

Neutral Citation No. - 2025:AHC-LKO:14583

Court No. - 7

Case :- WRIT - A No. - 1000119 of 2006

Petitioner :- District Cooperative Bank Ltd. Mahatma Gandhi Marg
Lucknow

Respondent :- Special Judge /Additional District Judge Lucknow And
Others

Counsel for Petitioner :- Vivek Raj Singh, A.R. Khan, Rakesh Kumar
Chaudhary

Counsel for Respondent :- C.S.C., Anil Kumar, Anurag Narain, Kapil
Misra, Parcham Mubarak, Shafiq Mirza, Sunil Kumar Chaudhary, Umesh
Kr. Shukla

WITH

Case :- S.C.C. REVISION No. - 1 of 2022

Revisionist :- Zila Sahkari Bank Ktd., Lucknow Thru. General Manager

Opposite Party :- Arun Dwivedi And Others

Counsel for Revisionist :- Rakesh Kumar Chaudhary, Shreya Chaudhary

Counsel for Opposite Party :- Ankit Srivastava, Gaurav Chand Kaushik

Hon'ble Pankaj Bhatia, J.

1. Heard Sri Rakesh Kumar Chaudhary, Advocate assisted by Sri Ayush Chaudhary, Sri S.C. Misra, learned Senior Advocate assisted by Sri Sunil Kumar Chaudhary, Sri Ankit Srivastava, learned counsel for the respondent nos. 2 to 5 and perused the record.
2. As the issues involved in both the cases are similar, the same are being decided by means of this common order.

3. The facts as emerge in view of the pleadings in between the parties are that the landlord respondent herein, claiming to be owner by virtue of lease-deed executed and thereafter a family settlement, moved an application under Section 21(8) of the U.P. Act No. XIII of 1972 claiming enhancement of rent in terms of the prescriptions contained under Section 21(8) of the said Act. It was averred in the application that the monthly rent paid by the respondent bank for the area under possession was Rs.101.87 per month, however, in terms of the prescriptions and the provisions under Section 21(8) of the Act, they were entitled for enhancement of rent up to Rs.18,333/- per month of the portion, which was under the occupation of the respondent bank. The bank filed a reply contested the allegations as pleaded in the application filed by the opposite party on 30.08.1995. The District Magistrate in exercise of powers under Section 21(8), proceeded to pass an order on 16.01.2004, whereby the rent of the premises under the occupation of the bank was fixed 18,333/- per month w.e.f. from 01.09.1995. The petitioner preferred an appeal challenging the said order under Section 22 of the UP Act XIII of 1972, which came to be dismissed on 11.08.2006. Challenging the said order passed in appeal, the writ petition 119 of 2006 was filed. In the said writ petition no. 119 of 2006, interim order was passed vide order dated 06.10.2006 directing the bank to deposit the rent, as adjudicated in the order dated 06.10.2006 and further directions were issued for payment of rent at the rate of 18,000/- per month w.e.f from 11.08.2006. It bears from the record that as the rent

was not paid, a contempt petition was filed. It also bears from the record that challenging the interim order dated 06.10.2006 a Special Appeal 806 of 2006 was preferred, which too came to be dismissed as not maintainable. As, in terms of the directions issued by this Court, the rent was not being paid, the landlord served a legal notice on 17.02.2014 calling upon the bank, the petitioner herein, for payment of arrears of rent amounting to Rs.33,78,000/- and determining the tenancy on account of non payment of rent. It also bears from the record that the respondent moved an application under Section 34(3) of U.P. Act No. XIII of 1972 for issuance of a recovery certificate wherein it was observed that the landlord had an option of filing proceedings under Section 20(4) of the UP Act No. XIII of 1972. It also bears from the record that a review application was also filed seeking review of the order passed by the ADM under Section 21(8) which too came to be dismissed and a writ petition against the order dismissing the review on 04.03.2013 being writ petition no. 51 of 2013 also came to be dismissed. As the rent as directed by this Court was not being paid and a notice was served, ultimately a suit came to be filed at the instance of the landlord under Section 20(4) wherein allegations were levelled that no rent was being paid to the landlord since the year 2006, for which notice of default was served, the suit filed being SCC Suit No. 144 of 2014. The said suit after contest came to be decreed by the Court of JSCC vide judgment dated 16.10.2021. The revision no. 01 of 2022 has been filed challenging the judgment dated 16.10.2021.

