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Andhra Pradesh High Court

Case No: Writ Petition No. 12410 of 2003

New Vasanth Vihar	APPELLANT
Vs	
Special Deputy Collector, Land Acquisition and Another	RESPONDENT

Date of Decision: Aug. 2, 2003

Acts Referred:

- Land Acquisition Act, 1894 - Section 23, 3

Citation: (2003) 5 ALD 816

Hon'ble Judges: V.V.S. Rao, J

Bench: Single Bench

Advocate: M. Krishna Mohan Rao, for the Appellant; Government Pleader for Respondent No. 1., for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

V.V.S. Rao, J.
The petitioner claims to be registered firm which prays for a writ of mandamus declaring the proposed action of the first respondent in paying compensation to the second respondent pursuant to the award passed under the Land Acquisition Act, 1894 in relation to an extent of 1941 Sq.yds. forming part of the premises bearing No. 4-1-830/1, Vasanth Vihar, Abids in T.S. No. 3, Block A, Ward No. 50, as illegal and arbitrary. The prayer is sought to be justified in the facts and circumstances noticed hereunder and on the grounds which are urged at the Bar.

2. The second respondent (hereafter called "the landlord") is the owner of the premises bearing No. 4-1-830 by reason of compromise decree passed in O.S. No. 38 of 1964 on the file of the Court of the Additional Chief Judge, City Civil Court, Hyderabad between

the second respondent and his brothers. Even before the premises fell to the share of the second respondent, the property was leased by one Sirajuddin Babu Khan, the elder brother of the second respondent to one P. Narasimha Charya. A deed was executed on 24-12-1953 evidencing the lease for a period of three years from 1-1-1954 to 31-12-1956. The premises was taken on lease for running a restaurant and lodge by name Vasanth Vihar on a monthly rent of Rs. 1000/-. Narasimha Charya later formed a partnership by name New Vasanth Vihar. In 1965, K. Madhusudan Rao, who claims to be the present managing partner and sons of late Narasimha Charya reconstituted the firm. The new firm was paying rents regularly to the landlords. The petitioner claims that tenancy was governed and regulated by the provisions of Hyderabad Rent Control Order, 1353 F. which came into force on 23rd Thir 1353F. Be it noted, the said Rent Control Order was repealed by Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954, which was again repealed by A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960 (hereafter called the Rent Act). The petitioner claims that it is a statutory tenant of the second respondent and his legal representatives and entitled to the protection of the Rent Act.

3. In 1988, the Government acquired a part of the land out of the leased premises. An award dated 21-64988 was passed by the Land Acquisition Officer (LAO) awarding a sum of Rs. 25,76,347.65ps. Though he is a tenant, he staked a claim for a share in the compensation awarded by the LAO. The matter was referred to the civil Court u/s 30 of the Land Acquisition Act as O.P. No. 24 of 1989 on the file of the I Senior Civil Judge, City Civil Court, Hyderabad. By an order and decree dated 6-7-1998, the said Court held that the petitioner is entitled to 20% of the compensation awarded by the LAO. Against the said O.P., the petitioner as well as second respondent filed appeal before this Court being C.C.C.A. Nos. 104 and 143 of 1998. By a judgment dated 23-1-2003, a Division Bench held that the petitioner is not entitled to any share in the compensation. Feeling aggrieved by the said judgment, the petitioner filed SLP Nos. 10750-10751 of 2003 before the Supreme Court.

4. A part of the land of the leased premises in an extent of 503.80 Sq.mtrs. was again acquired by an award dated 15-7-1995 passed under the Land Acquisition Act by the first respondent herein awarding a sum of Rs. 35,03,328/-. The petitioner again claimed a share in the compensation and the same was rejected by the LAO and the amount was paid to the second respondent. The petitioner sought a reference u/s 18 of the "Land Acquisition Act, which was rejected. The petitioner firm filed W.P.No. 5307 of 1996 challenging the order rejecting reference u/s 18 of the Land Acquisition Act. The writ petition was allowed on 6-6-1996 and the first respondent was directed to refer the matter u/s 18 of the Land Acquisition Act to the civil Court to deal with the issue of apportionment as also enhancement of compensation. Accordingly, the matter was referred to the civil Court and registered as O.P.No. 9 of 2001 on the file of the I Additional Senior Civil Judge, City Civil Court. The said O.P. is still pending.

