2026 INSC 671

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5714 OF 2012

BRITISH MOTOR CAR COMPANY (1939) LTD. … APPELLANT(S)

Versus

M/S HINDUSTAN COMMERCIAL BANK LTD.
SINCE HAS BEEN MERGED INTO
PUNJAB NATIONAL BANK & ANR. … RESPONDENT(S)

J U D G M E N T

SANJAY KAROL, J.

1. The present appeal arises out of the impugned judgment and order dated 12.03.2012 passed by the High Court of Delhi at New Delhi in CM (M) No.485 of 2001, whereby the High Court allowed the petition filed by the respondents herein and set aside the decree of eviction passed by the Rent Control Tribunal[1].

[1] In RCA No.22/2000.

2. Brief facts, shorn of unnecessary details, are as follows:

2.1 The present appellant, British Motor Car Company Limited[2], in 1947, let out an area of 2443.75 sq. ft. on the ground floor and 1150.25 sq. ft. on the mezzanine floor in the property known as Pratap Building N-Block, Connaught Circus, New Delhi[3], to Hindustan Commercial Bank[4] (Respondent No.1 herein) at a monthly rent of Rs.585/- per month, for non-residential purposes.

2.2 On 18.12.1986, the Government of India issued a Gazette Notification under Section 45(7) of the Banking Regulation Act, 1949[5], pursuant to which HCB was amalgamated with Punjab National Bank (Respondent No.2 herein)[6]. The Notification prescribed 19.12.1986 as the date on which the amalgamation Scheme, prepared by the Reserve Bank of India, in exercise of the powers conferred under Section 45(4) of the BR Act, would take effect. In light of such a scheme, all rights and liabilities of HCB stood vested with PNB, as a consequence whereof, the latter came into possession of the tenanted premises.

2.3 The appellant filed an Eviction Petition, being E-161/1987, seeking eviction of the respondents herein from the tenanted premises under Section 14(1)(b) r/w Section 14(1)(j) of the Delhi Rent Control Act 1958[7]. The contention of the landlord was that HCB had sublet/assigned/parted with possession of the tenanted premises in favour of PNB without

[2] Hereinafter referred to as the 'landlord'.
[3] Hereinafter referred to as the 'tenanted premises'.
[4] 'HCB' for short.
[5] Hereinafter referred to as 'BR Act'.
[6] 'PNB' for short.
[7] Hereinafter referred to as 'DRC Act'.

obtaining their written consent, hence PNB being an unauthorized sub-tenant is liable to be evicted u/s 14(1)(b) of the DRC Act.

2.4 The Additional Rent Controller, Delhi[8], *vide* judgment and order dated 03.11.1995, dismissed the eviction petition, observing as under:

> "11. … Here in the case provisions of sub-section (8) of Section 45 of the Banking Regulation Act-1949 makes it clear that the scheme or any provisions thereof shall be binding on the Banking Company or, as the case may be, on the transferee bank and any other banking company concerned in the amalgamation and also on all the members, depositors and other creditors and employees of each of those companies and of the transferee bank and on any other person having any right or liabilities in relation to any those companies. (emphasis supplied). Thus it is clear that the scheme of amalgamation shall be binding on the petitioner since it falls within the category of any other person having any right or liability in relation to the transferor bank. The petitioner certainly has a right to sue and the transferor bank in respect of its obligation relating to the terms of tenancy, under the terms of the Act as well as general Civil Law. Thus, it falls within the category of any other person as contemplated by the aforesaid sub-section. Hence, there is no two opinion that the scheme of amalgamation is binding upon the petitioner. In these situations the petitioner is bound by the scheme, which is law providing for ·amalgamation of the two banking companies in public interest and is, therefore, protected under Article 31-A(l)(c) of the Constitution of India. The aforesaid scheme being the statutory one, is law and is binding on the petitioner, leaving no room for him to invoke the provision of Section 14(1)(b) of the Act. By the law, in the shape of the scheme of amalgamation referred above, the respondent no.l has become a tenant under the petitioner.
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> 12. … Herein the case the scheme was sanctioned by the Central Government when the same was placed before it at the instance of Reserve Bank on being sanctioned, the scheme got the status of a Statute itself. Sub-Section (8) of Section 45 of the Banking Regulations Act-1949 makes it clear that the scheme was a law and binding upon all the parties. Therefore, the act of sanctioning the said scheme by the Central Government was an act of enacting a statute. Thus the proposition handed down in M/s Parsh Ram Harnand Rao (supra) are not applicable to the present controversy.

