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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

O.A.No.
T.A.No.61/1988

DATE OF DECISION: 20-8-93

Indian Council of Agricultural Applicant(s)/Plaintiff
Research, New Delhi.

Versus

L.K. Suri, 'Param' (CTRL Staff Respondent(s)/Defendant
quarters), Ghatkopar, Bombay

(For Instructions)

1. Whether it be referred to the Reporter or not? 45
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

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(S.K. DHAON)
VICE CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH: BOMBAY

TA No. 61/88

Date of decision: 20-8-1993

Indian Council of Agricultural
Research, New Delhi ...

Plaintiff:

vs.

L.K.Suri,
'Param'(CTRL Staff Quarters),
Ghatkopar,
Bombay. ...

Defendant

CORAM:

THE HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN
THE HON'BLE MS.USHA SAVARA, MEMBER(A)

For the Plaintiff: ..Shri A.I.Bhatkar, Counsel.

For the Defendant ..Shri G.S.Bhat, Counsel.

JUDGEMENT

·(BY HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN)

Suit No.362/379 of 1986 pending in the Court of Small Causes at Bombay has come on transfer to this Tribunal and is being treated as Transferred Application No.61/88. The suit was on, 30.6.1986, under the orders of the Registrar of the Court of Small Causes admitted to file and register.

2. The plaintiff in the suit, the Indian Council of Agricultural Research, registered under the Societies Registration Act, 1860 has made the following material allegations in the plaint. The defendant was employed in the Cotton Technological Research Laboratory, a constituent of the plaintiff. He was employed as a Scientist S-1 w.e.f.23.11.1976 by means of a letter of appointment dated 27.1.1976. He was allotted quarter No.224/5949(hereinafter referred to as the accommodation in question) as a part of his service condition. He was treated as a licensee of the accommodation in question. He resigned from service w.e.f. 8.7.1985. An order was issued cancelling the

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allotment of the accommodation in question in favour of the defendant. He was called upon to vacate the same. He failed to do so and he continues to be in occupation of the same.

3. The relief claimed is, in substance, that a decree for the rejectment of the defendant from the accommodation in question may be passed and the plaintiff may be awarded compensation to the tune of Rs.11,000/- and odd.

4. A written statement was filed in the Court of Small Causes. The plea taken, as material to the present controversy, was that the defendant is a tenant of the accommodation in question and not a licensee. It was also stated that the defendant would institute a separate suit seeking a declaration that he is a tenant of the plaintiff. Before this Tribunal an additional written statement has been filed stating therein, inter-alia, that in view of the provisions of Section 41 of Presidency Small Causes Court Act the Small Causes Court alone has the jurisdiction to entertain this suit and not this Tribunal.

5. On 6.1.1993, yet another additional written statement has been filed. In this written statement, it is pleaded that this Tribunal has no jurisdiction to entertain and try the Transferred Application No.61/88 as the dispute is covered by the provisions of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the Eviction Act). The matter came up before us. The learned counsel for the defendant pleaded that the question of jurisdiction of this Tribunal may be decided as a preliminary question.

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6. We have heard the parties on the preliminary question. We are now proceeding to pass our order on the said question.

7. The expression "Public Premises" is given an exhaustive meaning in the Eviction Act. We are really concerned with the meaning given in sub-section(ii) of Section 2(e). We may read the same:

"public premises" means any premises belonging to, or taken on lease by, or on behalf of.....

(ii) any corporation (not being a company as defined in Section 3 of the Companies Act, 1956, or a local authority) established by or under a Central Act and owned or controlled by the Central Government".

8. The learned counsel for the plaintiff urged that the plaintiff being a society registered under the Societies Registration Act is not a Corporation and, therefore, the accommodation in question does not constitute "Public Premises". He relied upon the preamble to the ——— Administrative Tribunals Act, 1985 (hereinafter referred to as the Act) and Sections 14(1)(c) and 29(2) thereof wherein the expressions "Corporation" and "Society" have been separately used.

9. The question is :whether a Society registered under the Societies Registration Act is a Corporation within the meaning of the Eviction Act. In **R.D.SHETTY Vs. THE INTERNATIONAL AIR-PORT AUTHORITY OF INDIA (AIR 1979 SC 1628)**, it was observed:

"A Corporation may be created in one or one of two ways. It may be either established by a statute or incorporated under a law such as the Companies Act, 1956 or the Societies Registration Act, 1860.... Ordinarily, where a Corporation is established by a statute, it is autonomous

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in its working, subject only to the provisions often times made, that it should be bound by any directions that may be issued from time to time by Government in respect of policy matters. So also a Corporation incorporated under law is managed by a Board of Directors or Committee of Management in accordance with the provisions of the statute under which it is incorporated...."