5. An extent of 1941 Sq.yds. was again acquired by issuing a notification under Sub-section (1) of Section 4 of the Land Acquisition Act on 20-8-2002. The land

acquisition proceedings are pending and an award is yet to be passed. The petitioner alleges that being a "tenant" under the second respondent he is also entitled to receive the compensation from the first respondent. Apprehending that the first respondent might pass an award and also pay the amount of compensation to the second respondent the petitioner filed the writ petition seeking a direction restraining the first respondent from making any payment to the second respondent pending adjudication of the question of apportionment of compensation between the landlord and the tenant by the Hon"ble Supreme Court in SLP No. 10750-10751 of 2003.

6. The matter was heard and orders were reserved on 26-7-2003. A mention was made by the learned Counsel for the petitioner bringing to the notice of the Court about the orders passed by the Supreme Court on 14-7-2003 in SLP No. 10750-10751 of 2003. Therefore, the matter was reopened and the learned Counsel for the petitioner was heard on 12-8-2003 at length. Be it also noted, the petitioner filed an application being WPMP No. 19398 of 2003 to amend the prayer to the effect that the action of the fourth respondent in paying compensation to the second respondent is violative of Articles 14 and 300-A of the Constitution of India and consequently restrain the second respondent from making payment.

7. Learned Counsel for the petitioner, Sri M.S. Ramachandra Rao, submits that the Division Bench in its judgment dated 23-1-2003 rejected the claim of the petitioner for compensation only on the ground that petitioner firm is a tenant and, therefore, it is not entitled to any share in the compensation. He further submits that as per the decisions of this Court in A.Appala Reddy v. Spl.Tahsildar 1978 (2) APLJ 269, Big Mosque by Mutavalli, Guntur v. J. Yellamanda 1997 (4) ALD 685 (DB), and the decisions of the Supreme Court in Galib Bin Awaz Vs. Mohd. Abdul Khader and Others, , and Rambai Manjanath Nayak and others Vs. Union of India and others, , a statutory tenant is entitled to a share in the compensation. As the petitioner has had been a statutory tenant under various Rent Acts, denying a share in the compensation to the petitioner firm is illegal and violative of Articles 14 and 300-A of the Constitution of India.

8. After perusing all the judgments cited by the learned Counsel for the petitioner and also the provisions of the Rent Act and after giving anxious consideration to the issues raised, this Court is of the considered opinion that the writ petition is liable to be dismissed in limini. The petitioner has not demonstrated any right which inheres in it that can be enforced in the proceedings under Article 226 of the Constitution. It is well settled that a writ petition is a proper remedy for enforcing any right or for compelling a statutory authority to discharge statutory duties. If an authority is required, a reference may be made to the decision of the Supreme Court in Director of Settlements, Andhra Pradesh and Others Vs. M.R. Apparao and Another, , wherein it was held:

..... One of the conditions for exercising power under Article 226 for issuance of a mandamus is that the Court must come to the conclusion that the aggrieved person has a legal right, which entitles him to any of the rights and that such right has been infringed.

..... In order to obtain a writ or order in the nature of mandamus, the appellant has to satisfy that he has a legal right to the performance of a legal duty by the party against whom the mandamus is sought and such right must be subsisting on the date of the petition.....

9. A tenant of a residential and/or non-residential building governed by the Rent Act is not entitled to claim any compensation when the land forming part of the leased premises and/or the building which is subject matter of the tenancy is acquired by the State for a public purpose. To appreciate this, it is necessary to refer to some of the provisions of the Rent Act as well as the Land Acquisition Act and Agricultural Tenancy Acts enforced in the State of Andhra Pradesh.

10. "Landlord" is defined in Section 2 (vi) of the Rent Act as the owner of a building and includes a person who is receiving or is entitled to receive the rent of a building if building were let to a tenant. The term "tenant" as per Section 2(ix) means any person on whose account the rent is payable for a building and includes the spouse, or any son or daughter of a deceased tenant who had been living with the tenant in the building as a member of tenant"s family up to the death of the tenant and a person continuing in possession after the termination of the tenancy in his occupation. However, a person placed in the occupation of the building by his tenant or a person with whom the collection of rents or fees in a public market, cart-stand or slaughter house or of rents for shops has been framed out or leased by a local authority, cannot be treated as a tenant. A tenant is conferred with certain rights and privileges under the Rent Act. Sections 4 - 7 deal with fair rent and increase of such rent by the landlord. Every tenant who makes payment on account of rent shall be entitled to obtain a receipt from the landlord. If for any reason the landlord refuses to accept the rent, it is open to the tenant to seek from the landlord particulars of the rent and deposit the amount in the bank. Section 10 deals with eviction of tenants. Sub-section (1) of Section 10 lays down that a tenant shall not be evicted whether in execution of a decree or otherwise except in accordance with the provisions of Sections 10, 12 and 13.

