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IS A LIMITATION PERIOD APPLICABLE TO PROCEEDINGS INITIATED UNDER THE PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971

INTRODUCTION

- 1 Public premises, within the meaning of Section 2(e) the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is any premises that belongs to the Central Government or the State Government or any corporation of which majority shareholder is the government.
- 2 A public premises is thus a land or property belonging to the government. The Public Premises Act was enacted for effecting eviction of unauthorised occupants from land that belongs to the government.
- 3 Unauthorised occupation of a public premises (Section 2(g) of the Act) means occupation of the premises by any person who has no authority to occupy such space or who had the authority to occupation of premises but has continued to remain in occupation even after the authority has expired or has been determined.
- 4 The Public Premises Act provides for the appointment of estate officers and grants the powers of eviction to such officers where the officer comes to a finding that a person is in unauthorised occupation of a public premises. The estate officer can pass orders of eviction and also require payment of rent or damages in respect of the public premises for the period of unauthorised occupation or even for arrears accruing against the period of authorised occupation if the same remains due.
- 5 Section 15 bars the jurisdiction of any court to entertain suit or proceedings in respect of eviction, recovery or demolition of public premises. The estate officer holds the exclusive jurisdiction in matters of eviction of unauthorised occupants from public premises.
- 6 An appeal against an order made by the estate officer lies under Section 9 of the Public Premises Act before the district judge. Such appeal is to be filed within twelve days of the date of the order or the publication of such order, as the case may be.

Issues

- 1 The Public Premises Act does not specify the time period within which an application/suit for eviction or recovery of rent is to be filed before an estate officer.
- 2 The issue that comes to question is whether the limitation period prescribed under the Limitation Act, 1963 would apply to proceedings under the Public Premises Act where no time period specifically has been provided for.
- 3 The answer to be derived on applicability of the Limitation Act would particularly be tested against proceedings for recovery of arrear rent or damages under Section 7 of the Public Premises Act.
- 4 Since the legislature does not specify any such limitation period, the interpretations of the courts come to aid the understanding on the subject

Judicial decisions

- 1 The Supreme Court in *New Delhi Municipal Committee vs. Kalu Ram* (AIR 1976 SC 1637) observed that in matters where arrears payable is in dispute, the existing laws cannot be ignored. It held that Section 7 only provides a special procedure for the realisation of rent in arrears and does not constitute a source or foundation of a right to claim a debt otherwise time-barred.
- 2 Claims beyond the period of limitation would be irrecoverable. The Limitation Act was held to be applicable to the claim for arrears of rent under the Public Premises Act
- 3 *M/s. Automobile Association of Eastern Indians.-The Board of Trustees of the Port of Kolkata [(2010) 4 CLT 591], Banalata & Company vs. LIC of India (AIR 2011 SC 3619) and Shri G. R. Gupta- vs.-Lok Sabha Secretariat [204 (2013) DLT 694] followed the decision in Kalu Ram.*



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- 4 However, in the facts of *L.S. Nair vs. Hindustan Steel Limited* (AIR 1980 MP 106), the unauthorised occupant was an employee of Hindustan Steel and was allotted an accommodation. Hindustan Steel initiated proceedings for eviction and recovery after the employee stayed in occupation of such accommodation beyond the authorised period after his employment was terminated. It was held that since jurisdiction of civil court has been barred by the Public Premises Act, the limitation periods would not be applicable to proceedings under such Act.
- 5 In *Indian Iron and Steel Co. Ltd. vs. Estate Officer, South Eastern Railway* [(1976) 2 ILR (Cal) 43] again the Court held that Public Premises Act does not prescribe any period of limitation and hence it cannot be contended that a suit before the estate office was beyond the limitation period. However, in this case, the peculiar argument of the petitioner was that government's right over the property stood extinguished after 7 years from the enactment of the Limitation Act.
- 6 *Babubhai Gadarmal vs. Ahmedabad Municipal Corporation* (1997 SCC OnLine Guj 603) came to a similar finding wherein the issue related to the Gujarat Public Premises (Eviction of Unauthorised Occupants) Act, 1972. It was held that being a beneficial legislation where no period of limitation was prescribed, the Limitation Act would not apply to proceedings therein.
- 7 The same view was confirmed by the Delhi High Court in *Sharma Montessori School & Oriental College Society vs. Union of India* (2012 SCC OnLine Del 5014) stating the being a special Act, Public Premises Act would prevail over the Limitation Act
- 8 In the *Board of Trustees for the Port of Kolkata vs. N/S Coastal Roadways Ltd.* (CO 1063 of 2008, 19.08.2015), N/S Coastal argued that the claim for damages/rent made by the Port was barred by limitation as eviction proceedings were initiated in 1993 and recovery proceedings were filed in 2003 after an order of eviction was made by the estate officer. The party relied on *Kalu Ram*. The Port contended that the claim for arrear rent/damages could only have been made after an order was passed by the estate officer declaring N/S Coastal as an unauthorised occupant and anyway the Public Premises Act is a special law which does not provide for any period of limitation.
- 9 The Calcutta High Court relied on *Kalu Ram* to hold that provisions of Limitation Act apply to proceedings under the Public Premises Act. The Court also held that the decision in *L.S. Nair* was per incuriam as it did not consider the Supreme Court's decision in *Kalu Ram*.

Conclusion

- 1 In spite of opposing views taken by different courts, the judgment of the Supreme Court in *Kalu Ram* still holds field being a decision of the higher authority (Article 141 of Constitution).
- 2 The courts may also decide the issue on the consideration of the facts in each case.
- 3 It however cannot be denied that the object of the Public Premises Act is not to expedite proceedings but rather to ensure that the government recovers possession and damages in respect of premises over which unauthorised occupants have stayed on without due legal process
- 4 The Act aims to evict unauthorised occupants and therefore the strict application of the Limitation Act, if at all applicable, must be dispensed with. Otherwise, it would imply that after passing of a certain time period, the unauthorised occupants absorb the right to legal occupation of such public premises when it belongs to the government and should accrue benefit to the government or the public at large and not to unauthorised occupants.