

A

SHAMBHU NATH PALIT

v.

CORPORATION OF CALCUTTA AND ANR.

January 24, 1978

B

[V. R. KRISHNA IYER AND JASWANT SINGH, JJ.]

Calcutta Municipal Act, 1951, S. 202—Whether the provisions of Thika Tenancy Act a bar to the recovery from the tenant by a landlord, of the rates levied and collected by the Corporation as an owner u/s 202 of the Municipal Act.

C

The petitioners challenged the levy and collection of the municipal tax from them as landlords in respect of the huts constructed and occupied by their tenants on the lands leased to the latter. The Calcutta High Court, taking the view that S. 202 of the Municipal Act, 1951 provided for collection by the owner of the land of so much of the rate as is attributable to the hut which belongs not to the owner but to the tenant, directed, that in regard to each bit of land and hut thereon, there will be particularisation of the assessment separately on the consolidated valuation.

D

Dismissing the special leave petition, the Court

HELD : 1. S. 202 of the Calcutta Municipal Act, 1951 is more or less a self-contained code with the result that what is leviable under that provision cannot be prejudiced by the existence of any other provision.

E

2. The Thika Tenancy Act does not come in the way of the petitioner in recovering what is permissible u/s 202 of the Municipal Act. Thika Tenancy Act deals with rents while s. 202 deals with rates. The special provision must prevail so far as the rates are concerned.

3. A special provision dealing with owners of bastis cannot be challenged as discriminatory and violative of Art. 14 of the Constitution, when their position is protected by s. 202 of the Municipal Act.

F

CIVIL APPELLATE JURISDICTION : Special Leave Petition (Civil)
No. 5097 of 1977.

From the Judgment and Order dated 24-9-75 of the Calcutta High Court in Appeal No. 154 of 1971.

N. R. Chatterjee and Amlan Ghose for the Petitioner.

G

The Order of the Court was delivered by

H

KRISHNA IYER, J.—We have heard counsel Mr. Chatterjee on two grievances of his client. According to him, the land belongs to the petitioner, the huts belong to his tenants, but the municipal assessment is based upon valuation of the land and the huts together. This grievance is taken care of in two ways. The High Court had directed that in regard to each bit of land and hut thereon, there will be particularisation of the assessment separately on the consolidated valuation. Secondly, there is also provision in s. 202 of the Calcutta Municipal

Act, 1951 (hereinafter referred to as the 'Act') for collection by the owner of the land of so much of the rate as is attributable to the hut which belongs not to the owner but to the tenant, if we may put it loosely that way. The details have been spelt out in s. 202 of the Act. We consider s. 202 as more or less a self-contained code with the result that what is leviable under that provision cannot be prejudiced by the existence of any other provision.

Counsel's second grievance is that the provisions of the Thika Tenancy Act stand in the way of the petitioner collecting from his tenant any amount in excess of the rent fixed under the Act. This grievance also has no substance because the Thika Tenancy Act deals with rents while s. 202 deals with rates. The special provision must prevail so far as the rates are concerned and the petitioner is not prevented from collecting sums due under s. 202 in the shape of rates. The Thika Tenancy Act does not come in the way of the petitioner in recovering what is permissible under s. 202 of the Act.

Nor are we able to appreciate counsel's contention that Art 14 of the Constitution is violated. Bastis—horrid hovels, which blot the human-scape of India, still survive in our socialistic pattern-stand as a separate category although as an ugly but inescapable social reality. It is true that the most unfortunate section of the society in Calcutta City dwell in these bastis except those who, unable to afford the luxury even of these bastis, have to seek shelter on the pavements. So far as Art. 14 is concerned, the bastis and the dwellers of bastis stand in a tearfully separate class by themselves and a special provision dealing with owners of bastis cannot be challenged as discriminatory. If ever there were any discrimination it is against the human condition, rather the inhuman condition, of these whom dire necessity drives to occupy these hutments. So far as the owners are concerned their position is protected by s. 202 and there cannot be any complaint except abstract, theoretical and imaginary ones, that there is discrimination against them. With these observations, the petition is dismissed.

S.R.

Petition dismissed.