11. A tenant can be evicted mainly on the grounds that he has committed default; that the landlord bona fide requires the building for his self occupation; that the tenant sub-let the building without the consent of the landlord; and/or on the ground that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and that such denial was not bona fide. The landlord can also seek eviction of the tenant for making alterations, additions, or re-construction subject to condition that on such re-construction or alterations, the tenant shall be re-inducted in such building as a tenant. Section 14 stipulates that no landlord shall, without just or sufficient cause, cut off or withhold any of the amenities enjoyed by the tenant. In case, facilities are withdrawn, a tenant is given a right to approach the Rent Controller complaining contravention of the provision. The Rent Act also provides for an appeal against the orders of the Rent Controller and also revision of an order passed by the appellate authority. Section 26 deals with the power of the Government to exempt any building or class of building from all or any of the

provisions of the Rent Act. Section 32(b) contemplates that the provisions of the Rent Act do not apply to any building owned by the Government and to any building constructed on or after 26-8-1957.

12. The salient features of the Rent Act noticed hereinabove would show that the Rent Act affords protection to the tenants of the buildings covered by the Rent legislation. The Rent Act repealed Hyderabad Houses (Rent, Eviction and Lease) Control Act, 1954, which had replaced the Hyderabad Rent Control Order 1353F. The provisions of the Hyderabad Rent Act, 1954 are in pari materia with the provisions of the A.P. Rent Act. Section 26 of the Hyderabad Rent Act empowers the State Government to exempt buildings from the operation of the Hyderabad Rent Act. The said Act also gives protection to the tenant from bring arbitrarily evicted. Indeed, the long title of the Hyderabad Rent Act makes it clear that it is an Act intended to prevent unreasonable eviction of the tenant from the building and for regulation of leasing of houses in certain areas of State of Hyderabad. Under the Rent Act, a landlord is not divested the ownership of the building. His right to evict a tenant on certain grounds alone is recognized and a landlord''s right to evict a tenant for any other grounds is taken away. Merely because the right of the landlord to evict a tenant is circumscribed by the provisions of the Hyderabad Rent Act or A.P. Rent Act, the same does not mean that a right of the tenant gets elevated to that of a person interested in ownership who is entitled to claim compensation in the event the premises is acquired. A tenant under the Rent Act has a statutory protection. But, he cannot be treated as a tenant with interest in the estate as in the case of agricultural tenancy.

13. A reference may be made to the provisions of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 and the provisions of the A.P. (Andhra Area) Tenancy Act, 1956. Under Telangana Tenancy Act, by reason of Section 38E, after coming into force of A.P. (Telangana Area) Tenancy and Agricultural Lands Amendment Act, 1971, the right of a tenant in respect of agricultural land is not a limited right. The statute recognized such right as an absolute ownership subject to condition that he has to pay compensation for such vesting in the land. Under Sub-section (4) of Section 40 of Telangana Tenancy Act, the interest of a protected tenant in the land held by him as a protected tenant shall form 60% of the market value of all the interests in the land and that of the landholder shall be limited to the remaining 40%.

14. The Andhra Tenancy Act, 1956 regulates the relations of landlord and cultivating tenants of agricultural lands in Andhra area. After the Amendment Act No. 39 of 1974, every lease subsisting at the commencement of the said Amendment Act shall be deemed to be in perpetuity. The cultivating tenants thereafter can only be evicted in accordance with Section 13 of the Andhra Tenancy Act. A cultivating tenant, under no circumstances, is conferred with ownership rights under this Act. Whereas under the Telangana Tenancy Act, the ownership of the lands held by the protected tenants shall stand transferred to and vest in them with effect from 1-1-1973 and from that date they shall be deemed to be the full owners of such lands. u/s 38E of the Telangana Tenancy

Act, protected tenants are entitled to ownership certificates which shall be conclusive evidence of the protected tenants having become owners of the land.