[8] In E-161/87.

> 13. … The involuntary act of amalgamation exists in the present controversy, never existed in M/s General Radio and Appliances Company (supra). Therefore, the legal proposition laid in the said case does not come to the rescue of the petitioner. Even otherwise the scheme of amalgamation being a statutory one, is binding on the petitioner, Hence, I find that Punjab National Bank is successor-in-interest, in pursuance of scheme referred above and there is neither sub-letting nor assignment, nor parting with possession of the demised. premises in its favour. Resultatingly the petition under reference deserves dismissal. The same is hereby dismissed with costs. File be consigned to record room."
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> (emphasis supplied)

2.5 The appellant carried the matter in appeal, which was allowed by the Additional Rent Control Tribunal in RCA No.22/2000, *vide* order dated 21.05.2001, and a decree of eviction was passed against the respondent(s). It was held that:

> "9. … I am of the firm view that the case of the landlords (appellant or respondent as per the two appeals) is just every clear and simply simple that the tenant (original) did breach the provisions of Section 14(1)(b) of the Act and the tenant's defence that it was either no transfer or assignment of tenancy rights or that, at best, it was an involuntary transfer under a statute - seems to be just unjust and totally contrary to law as laid down u/s 14(1)(b) of the Act and also so pronounced by several landmark decisions of the Hon'ble Supreme Court - referred by Ld. Counsels for the landlords.
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> 10. The Banking Regulation was formulated and brought in action in 1949 whereas the Delhi Rent Control Act was promulgated and put in force in 1958 what stood contained in Section 45 of the Banking Regulation Act, 1949 stood good till the time this special enactment i.e. Delhi Rent Control Act, 1958 came in, but, after the coming into operation of DRC Act, while the Regulation Act, 1949 still stood - Section 14 of the DRC Act made it crystal clear in its opening lines that "Notwithstanding anything to the contrary contained in any other law or contract.. ..... "· and, thus, all other laws and Acts, any ways concerning with the rights or liabilities of persons in the capacity as landlords or tenants, were silenced and made ineffective as and when these were to be seen and compared in relation to the rights or liabilities or landlords and tenants vide various sub-

> clauses of Section 14(1) of the Act. Delhi Rent Control Act - being a special Act and having come into operation subsequent to the already existing Banking Regulation Act, 1949, thus, was to prevail over any issue which seemed to be regulating any right or liability of a person specially specified under sub-clause (b) of Section. 14(1) of the DRC Act. It is here that scheme of amalgamation and merger having been notified by Notification of the Government could not violate the rights of the concerned landlords until compliance of the requirements of Section 14(1)(b) of the Act had been duly made. Prior written consent of the landlord was, thus, a must before any subletting, assignment or parting with possession was proposed to be made irrespective of the fact that the banking merger and amalgamation scheme was brought into effect vide the concerned banking statute. It is true that consent or even simple consultation from individual citizen is not possible while enacting a new law, but, then, there ought to be a new statute - speaking very vividly that rights or liabilities earlier protected under a law stood waived and such rights or liabilities will now be governed under the new Act. No such order, law or any amendment to this effect was brought in, hence, provisions of the special DRC Act were only to prevail.
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> … … …
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> 11. … The gist of the discussion and observations made above clearly lead to a sole conclusion that the tenant/alleged sub-tenant did breach the provisions of Section 14(1)(b) of the Act by assigning or parting with possession of the demised premises without obtaining the written consent from the landlords."
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> (emphasis supplied)

2.6 Challenging the eviction decree, the respondents herein filed a Revision Petition under Article 227 of the Constitution of India, being CM (M) No.485 of 2001, before the High Court. The said petition was allowed by the High Court, *vide* impugned judgment and order dated 12.03.2012, and the eviction decree passed by the Additional Rent Control Tribunal was set aside. Relying on ***Asha Rohtagi v. Erstwhile New Bank of India through General Mananger PNB***[9], the Court held as under:

> "8. … it is clear that the merger of HCB with PNB was the consequence of a statutory step which was taken by a third party i.e. by the Central Government although admittedly pursuant to a recommendation of the RBI. This merger was thus an

[9] 2005 SCC OnLine Del 464.

