



COMMENTARIES ON PUBLIC PREMISES (EVICTION OF UNAUTHORISED OCCUPANTS) ACT, 1971 (2nd ed. 1994). By S.P. Gupta. Eastern Book Company, Lucknow. Pp. xxiv + 450. Price Rs. 275.

THE BOOK under review deals with a subject which is of utmost importance for the State as well as for general public. Despite a speedy mechanism provided in the Act, the law is not being enforced effectively. The working of the Act has given rise to a great deal of litigation which is obvious from the table of cases given in this book which covers 12 pages.

The present Act was passed in 1971 repealing the earlier Act of 1958. The Act of 1958 was enacted to repeal the Act of 1950 on the subject. The present Act had become necessary in consequence of a judgment and order of the Supreme Court of India in the case of *North India Caterers v. State of Punjab*¹ wherein an identical Act of Punjab was declared invalid. Soon after the pronouncement of this judgment, the Union of India promulgated an ordinance in 1968 to validate the Act of 1958 but the attempt proved to be abortive and a new Act was enacted in 1971 which came into force with effect from 23rd August 1971. The Act has been amended several times since then, the latest amendment being that of 1993 by Act 7 of 1994 which came into force from 1st June 1994.

The author of the book under review had written and published a commentary on the Uttar Pradesh Public Premises (Eviction of Unauthorised Occupants) Act 1972 and as such was eminently qualified to write a commentary on the present Act. The first edition of this book appeared in 1986 and proved to be so popular that it was sold out in no time and a second edition was called for. The present book is a second edition incorporating therein all amendments to the Act and the Rules as well as latest pronouncements of the Supreme Court and the High Courts.

Though the book is a section wise commentary, it is divided into three parts. Part I is a commentary on the Act. Part II is a commentary on the Rules. Part III contains 6 appendices. Appendices 1, 2, and 3 reproduce the text of amendments to the Act. Appendix 4 reproduces relevant provisions of the Code of Civil Procedure 1908. Appendix 5 contains the text of State Acts and Rules. Appendix 6 contains the Allotment of Government Residences (General Pool in Delhi) Rules 1963 and various notifications issued thereunder from time to time. All this information adds to the width and utility of the book and makes it a complete, exhaustive and yet a compact and handy book.

The section-wise commentary is preceded by a brief history of the Act, its statement of objects and reasons, purpose of various amendments to the present Act, a note on the preamble of the Act, salient features of the Act, reference to the cases in which the validity of the Act was upheld by the Supreme Court and an exhaustive note on the principles applicable to the interpretation of the Act.

The Act of 1958 was held as discriminatory and as violative of article 14 of the Constitution for providing two remedies for eviction from public premises

1. AIR 1967 SC 1581.



one general under the general laws and one speedy under the special law.² However, the Act of 1971 had removed this lacuna and provides only one procedure under the special law. Challenges to the validity of the present Act on other grounds were repelled and its validity was upheld.³

The author has attempted a critical appraisal of the working of the Act and has listed as many as ten shortcomings therein and suggested reforms to remove the same. The author is right in saying that the present Act was drafted and enacted in haste and the only object in enacting a new law in 1971 was to remove the lacuna pointed out by the Supreme Court in the old Act by inserting in the new Act a section on bar of jurisdiction of civil courts. Accordingly section 15 of the new Act contained bar to jurisdiction. This section has been amended twice since 1971, once in 1980 and then in 1984.

When the Supreme Court had declared the old Act as discriminatory under article 14 of the Constitution, it was amended in 1968 by inserting therein section 10E on bar of jurisdiction of civil courts. This amendment in the invalid Act could not validate the old law and hence a new Act was enacted. The new Act in section 15 provided for bar of jurisdiction of all courts and as such the provision was wider in this effect. The amendments effected in 1980 and 1984 further widened its scope. Now the bar to jurisdiction of all courts extends not only to matters in respect of eviction but also to other matters contained in clauses (a) to (e) of section 15 of the Act.

The principal provision of the Act is contained in section 5 which provides for eviction of unauthorised occupants from public premises by an order of the estate officer appointed under section 3 of the Act. Subsequent amendments by inserting sections 3A, 5A, 5B and 6C provided for eviction from temporary occupation, power to remove unauthorised construction, order of demolition of unauthorised construction and power to seal unauthorised constructions on public premises. Subject to an appeal to the district judge under section 9 an order passed by the estate officer is final under section 10 of the Act. Section 11 of the Act provides that a person unlawfully occupying a public premises, or after his eviction therefrom reoccupies the same, commits an offence punishable under the Act and under section 11A such offences are cognisable offences. Section 20 of the Act contains a deeming provision for validating action taken under the Act of 1958 notwithstanding any judgment, decree or order of any court to the contrary. This provision was upheld as valid by the Supreme Court.⁴

The quality of printing of the book is superb. The price of the book containing a wealth of information on such an important subject is indeed moderate. The book is useful for teachers, students, judges and advocates alike.

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2. *Supra* note 1.

3. *Hari Singh v. M.E.O.*, AIR 1972 SC 2205; *M. Chhaganlal v. Greater Bombay Municipality*, AIR 1974 SC 2009; *Saiyada Mossarrat v. Hindustan Steel Ltd.*, AIR 1989 SC 406.

4. *Supra* note 3.

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