15. The Telangana Tenancy Act recognises the landlord to have 40% of the share in the title. That is the reason why when land is acquired in Telangana Area, the compensation is apportioned between the tenant and the landlord in the ratio of 60 : 40%. Under the Andhra Tenancy Act, the statutory provisions are silent as to the share of a tenant in the compensation in the event the land is acquired. However, by reason of the judgment of this Court in A. Appala Reddy v. Spl.Tahsildar (supra), such right has been recognized in respect of tenants of agricultural lands in Andhra area as well.

16. In A. Appala Reddy v. Spl. Tahsildar (supra), this Court came to a conclusion that a tenant governed by the provisions of Andhra Tenancy Act is a person interested as defined in Clause (b) of Section 3 of the Land Acquisition Act. It was also held that one has to look to the terms of the lease for the purpose of determining whether a person is a statutory tenant in the background of the provisions of the statute itself. Regarding the share of tenant, it was held that an overall view has to be taken before determining proportion of tenant and landlord''s interest. It was laid down as under:

In fact, the definition of the expression "person interested" occurring in Clause (b) of Section 3 of the Land Acquisition Act, wide as it is, supports this view. According to the definition, the expression includes all persons claiming an interest in compensation to be paid on account of the land under the Act, and even a person interested in an easement affecting the land is included within the scope of the said expression. A reading of Section 23 too leads us to the same conclusion. The second paragraph in Section 23(1) says that "the damage sustained by the person interested by reason of the taking of any, standing crops or trees, which may be on the land at the time of the Collector''s taking possession thereof has to be taken into consideration, while determining the quantum of compensation. The other paras in Section 23(1) too tend to support the same view. Section 11 of the Act also speaks of apportioning of compensation between various persons interested. Of course, what is the value of the right of the tenant in a given case would be a question of fact in each case, to be decided having regard to the content of the right. The terms of the lease have to be examined in each case to ascertain the content of the right of the tenant. In the case of a statutory tenant, the value of his right may depend upon the content of the right as discernible from the terms of the relevant statute.

17. The Division Bench also referred to Madras Estates Abolition Act, 1948 and tenancy laws of West Bengal and Madhya Pradesh in support of the conclusion that a tenant under Andhra Tenancy Act is entitled to some portion in the compensation. After referring to the English decision in Brown v. Ministry of Housing, 1953 (2) All ER 1385, it was observed that though a tenant has no right or interest in the premises as such tenant, for the purpose of Acquisition of Land (Authorisation Procedure) Act, 1946 of England, a tenant is entitled to receive notice as a person interested within the meaning of the

provisions of the said Act, The ultimate conclusion of the Division Bench is in the following terms:

A tenant is a "person interested" as defined in Clause (b) of Section 3 of the Land Acquisition Act. He has a right to object to the acquisition and/or to the quantum of compensation. The Land Acquisition Officer or the Court, as the case may be, has to ascertain the value of his right in the property acquired and compensate him in that behalf. No hard and fast rule can be laid down, nor can any universally applicable, formula, be evolved in the matter of apportionment between the owner and the tenant. It all depends upon the content of the tenant''s right(s). The terms of the lease may have to be looked into for ascertaining the content and value of his right(s) and if he is a statutory tenant, the terms of the statute have to be looked to for the purpose. An over-all view has got to be taken and the proportion of their respective interests determined

18. In Big Mosque by Mutavaili, Guntur v. J. Yellamanda (supra) relied on by the learned Counsel for the petitioner, land belonging to an wakf admeasuring about Acs.57.77 cents was acquired for the purpose of providing house sites. The cultivating tenant claimed a portion in the compensation. On a reference, the Court of the Principal Senior Civil Judge, Guntur directed apportionment of compensation between the landlord and tenant in the ratio of 40 : 60%. This Court proceeded on the premise that cultivating tenants in Andhra area have a right to claim a share in the compensation. It was, therefore held that even in the absence of lease in writing, cultivating tenants are not debarred from claiming a share in the compensation awarded for the land of which persons were cultivating tenants. This Court, however, did not agree with the apportionment in the ratio of 40 : 60% between the landlord and tenant and held that the landlord is entitled to 60% and tenants are entitled to 40%.