> involuntary act on the part of the tenant; it was no voluntary act on his part by virtue of which the PNB came to be operating from the suit premises; it was a merger consequent to a Gazette Notification issued by the Central Government over which the tenant had no control; banking business which was carried out by HCB was now being carried by PNB as all the rights and liabilities of the transferor company i.e. HCB had now vested with the transferee bank which was the PNB. The Gazette notification dated 18.12.1986 specifically postulates that the Central Government has sanctioned the scheme under Section 45(7) of the Banking Regulation Act, 1949 and all rights, powers, claims, interests, authorities, privileges including movable and immovable properties including premises subject to all incidents of tenure, of the transferor bank (HCB) shall stand transferred and become properties/ assets of the transferee bank (PNB). 9. In these circumstances, the ground of subletting was rightly held to be not available to the landlord. The impugned judgment holding otherwise thus suffers from an illegality. Petition is allowed. Eviction petition stands dismissed."
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> (emphasis supplied)

2.7 Aggrieved thereof, the landlord has preferred the present appeal.

SUBMISSIONS:

3. Mr. Shyam Divan and Mr. Shyam Mehta, learned senior counsel(s), appearing on behalf of the appellant, have raised the following grounds for challenge:

(a) Section 14(1)(b) of the DRC Act does not draw any distinction between voluntary and involuntary transfer of possession of the tenanted premises. The provision merely contemplates a situation where the tenant '*sub-let, assigned or otherwise parted with the possession of the whole or any part of the premises without obtaining the consent in writing*'. It was, thus, contended that upon the amalgamation of HCB with PNB, the original tenant, i.e., HCB, ceased to exist and the possession along with

the tenancy rights stood vested in PNB. Consequently, the ingredients of Section 14(1)(b) were satisfied. In support thereof, reliance was placed on ***Singer India Ltd. v. Chander Mohan Chadha***[10] and ***Parasram Harnand Rao v. Shanti Parsad Narinder Kumar Jain***[11].

(b) Scheme framed by the Reserve Bank of India[12] under Section 45 of the BR Act is administrative in nature. Reliance was placed on ***K.I. Shephard v. Union of India***[13] to contend that such a scheme cannot be accorded the status of a statutory enactment so as to exclude the operation of Section 14(1)(b) of the DRC Act.

(c) The High Court erred in placing reliance upon ***Mrs Asha Rohatgi*** (supra) while setting aside the eviction decree. It was contended that the ratio of ***Asha Rohatgi*** (supra) would not be applicable to the facts of the present case since it arose in the context of an amalgamation effected under Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings Act, 1980. Reliance was placed on ***New Bank of India Employees' Union v. Union of India***[14], wherein this Court clearly distinguished the schemes framed under Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings Act and Section 45 of the BR Act, holding the former to be legislative and the latter to be administrative in nature. Therefore, the ratio of ***Asha Rohatgi*** (supra) cannot be applied to the facts of the present case.

4. *Per contra*, Mr. Rajesh Kumar Gautam, learned counsel appearing for the respondent(s) has submitted that:

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[10] (2004) 7 SCC 1.
[11] (1980) 3 SCC 565.
[12] 'RBI' for short.
[13] (1987) 4 SCC 431.
[14] (1996) 8 SCC 407.

(a) The amalgamation of HCB with PNB was not the result of any voluntary act, agreement or assignment entered into by the tenant. Rather, the same was executed pursuant to a scheme framed by RBI and sanctioned by the Government of India in exercise of their statutory power under Section 45 of the BR Act. Therefore, the vesting of tenancy rights in PNB occurred as a consequence of a statutory scheme.