4. In the backdrop of facts recorded above, the counsel for the petitioner contends that the application filed by the landlord under Section 21(8) of the UP Act No. XIII of 1972 was not maintainable as the said provision is maintainable only in the cases of buildings let out to the 'State Government' or to a 'local authority' or to a 'public sector corporation' or to a 'recognized educational institution' and the petitioner bank being a primary cooperative society does not fall in any of the said category. He draws my attention to the definitions as contained in the Act and specifically refers to section 3(b), 3(l), 3(m) 3(p) and 3(q) to impress that a primary cooperative society is not covered under any of the said definitions so as to attract section 21(8) of the Rent Act. For the sake of convenience Section 21(8) and Section 3(l) 3(m), 3(p) 3(q) of the Act No. XIII of 1972 are being quoted below:

“21(8) Nothing in clause (a) of sub-section (1) shall apply to a building let out to the State Government or to a local authority or to a public sector corporation or to a recognized educational institution unless the Prescribe Authority is satisfied that the landlord is a person to whom clause (ii) or clause (iv) of the Explanation to sub-section (1) is applicable:

Provided that in the case of such a building the District Magistrate may, on the application of the landlord, enhance the monthly rent payable therefor to a sum equivalent to one-twelfth of ten per cent of the market value of the building under tenancy, and the rent so enhanced shall be payable from the commencement of the month of tenancy following the date of the application:

Provided further that a similar application for further enhancement may be made after the expiration of a period of five years from the date of the last order of enhancement.”

3(l) 'State Government' means the Government of Uttar Pradesh;

3(m) 'local authority' means a Nagar Mahapalika, Municipal Board, Notified Area Committee or Town Area Committee;

3(p) 'public sector corporation' means any corporation owned or controlled by the Government, and includes any company as defined in Section 3 of the Companies Act, 1956, in which not less than fifty per cent of the paid-up share capital is held by the Government;

3(q) 'recognised educational institution' means [any University established by law in India, or] any institution recognized under the Intermediate Education Act, 1921, or the Uttar Pradesh Basic Education Act, 1972, or recognized or affiliated under the Uttar Pradesh State Universities Act, 1973."

5. My attention is also drawn to section 2(g) of the said act, which operates as an exception clause under Section 2 in respect of the buildings including the buildings specified under Section 2(1) and 2(1)(g) are quoted herein below:

"2 Exemptions from operation of the Act – (1) Nothing in this Act shall apply to the following; namely

(a) any building of which the Government or a local authority or a public sector corporation or a Cantonment Board is the landlord; or

(b) any building belonging to or vested in a recognized educational institutions, or

(bb) any building belonging to or vested in a public charitable or public religious institution;

(bbb) any building belonging to or vested in a waqf including a waqf-alal-aulad;

(c) any building used or intended to be used as a factory with in the meaning of the Factories Act, 1948 [where the plant of such factory is leased out along with the building; or

(d) any building used or intended to be used for any other industrial purpose (that is to say, for the purpose of manufacture, preservation or processing of any goods) or as a cinema or theatre, where the plant and apparatus installed for such purpose in the building is leased out along with the building:

Provided that nothing in this clause shall apply in relation to any shop or other building, situated within the precincts of the cinema or theatre, the tenancy in respect of which has been created separately from the tenancy in respect of the cinema or theatre; or

(e) any building used or intended to be used as a place of public entertainment or amusement (including any sports-stadium, but not including a cinema or theatre), or any building appurtenant thereto; or

(f) any building built and held by a society registered under the Societies Registration Act, 1860 (Act No.XXI of 1860), or by a co-operative society, company or firm, and intended solely for its own occupation or for the occupation of any of its officers or servants, whether on rent or free of rent, or as a guest house, by whatever name called, for the occupation of persons having dealing with it in the ordinary course of business.

(g) any building, whose monthly rent exceeds two thousand rupees.”