19. The position of the tenant under the Rent Act is altogether different when compared with the position of a tenant either under the Telangana Tenancy Act or Andhra Tenancy Act. Under the A.P. Rent Act, as noticed hereinabove, a tenant has only a statutory protection and he has no right to a share in the compensation. The decisions in A. Appala Reddy v. Spl. Tahsildar and Big Mosque by Mutavalli, Guntur v. J. Yellamanda (supra) do not deal with tenancy under the A.P. Rent Act and, therefore, they are not of any help to support the contentions raised before this Court.

20. In Kerala Transport Co., Hyderabad and Vs. Atul Kumar Agarwal, , a Division Bench comprising their Lordships, Sri Justice P.A. Choudary and M. Jagannadha Rao (as His Lordship then was) considered the question as to whether determination of a contractual tenancy by notice to quit u/s 106 of the Transfer of Property Act, 1882, or passing of a decree for eviction by Civil Court during the ten year period of exemption becomes null and void if during the pendency of the suit before the trial Court or Court of Appeal, the said period expired.

21. In Motor General Traders v. State of A.P., AIR 1984 SC 121, the Supreme Court held that Section 32(b) of the A.P. Rent Act (exempting all the buildings constructed after 26-8-1957) as ultra vires Article 14 of the Constitution of India. Therefore, Government of Andhra Pradesh issued G.O. Ms. No. 636, dated 29-12-1983 u/s 26 of the Rent Act exempting all buildings for a period of ten years from the date of construction or all the buildings where the rent did not exceed Rs. 1,000/-per month under the purview of the Act. In Kerala Transport Co. v. Atul Kumar Agarwal (supra), the period of ten years expired when the matter was pending before the appellate Court. The Court was required to consider the difference between contractual tenant and statutory tenant. The following observations from the judgment are relevant:

The expression "Statutory tenant" is not to be found in the A.P. Act or in any rent control legislation of any other State. It is an expression coined by the Judges in England. Under the various State statutes, "tenant" generally includes any person continuing in possession after the termination of his tenancy. Such a person would not be a tenant under the ordinary law but is still recognized as a "tenant" by the rent control legislation. The statutory tenant is, by virtue of the inclusion in the definition of "tenant" placed in the same footing as a "contractual tenant" so far as control legislation is concerned (vide V. Dhanapal Chettiar Vs. Yesodai Ammal, , (decided, by seven Judges of the Supreme Court). The distinction between contractual tenancy and statutory tenancy is thus completely obliterated by the rent control legislation.Though genetically, the parentage of these two legal concepts is different, one owing its origin to contract and the other to rent control legislation, they are equated with each other and their incidents are the same,

22. The Division Bench also observed that the contractual tenancy may expire by afflux of time or notice issued u/s 106 of the Transfer of Property Act. When a person has been in possession as a tenant and continuing as tenant after termination of the tenancy without the consent of the landlord he is a "tenant at sufferenace". On the other hand, a tenant is a "tenant holding over" if he remains in possession after determination of the lease and the lessor accepts rent from him or otherwise assents to his continuing in possession, in which case the terms of the original contract hold good and a fresh notice to quit u/s 106 of the Transfer of Property Act is necessary for evicting such a tenant holding over. Whereas, from the definition of the term "tenant" as per Section 2(ix) of the Rent Act, a person who is continuing in possession even after termination of the tenancy in his favour, is a tenant. If a building is governed by the provisions of the Rent Act, even a contractual tenant, after expiry of tenancy or after termination of tenancy, cannot be evicted unless the procedure contemplated under Sections 10, 12 and 13 of the Rent Act is followed/availed by the landlord.

23. In case of a statutory tenant, as can be seen from the Andhra Tenancy Act, a tenancy right stands on a more firm footing. For instance, after expiry of certain period of time, a tenant under Andhra Tenancy Act acquires permanent tenancy rights. In the event of sale by the landlord, a tenant has right of preemption. The same is also the case u/s 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987. However,

under the Rent Act, a tenant has no right of preemption in the event of sale and protection given is only protection from unreasonable eviction. The decision in Kerala Transport Co. v. AtuI Kumar Agarwal (supra) cannot be lost sight of while considering the decisions of this Court and the Supreme Court.