(b) In support of the aforesaid contention, reliance was placed on ***G. Sridharamurti v. Hindustan Petroleum Corpn. Ltd.***[15]; ***Hindustan Petroleum Corpn. Ltd. v. Shyam Coop. Housing Society***[16] and ***Mrs Asha Rohatgi*** (supra), wherein it was held that where tenancy rights stand vested in another entity by virtue of a statute, such vesting constitutes a transfer by '*statutory operation*' and not by a '*voluntary act of assignment of interest intra-vivos*'.

OUR VIEW

5. We have heard the senior learned counsel(s) for the appellant and learned counsel for the respondent(s) and carefully perused the written submissions placed on record. The short question that falls for our consideration is whether the amalgamation of HCB with PNB, effected pursuant to the scheme framed under the BR Act, attracts Section 14(1)(b) of the DRC Act or not?

6. For ready reference, it would be apposite to reproduce Section 14(1)(b) of the DRC Act, which reads as under:

> "14. **Protection of tenant against eviction.**— (1) Notwithstanding anything to the contrary contained in any other law or contract, no order

[15] (1995) 6 SCC 605.
[16] (1988) 4 SCC 747.

> or decree for the recovery of possession of any premises shall be made by any court or Controller in favour of the landlord against a tenant:
>
> Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:—
>
> … … …
>
> (b) that the tenant has, on or after the 9th day of June, 1952, sub-let, assigned or otherwise parted with the possession of the whole or any part of the premises without obtaining the consent in writing of the landlord;"
>
> (emphasis supplied)

7. A plain reading of this provision shows that the following ingredients must be satisfied before an order of eviction can be passed under Section 14(1)(b):

(1) The tenant has sub-let or assigned or parted with the possession of the whole or any part of the premises; and

(2) Such sub-letting, assignment or parting with possession has been done without obtaining the written consent of the landlord.

[See: ***Vaishakhi Ram v. Sanjeev Kumar Bhatiani***[17]]

8. The parametric content and the meaning of the words '*parted with possession of whole or any part of the premises*' have come up for consideration before this Court in ***Jagan Nath v. Chander Bhan***[18], wherein it was held that:

> "6. … It is well settled that parting with possession meant giving possession to persons other than those to whom possession had been given by the lease and the parting with possession must have been by the tenant; user by other person is not parting with possession so long as the tenant retains the legal possession himself, or in other words there must be vesting of possession by the tenant in another person by divesting himself not only of physical possession but also of the right to possession. So long as the tenant retains the right to possession there

[17] (2008) 14 SCC 356.
[18] (1988) 3 SCC 57.

is no parting with possession in terms of clause (b) of Section 14(1) of the Act."

[See also: ***Shalimar Tar Products Ltd. v. H.C. Sharma***[19] and ***Celina Coelho Pereira v. Ulhas Mahabaleshwar Kholkar***[20]]

9. In the present case, the amalgamation of HCB with PNB, was effected pursuant to a scheme framed under Section 45 of the BR Act. As a consequence, thereof, all assets, rights, liabilities and obligations of HCB stood vested in PNB and the former ceased to exist.

10. Before adverting to the contentions raised at the Bar, it would be apposite to briefly discuss the concept of amalgamation. The term '*amalgamation'* denotes the fusion of two or more companies into one by merger or by one taking over the other. When two companies amalgamate and merge into one, the transferor company ceases to exist as a separate entity. The true effect and character of an amalgamation largely depends on the terms of the merger scheme. The said position was iterated by a three-judge Bench of this Court in ***Singer India Ltd.*** (supra), in the following terms:

"**7.** The provision for facilitating reconstruction and amalgamation of companies is made under Section 394 of the Companies Act. In an amalgamation, two or more companies are fused into one by merger or by one taking over the other. Reconstruction or amalgamation has no precise legal meaning. In *Halsbury's Laws of England* (4th Edn., Vol. 7), para 1539, the attributes of amalgamation of companies have been stated as under:

"Amalgamation is a blending of two or more existing undertakings into one undertaking, the shareholders of each blending company becoming substantially the shareholders in the company which is to carry on the blended undertakings. There may be amalgamation either by the transfer of two or more undertakings to a new company, or by the transfer of one or more undertakings to an existing company. Strictly 'amalgamation' does not, it seems, cover

[19] (1988) 1 SCC 70.
[20] (2010) 1 SCC 217.

