and perform the duties imposed, on estate officers by or under this Act.”**

E 15. Construing the expression “*local limits within which*” occurring in Section 3(b) of the Act, the High Court held and, in our opinion, rightly that the Estate Officer has to exercise its jurisdiction in relation to the public premises falling in the local limits specified in the notification.

F 16. Since in this case, the notification (Annexure P-1), in clear terms, specified that the Mill is situated at Akola [see Item 5(15)], a *fortiori*, the proceedings in relation to such public premises under the Act could only be initiated at Akola-that being the area falling in the local limits specified in the notification for exercise of powers by the Estate Officer. The High Court was, therefore, right in interpreting Section G 3(b) of the Act and, in consequence, was legally justified in quashing the notices impugned in the writ petition as being without jurisdiction.

H 17. Before parting, we consider it apposite to state that the appellant would be free to issue fresh notices to respondent No.1 under the Act and initiate the proceedings for their eviction from the public premises at Akola.

18. If the respondents are dispossessed on the strength of any order passed by the Estate Officer, the possession will remain with the appellant but it will be subject to final adjudication of the proceedings once initiated by the appellant. A

19. Let fresh notices be issued by the appellant within one month from the date of this order to respondent No.1 or/and to any person(s), who claim(s) to be in possession in relation to specified public premises under the Act. B

20. The proceedings be held at Akola-that being the proper place for deciding the proceedings under the Act, as specified in the notification issued under Section 3 referred supra. C

21. The proceedings, once initiated, be completed expeditiously strictly in accordance with law.

22. With these directions, the appeal fails and is accordingly dismissed. D

In Civil Appeal Nos. 9700 & 9704 of 2014

In view of the above order passed in C.A. No.751 of 2008, these appeals are also dismissed with the same directions.