24. When the land was acquired in 1984, at the instance of the petitioner the matter was referred to the civil Court as O.P. No. 24 of 1989. The civil Court held that the petitioner is entitled to 20% of the compensation awarded by the LAO. A Division Bench of this Court by judgment dated 23-1-2003 reversed the order and decree of the civil Court in O.P. No. 24 of 1989. If was also observed therein that after the death of Narasimha Charya, who was the original lessee, the remaining members of the family could not be treated as tenants within the meaning and expression under the A.P. Rent Act as there is no evidence on record to establish that the family members of Narasimha Charya had been living in the building. This Court also held:

Even then in the absence of any material on record that such partnership firm is a registered partnership, in view of the legal position discussed above, we are of the opinion that such a firm cannot maintain any proceeding in law for claiming compensation or a portion thereof to be awarded in the land acquisition proceedings.

25. In view of the findings recorded by this Court that the petitioner cannot maintain any proceedings in law for getting compensation or a portion thereof to be awarded in the land acquisition proceedings, the petitioner cannot be said to have any right or inchoate right to claim compensation before the first respondent.

26. Whether a tenant under the Rent Act can claim compensation under the Land Acquisition Act? While referring to the various provisions of the A.P. Rent Act, I have already held that a tenant in respect of a building covered by the Rent Act has a protection given under the statute. He cannot be evicted unreasonably unless he has committed default; sub-let the premises without the consent of the landlord; denied title of the landlord; and the landlord himself requires the premises for bona fide requirement or alterations or reconstruction, The Supreme Court in various decisions considered the nature of a right of a tenant under the Rent Act and categorically held that a tenant under the Rent Act has a protection against arbitrary and unreasonable eviction and he has no interest in the estate or premises occupied by him".

27. In Anand Nivas (Private) Ltd. Vs. Anandji Kalyanji Pedhi and Others, , the facts are these. Anandji Kalyanji Pedhi, which is a trust, leased out a building known as Anand Bhavan to one Maneklal for five years on a monthly rent of Rs. 2,000/-. A suit was instituted by the trust for eviction in the Court of Small Causes, Ahmedabad u/s 28 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, against Maneklal. The same was decreed for ejectment and for arrears of rent. In execution of the decree, Anandji Kalyanji Trust obtained possession of the first floor of the building. But, Anand Nivas (P) Ltd., which was in occupation of the ground floor obstructed execution in

relation of ground floor on the ground that the company is sub-lessee of Maneklal, original lessee. The company also filed a suit before the Court of Small Causes, Ahmedabad for declaration that it was not bound to deliver premises in its occupation. An application for injunction restraining the trustees from obtaining possession was dismissed by the Court of Small Causes as well as District Judge in appeal. The High Court of Gujarat in appeal dismissed the appeal holding that a statutory tenant remaining in possession after determination of the contractual tenancy is not competent to sub-let the premises in whole or in part and a person claiming to be a sub-tenant of the statutory tenant is not entitled for any protection under the Bombay Rent Act. Before the Supreme Court, it was inter alia contended that by reason of sub-letting by the tenant, the subtenant acquired interest of the tenant. The Supreme Court by majority of 2:1 rejected the contention. It was held as under:

.....A person remaining in occupation of the premises let to him after the determination of or expiry of the period of the tenancy is commonly though in law not accurately, called a statutory tenant Such a person is not a tenant at all: he has no estate or interest in the premises occupied by him. He has merely the protection of the statute in that he cannot be turned out so long as he pays the standard rent and permitted increases, if any, and performs the other conditions of the tenancy. His right to remain in possession after the determination of the contractual tenancy is personal: it is not capable of being transferred or assigned, and devolves on Ms death only in the manner provided by the statute. The right of a lessee from a landlord on the other hand is an estate or interest in the premises and in the absence of a contract to the contrary is transferable and the premises may be sublet by him. But with the determination of the lease, unless the tenant acquires the right of a tenant holding over, by acceptance of rent or by assent to his continuing in possession by the landlord, the terms and conditions of the lease are extinguished, and the rights of such a person remaining in possession are governed by the statute alone.....

28. In The Calcutta Credit Corporation Ltd., and Another Vs. Happy Homes (P) Ltd., , the Supreme Court considered the right of a tenant under West Bengal Premises Rent Control (Temporary Provisions) Act, 1950. Relying on the judgment of the Supreme Court in Anand Nivas (P) Ltd. v. Anandji (supra), it was observed that a statutory tenant has no interest in the premises or estate occupied by him and the legislature had not intended to invest him with power to induct into the premises in occupation by another person to be entitled to claim right and interest of a contractual tenant. It was held:

..... In our view, since a statutory tenant has merely a personal right to protect his possession, and has no estate or interest in the premises occupied by him, he cannot convey an estate or interest which he does not possess. A statutory tenant by parting with possession forfeits the protection of the Act, and unless the statute expressly provides or clearly implies otherwise, the person inducted by cannot claim the protection of the Act.....

