



Somanna Kalappa
Principal Associate

TENANCY RIGHTS NOT EXTINGUISHED UNLESS STATED IN NEW LAW

The Supreme Court (SC) in *Rajesh Mitra* case,¹ overturning the Calcutta High Court (HC) decisions in a landlord-tenant dispute, held that a new statute cannot retrospectively extinguish rights accrued under a previous law unless there is a clear and unambiguous intention to do so within the new statute.

Brief Facts

The case revolved around the interpretation of two tenancy Acts in West Bengal *i.e.*, the 1956 Act² and the 1997 Act.³

A premises was originally tenanted out to S.K Mitra. After his death in 1970, by virtue of the provisions of the 1956 Act, the tenancy devolved upon his spouse *viz.* Usha Mitra and their two then minor children.⁴

Subsequently, the 1997 Act was enacted repealing the 1956 Act. The 1997 Act provided that the tenancy would devolve to the legal heirs of the tenant but for a limited period of five years.⁵

On the death of Usha Mitra in 2009, her children *i.e.*, Rajesh Mitra and another (Tenants) would, as per the 1997 Act, be considered as tenant for a period of five years after her death.

Karnani Properties Ltd. (KPL) approached the HC's Single Judge Bench seeking eviction of the Tenants on the ground that their tenancy rights were extinguished on the implementation of the 1997 Act.

¹ *Rajesh Mitra alias Rajesh Kumar Mitra and Another v. Karnani Properties Ltd.*, 2024 SCC OnLine SC 2607 (Judgement).

² West Bengal Premises Tenancy Act, 1956.

³ West Bengal Tenancy Premises Act, 1997.

⁴ See section 2(h) of the 1956 Act which defines 'tenant' to *inter alia* include "[a]ny person continuing in possession after the termination of his tenancy or in the event of such person's death, such of his heirs as were ordinarily residing with him at the time of his death.."

⁵ See section 2(g).

The HC ruled in favour of the KPL. On appeal before the Division Bench (DB) of the HC, it was dismissed. Tenants then appealed before the SC.

Tenants' Contentions

They relied on the *Goutam Dey* case⁶ where the HC held “[I]hat a vested right had accrued in favour of the daughter of the original tenant, which could not be abrogated by the enactment of the 1997 Act...” and that “[I]he phrase “or from the date of coming into force of the act, whichever is later” was wrongly drafted by the legislature, and it is in fact redundant...”

Thus, they contended that the tenancy was heritable and they, along with their mother, had become tenants of the premises.

KPL's Contentions

It relied on two judgements of the HC⁷ which ruled contrary to *Goutam Dey* case contending that the language of the 1997 Act suggests that even the death of a tenant, which occurred during the subsistence of the 1956 Act, is covered. Consequently, the tenancy ended in the year 2006.⁸

SC's Judgement and Reasoning.

The key issue in this Judgment is the interpretation of statutory provisions related to tenancy rights and the application of the principles of retrospectivity in law.

The SC:

- Held “[S]tatutory laws operate from the date of their enforcement i.e., prospectively. In case the legislature intends to make a law retrospective then such an intention of the legislature must be shown clearly and unambiguously in the statute itself...”⁹
- Pointed out that the 1997 Act does not explicitly state that it aims to extinguish the rights of tenants who inherited their tenancies under the 1956 Act.¹⁰
- Allowed the Tenant's appeal.

This *Counselence Connect* contains information in a nutshell on a recent change in law.

This is not legal advice and must not be treated so. For any clarifications, please contact us at: info@counselence.com. Past issues of *Counselence Connect* are available at the 'Newsletters' page of our website (www.counselence.com).

⁶ *Goutam Dey v. Jyotsna Chatterjee*, 2012 SCC OnLine Cal 642.

⁷ See *Sri. Sushil Kumar Jain v. Pilani Properties Limited*, 2017 SCC OnLine Cal 18807 and *Satyannarayana More v. Milagrina Rose Correia*, 2020 SCC OnLine Cal 957.

⁸ The 1997 Act came into force in 2001.

⁹ See para. 21 of the Judgement.

¹⁰ See para. 17 of the Judgement.