6. In the light the said, the first contention of the counsel for the petitioner is that once the provisions of the act specifically section 21(8) of the Act are not applicable, the entire order is bad in law and being without jurisdiction and is liable to be set aside. The second contention of the counsel for the petitioner is that even as per the lease-deed, an area of 1500 sq. ft. situate at the Ground Floor of the building was under the tenancy of the petitioner, whereas the valuation report based upon which the total valuation of the building has been assessed include the area of 4000 sq feet and to that extent, he argues that the order is bad in law. He lastly argues that the petitioner was not a tenant of the respondent as the area purchased by the landlord was separate and distinct from the area under the tenancy of the petitioner and on all these counts, the order impugned cannot be sustained. With regard to

revision filed by the bank, it is fairly stated that in the pleadings, a ground was taken that the rent was not payable to the landlord and thus, no rent has been paid by the bank to the landlord. He further argues that the rent in terms of the directions by this Court through an interim order dated 13.01.2022 is being regularly deposited. He also admits that the rent in pursuance to the earlier interim order passed in Writ-A No.10000119 of 2006 has not been paid. He further argues that as the landlord had failed to clarify the portion owned by him and thus the portion under the occupation of the petitioner was not under the landlordship of the respondent, as such, no error has been done in not paying the rent. He also argues that the judgment passed by the JSCC Court deserves to be quashed. He also argues that the portion purchased by the respondent was Building No. 31/33/1 whereas the petitioner was in the tenancy of Building No. 31/33 and thus two numbers were distinct and separate.

7. Sri S.C. Misra, learned Senior Advocate appearing on behalf of the respondent, on the other hand argues that the orders impugned are liable to be upheld. He further argues that the petitioner being a cooperative society engaged in the business of banking is squarely covered within the definition of 'public sector corporation' as mentioned under Section 21(8) and defined under section 3(p) of the Act No. XIII of the 1972. He further argues that apart from the arguments based upon definition as advanced by the Sri Chaudhary appearing on behalf of the petitioner,

he also relies upon the provision of Section 3(4) of the U.P. Act No. XIII of 1972 to argue that the building in question was a public building as defined Section 3(4) of the Act. Section 3(4) is quoted herein below:-

“3(4). An order of exemption under Section 2(3) from the provisions of Section 20 shall not ordinarily be made unless the State Government is satisfied that the income accruing to the institution from the rent payable by the tenants is very low as compared to the prevailing rates of rents and that it is wholly inadequate for meeting the expenses of the institution.”

8. Countering the other submissions of the counsel for the petitioner, it is argued that the plea with regard to the building not falling under section 21(8) was taken for the time by the petitioner before the appellate Court and before this Court, no such defence was taken in the written statement before the District Magistrate, where the original application was filed. He further argues that the petitioner is a corporation owned by the Government and is covered by the ‘Banking Regulation Act’ and further that the share capital of the bank is more than 51%, therefore, the bank comes under the definition of ‘public sector corporation’. He further argues that the Cooperative Society can be formed by ten or more members by getting a certificate under the Cooperative Societies Act having an object for promotion of economic interest of its members. He further argues that under Section 7 of the Cooperative Societies Act, the society is a body corporate and thus in terms of the mandate of Section 9, the society registered under the U.P. Cooperative

Society Act would be a Corporation as defined under the Rent Act. Reliance was also placed upon the judgment of the Supreme Court in the case of *Daman Singh Vs. State of U.P. AIR 1985 SC Page 973*, wherein the Supreme Court had observed as under:-

"A corporation may be defined as a body of persons (in the case of a corporation aggregate) or an office (in the case of corporation sole) which is recognized by the law as having personality which is distinct from the separate personalities of the members of the body or the personality of the individual holder for the time being of the office in question.

A corporation aggregate has been defined in paragraph 1204 as,

"A corporation of individuals united into one body under a special denomination having perpetual succession under an artificial form, and vested by the policy of the law with the capacity of acting in several respects as an individual particularly of taking and granting property, of contracting obligation and of suing and being sued, of enjoying privileges and immunities in common and of exercising a variety of political rights, more or less extensive, according to the design of its institution, or the powers conferred upon it, either at the time of its creation or at any subsequent period of its existence."

9. My attention is drawn extensively to the provisions contained under the Banking Regulation Act to argue that the petitioner Cooperative Society is controlled under the Bank Regulation Act and is liable to work under the said Act. My attention is also drawn to Sections 5(b), 5(c) and 59(d) of the Banking Regulation Act, which are as under:

5(b) "banking" means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise."

5(c) "banking company" means any company which transacts the business of banking in India.

5(d) "company" means any company as defined in section 3 of the Companies Act, 1956 (1 of 1956); and includes a foreign company within the meaning of section 591 of that act."