29. In Jagdish Chander Chatterjee and Others Vs. Shri Kishan and Another, , the nature of right of a tenant under Rajasthan Premises (Control of Rent and Eviction) Act, 1950 was considered by the Supreme Court. Reliance was placed on the earlier decision in Anand Nivas (P) Ltd. v. Anandji (supra) and it was reiterated as under:

It is now settled that after the termination of the contractual tenancy the statutory tenant has only a personal right to continue in possession till evicted in accordance with the provisions of the Act..... Such "a person is not a tenant at all he has no estate or interest in the premises occupied by him. He has merely the protection of the statute in that he cannot be turned out so long as he pays the standard rent and permitted increases, if any, and performs the other conditions of the tenancy. His right to remain in possession after the determination of the contractual tenancy is personal : it is not capable of being transferred or assigned, and devolves on his death only in the manner provided by the statute.....

30. The above three decisions of the were subsequently referred to by the apex Court in various cases arising under the Rent Acts of various States. In all the decisions it was held that a tenant under the Rent Act inaccurately called a statutory tenant; has no right or interest in the property leased to him/her.

31. I may also refer to a latest judgment of the Supreme Court in ARM Group Enterprises Ltd v. Waldorf Restaurant, 2003 (3) Supreme 62, wherein it was laid down that when a person who was inducted as a tenant in the first instance and subsequently constituted a partnership firm for the purpose of business, the landlord would be entitled to initiate proceedings against the firm on the ground that sub-tenancy is unlawful. The Supreme Court also observed that in the absence of any agreement to the contrary, the property exclusively belonging to a person, on his entering into partnership with others, does not become a property of the partnership merely because it is used for the business of the firm. It was reiterated that a tenant under the Tenancy Act has no interest in the estate of the tenanted premises and, therefore, he cannot sub-let the premises. A statutory tenant, it was held, has no interest in the estate or right over the tenanted premises.

32. In view of the law discussed hereinabove, can the petitioner be treated as a person interested as defined, in Clause (b) of Section 3 of the Land Acquisition Act? In my considered opinion, a person who can claim compensation on account of acquisition of land under the Land Acquisition Act can only be treated as an interested person. By reason of the judgments of the Supreme Court, a juristic person for whose, benefit the land is acquired is also treated as a person interested, but a tenant of a building having protection of the Rent Act cannot be said to have any interest in the compensation as he has no right to the estate or interest in the property. His right is limited to continuing in the leased premises/building as long as he obeys the mandate of the law i.e., paying rents regularly, not resorting to wastage, not subletting the premises and not setting up title mala fide. The provisions of the Land Acquisition Act do not support any view that a tenant of a building is entitled for a share in the compensation whenever the land

appurtenant to the building or the building itself is acquired. As long as the building remains, the tenant can continue and in case of demolition of the building for any reason, a person cannot claim any compensation.

33. Learned Counsel for the petitioner has placed strong reliance on the judgment of the Supreme Court in Rambai Manjanath Nayak v. Union of India (supra). In the said judgment it was held that after the building is acquired by the Government of India u/s 269-F(6) of the Income Tax Act, 1961, the property shall absolutely vest in the Central Government free from all encumbrances and other parson in occupation of the building shall deliver possession thereof. It was also observed that the expression "person in occupation of the property" in Section 260-D(2)(a) includes every person including a contractual or statutory tenant and, therefore, a tenant has a right to enforce under a surviving encumbrance, if any, against the transferor or any other person other than the Central Government. As held by me, either under the Rent Act or under the Land Acquisition Act, a tenant governed by the Rent Act is not a person interested. The Rent Act does not provide any such situation where a person in occupation other than the landlord can claim compensation under the Land Acquisition Act. I have perused the judgment of the Supreme Court in Rambai Manjanath Nayak v. Union of India (supra) and the same has no application to the case on hand.

34. In the result, for the above reasons, the writ petition is devoid of any merit and is accordingly dismissed. There shall be no order as to costs.