10. In **AJAY HASIA Vs. KHALID MUJIB** (AIR 1981 SC 487), the aforequoted observations in **R.D. SHETTY's** case (supra) are quoted with approval. In paragraph 11 it is observed:

" The corporation may be a statutory corporation created by a statute or it may be a Government company or a company formed under the Companies Act, 1956 or it may be a society registered under the Societies Registration Act, 1860 or any other similar statute."

11. In **P.K. RAMACHANDRA IYER & ORS. Vs. UNION OF INDIA & ORS** (AIR 1984 SC 541), it was held that the Indian Council of Agricultural Research is owned and controlled by the Central Government. Thus the accommodation in question was and is "Public Premises" within the meaning of the Eviction Act, 1971.

12. The Act is a legislation in terms of Article 323-A of the Constitution. By setting a Tribunal under the Act for the adjudication of service disputes, the jurisdiction of the High Courts and other courts in regard to such matters is intended to be taken away and is intended to be vested in the Tribunal. Sub-article(1) of Article 323-A is confined to persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

Clearly in sub-article(1) of Article 323-A,

there is no reference to a Society. By no stretch of imagination a Society can be deemed to be a local or other authority. It necessarily follows that either the expression "Society" should be deemed to be a Corporation or Article 323-A does not apply to a Society. If it is construed that the expression "Corporation" will not include a Society, the Act in so far as it confers jurisdiction upon the Tribunal in service matters of the employees of a Society owned or controlled by the State to the exclusion of all other courts including the High Court except the Supreme Court will not have the protection of Article 323-A. Such a construction should be eschewed, if possible. In our opinion, there should be no difficulty in taking the view that in Article 323-A, the expression "Corporation" has been used in a comprehensive sense so as to include a Society registered under the Societies Registration Act or any other similar statute. Thus, it has to be held that the plaintiff-society is a Corporation within the meaning of Eviction Act.

13. It appears to us that in the Act, the insertion of the expression "Society" in addition to the existing expression " Corporation" is by way of abundant caution.

14. The marginal note of Section 15 of the Eviction Act is: "Bar of jurisdiction". It mandates, inter-alia, that no court shall have jurisdiction to entertain any suit or proceedings in respect of the eviction of any person who is in unauthorised occupation of any public premises. In substance, Section 15 prohibits all courts from taking cognizance of a suit

or proceeding in respect of the eviction of any person who is in unauthorised occupation of any public premises. Section 9 of the Code of Civil Procedure prohibits a civil court from trying suits of civil nature the cognizance of which is either expressly or impliedly barred.

15. Under sub-sections(1) &(2) of Section 29 of the Act, every suit pending before any court stands transferred to the Tribunal for being tried by the Tribunal. That provision contemplates the transfer of a suit pending in a court. However, it is implicit that the Tribunal can take cognizance of only such a suit of which the court itself could take cognizance. If the Court of Small Causes, on account of the operation of Section 15 of the Eviction Act and Section 9 of the Code of Civil Procedure could not take cognizance of the instant suit, this Tribunal too cannot take cognizance of the same and try it. In the expression "pending" used in sub-sections (1) & (2) of Section 29, it is implicit that a suit must be lawfully pending.

16. If the Parliament intended that the Tribunal can exercise powers wider than the powers conferred upon the court from which a suit or a proceeding has been transferred to it, one would have expected some indication to that effect in some provision of the Act. On the contrary, in sub-section(4) of Section 29 of the Act, it is merely provided, inter-alia, that the Tribunal may proceed to deal with such suit or proceeding, so far as may be, in the same manner as in the case of an application under Section 19 from the stage which was reached before such transfer or from any earlier stage or de novo as the Tribunal may deem fit. Sub-section (4) merely deals with the procedure to be adopted by the Tribunal

while trying a transferred suit or proceeding. It does not talk at all of the powers of the Tribunal while dealing with such suit or proceeding.

17. In UNION OF INDIA Vs. PARMA NANDA ((1989) 2 SCC 177), the Supreme Court held:

the powers of other ordinary civil courts in relation to service matters to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred also stand conferred on the Tribunal. From an analysis of Sections 14, 15, 16, 27, 28 and 29, it becomes apparent that in the case of proceedings transferred to the Tribunal from a civil court or High Court, the Tribunal has the jurisdiction to exercise all the powers which the civil court could in a suit or the High Court in a writ proceeding could have respectively exercised. In an original proceeding instituted before the Tribunal under Section 19, the Tribunal can exercise any of the powers of a civil court, or High Court. The Tribunal thus could exercise only such powers which the civil court or the High Court could have exercised by way of judicial review. It is neither less nor more. Because, the Tribunal is just a substitute to the civil court and High Court.

18. We, therefore, come to conclusion that this Tribunal has no jurisdiction to try this suit which has been converted into a Transferred Application. Accordingly, we dismiss Transferred Application No. 61/88 as not maintainable.

Usha Savara
(USHA SAVARA) 20.8.73,
MEMBER(A)

S.K. Dhaon
(S.K. DHAON)
VICE-CHAIRMAN(J)