10. My attention is also drawn to section 56 of the Banking Regulation Act, which provides for applicability of the Act to the Cooperative Society subject to the modifications. Section 56 of the Banking Regulation Act is quoted herein below:

"56. Act to apply to co-operative societies subject to modifications:-

The provisions of this Act, as in force for the time being, shall apply to, or in relation to, co-operative societies as they apply to, or in relation to banking companies subject to the following modifications, namely-

(a) throughout this otherwise requires-Act, unless the context

(i) references to a "banking company" or "the company" or "such company" shall be construed as references to a co-operative bank;

(ii) references to "commencement of this Act" shall be construed as references of to the Banking Laws (Application to Co-operative Societies) Act 1965 (23 of 1965);

(b) in section 2, the words and figures "the Companies Act, 1956 (1 of 1956) and" shall be omitted;

(c) in Section 5--

(i) after clause (cc) the following clauses shall be inserted, namely:-

(cci) "Cooperative Bank" means a state cooperative bank, a central cooperative bank and a primary cooperative bank."

11. He thus argues that the petitioner is a public sector corporation as defined under Section 3(p) and thus would be amenable to the mandate of Section 21(8) of the Act. With regard to valuation report, the submission of the counsel for the respondent is that there was no challenge to the valuation report and no evidence was led by the Petitioner.
12. Arguing on the revision, as addressed by Sri Chaudhary, the submission of the counsel for the respondent is that in the pleadings to the application filed under Section 20, it was admitted that no rent has been paid since the year 2016 including the unenhanced rent as admitted by the petitioner, which was payable in respect of the occupation of the building. My attention is also drawn to the statement of the Officer of the bank, wherein he admitted that the rent has not been paid since 06.10.2006. It is thus argued that the writ petition as well as revision are liable to be dismissed. He further clarifies that although valuation of the building was in respect of the entire property, however, in respect of the petitioner only a apportioned rent enhancement was demanded.
13. Considering the arguments as raised by the parties and recorded above, the first issue to be decided is whether the petitioner-bank would fall under Section 21(8) and can be termed as 'State Government', 'local authority', 'public sector corporation' or 'recognized educational institution'. In terms of the definition contained in Section 3(p), the

petitioner certainly does not fall within the definition of Section 3(l) which defines the State Government. It does not fall within the definition of 3(m), which defines the local authority and also does not fall within the definition of 3-q, which defines recognized educational institution. The only argument raised by the counsel for the respondent is that the petitioner bank would fall within the definition of Section 3(p) which defines a 'public sector corporation'.

14. In support of the said contention, reliance has been placed upon the definition of 'Bank' and the provisions contained in the 'Banking Regulation Act'. On the plain reading of Section 3-p, which defines public sector corporation, it is clear that it should be a corporation owned or controlled by the Government and includes any company as defined under Section 3 of the Companies Act where major share capital of more than 50% is held by the Government. The petitioner bank is a primary cooperative society and in terms of the provisions contained in the Cooperative Societies Act, is incorporated as a society comprising of the members, who form the society although the definition contained in Section 3-p is an expansive definition as it uses the word "includes", however by no stretch of imagination can the society be termed as a Corporation on its plain reading.
15. The arguments of Sri S.C. Misra that as a cooperative society has not been defined, the help of external aid in the form of provisions contained in the Banking Regulation Act should be taken into

consideration. To analyse the said submission it is essential to see the scheme and reach of the Banking Regulation Act. The said Act i.e. Banking Regulation Act was promulgated to consolidate the law relating to banking in India and intended to regulate the banking activities carried out by various persons. Section 5(b) defines banking and covers the activities of the petitioner under the Banking Regulation Act by virtue of Section 5(ja), however, merely because the petitioner bank falls within the ambit and is regulated by the Banking Regulation Act, the same by any stretch of imagination cannot be termed as 'public sector corporation' as defined under Section 3(p) of the U.P. Act No. XIII of 1972. The intent and purpose of U.P. Act No. XIII of 1972 for placing certain institutions under Section 21(8) was that for all other buildings, the same could be got released by the landlord for his personal need, however, the specific buildings as prescribed in the proviso to Section 21(8) could not be got released even if there was a personal need of the landlord and to compensate the landlord for restricting his power to get the building released for his personal need, a prescription was provided in the proviso for enhancement of the monthly rent as prescribed thereunder. On the plain reading of Section 21(8) and Section 3(p), the petitioner does not fall within the definition of 'public sector corporation', the help of external aid of the Banking Regulation Act for interpreting Section 21(8) of U.P. Act No. XIII of 1972 as argued by Sri S.C. Misra, merits rejection.

16. It is well settled that when a term is specifically defined under an Act, then for the purpose of that statute the meaning assigned to it in a different statute cannot be applied as also held by Apex Court in the case of *The Apex Co-Operative Bank Of Urban vs The Maharashtra State Co-Operative Bank Ltd. And others (2003) 11 SCC 66.* The relevant paragraph is quoted hereunder:

“We are unable to accept these submissions also. The portion extracted above does not detract from what is provided in Section 22(1). u/s 22(1) a primary credit society can carry on banking business. However if a co-operative society is not a primary credit society then to carry on banking business it must be a co-operative bank and hold a license issued by the RBI. The above extracted portion of Section 22(2) merely emphasis that a co-operative society, other than a primary credit society, has to apply to the RBI for license before it can commence banking business. However, this does not mean that RBI can give to any or all co-operative societies, a banking license. RBI can only give a license as provided in Section 22(1) i.e. to a co-operative bank The term "Co-operative Bank" has been defined in the Banking Regulation Act and only includes a state co-operative bank or a central co-operative bank or a primary co-operative bank. Reference to the term "co-operative bank" in the Multi State Act is of no assistance. When a term is specifically defined in a statute then for purposes of that statute that term cannot bear a meaning assigned to it in another statute. One cannot ignore the specific definition given in the Banking Regulation Act and apply some other definition set out in some other statute. Thus, so far as the Banking Regulation Act is concerned the term "co-operative bank" must have the meaning assigned to it in Section 5(cci). RBI cannot go by any other meaning given to the term "co-operative bank" for purposes of licencing under the Banking Regulation Act. The RBI has to go by the meaning given to this term in the Banking Regulation Act.

17. It is also well-settled that the interpretation of words in a particular statute has to be done on its plain meaning or literal interpretation and cannot be departed unless the same is ambiguous.
18. In view of the reasoning recorded above, I have no hesitation in holding that the District Magistrate had no jurisdiction to enhance the rent on the application filed by the respondent as a landlord, as the petitioner bank does not fall within the definition of 'public sector corporation' as defined under the Rent Act and thus the order dated 6.10.2006 passed in favour of the respondent is wholly without jurisdiction and is accordingly quashed. The writ petition is *allowed*.
19. The amounts deposited by the petitioner bank in pursuance of the interim order shall be returned to the petitioner.
20. Coming to the revision, after the fixation of rent under Section 21(8), the petitioner bank was not paying any rent whatsoever, as such, a notice was served upon the petitioner under Section 106 of the Transfer of Property Act demanding rent and the tenancy of the petitioner was also determined through the said notice, thereafter, a suit was filed seeking a decree of rent and ejection mainly on the ground that despite fixation of rent under Section 21(8), no rent was being paid and even after the service of the notice, no rent whatsoever has been paid. It is common ground that even after the filing of the suit, no rent was paid, as such, SCC Suit No. 144 of 2014 was filed in which, a decree of

rent amounting to Rs.6,98,400/- was claimed with the relief of ejection also.

21. As the petitioner did not deposit any rent even after filing of the suit, ultimately the suit came to be decreed by means of an order dated 16.10.2021, wherein the landlord was granted a decree of ejection as well as the decree of Rs.6,98,400/- was passed in favour of the landlord and against the revisionist bank and further damages of Rs.600/- per months was also awarded.
22. As I have already held that the fixation of rent under Section 21(8), based upon which the notice for arrears of rent was issued, was itself without jurisdiction, the claim of the landlord for rent at the rent of fixed under Section 21(8) was wholly unjustified, the decree of arrears of rent at the rate of Rs.6,98,400/- along with the damages at the rate of Rs.600/- per month as awarded in the judgment dated 16.10.2021 is wholly unjustified and is accordingly quashed. The revision is *allowed* to that extent.
23. The revision is dismissed in so far as the decree of ejection has been passed as admittedly even the unenhanced rent, which governed the tenancy was not paid by the revisionist. The only logical conclusion was a decree of ejection under Section 20 of the UP Act No XIII of 1972 and thus no fault can be found with the decree of ejection passed on 16.10.2021.

24. The landlord would be at liberty to execute the decree of eviction only as modified by this Court in accordance with law.

Order Date :- 10.3.2025

Arun