> the mere acquisition by a company of the share capital of other companies which remain in existence and continue their undertakings, but the context to which the term is used may show that it is intended to include such an acquisition. The question whether a winding up is for the purposes of reconstruction or amalgamation depends upon the whole of the circumstances of the winding up."
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> **8.** In *Saraswati Industrial Syndicate Ltd.* v. *CIT* [1990 Supp SCC 675 : AIR 1991 SC 70] (para 6) it has been held that there can be no doubt that when two companies amalgamate and merge into one, the transferor company loses its identity as it ceases to have its business. However, their respective rights or liabilities are determined under the Scheme of Amalgamation, but the corporate identity of the transferor company ceases to exist with effect from the date the amalgamation is made effective. …"
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> (emphasis supplied)

11. In the context of rent control legislation, the effect of amalgamation on the tenancy rights, i.e., whether it results in sub-letting, assignment or parting with possession or not, has been considered by this Court in various judicial pronouncements.

11.1 In ***Parasram Harnand Rao*** (supra), while interpreting Section 14(1)(b) of the DRC Act, this Court held that the provision is of wide amplitude and covers not merely subletting but also assignment and every other mode by which possession of the tenanted premises is parted. Rejecting the contention that an involuntary transfer of tenanted premises would fall outside the ambit of this provision, this Court held as under:

> "**6.** … Secondly, in our opinion, the Official Liquidator had merely stepped into the shoes of Laxmi Bank which was the original tenant and even if the Official Liquidator had transferred the tenancy interest to Respondent 1 under the orders of the court, it was on behalf of the original tenant. It was undoubtedly a voluntary sale which clearly fell within the mischief of Section 14(1)(*b*) of the Delhi Rent Control Act. Assuming that the sale by the Official Liquidator was an involuntary sale, then it undoubtedly became an assignment as provided for by Section 14(1)(*b*) of Delhi Rent Control Act. …

> **7.** The language of Section 14(1)(*b*) is wide enough not only to include any sublease but even an assignment or any other mode by which possession of the tenanted premises is parted. In view of the wide amplitude of Section 14(1)(*b*) we are clearly of the opinion that it does not exclude even an involuntary sale. …"
>
> (emphasis supplied)

[Followed in: ***Cox & Kings Ltd. v. Chander Malhotra***[21] and ***General Radio & Appliances Co. Ltd. v. M.A. Khader***[22]]

11.2 In the same vein, this Court in ***Singer India Ltd.*** (supra), held that the applicability of Section 14(1)(b) of the DRC Act depends upon the occurrence of a factual situation and not upon the circumstances that warrant such transfers. The question as to whether the transfer is voluntary or involuntary and the reasons necessitating such transfer are wholly irrelevant. The relevant observations read as under:

> "5. … There is no ambiguity in the section and it clearly says that if, without obtaining the consent in writing of the landlord the tenant has, on or after 9-6-1952 (i) sub-let, or (ii) assigned, or (iii) otherwise parted with the possession of the whole or any part of the premises, he would be liable for eviction. The applicability of the section depends upon occurrence of a factual situation, namely, sub-letting or assignment or otherwise parting with possession of the whole or any part of the premises by the tenant. Whether it is a voluntary act of the tenant or otherwise and also the reasons for doing so are wholly irrelevant and can have no bearing. This view finds support from an earlier decision rendered in Parasram Harnand Rao v. Shanti Parsad Narinder Kumar Jain [(1980) 3 SCC 565 : AIR 1980 SC 1655] wherein Section 14(1)(b) of the Delhi Rent Control Act came up for consideration. … The Court further held that the language of Section 14(1)(b) is wide enough not only to include any sub-lease but even an assignment or any other mode by which possession of the tenanted premises is parted with and the provision does not exclude even an involuntary sale.
> … … …

[21] (1997) 2 SCC 687.
[22] (1986) 2 SCC 656.

> 11. These cases clearly hold that even if there is an order of a court sanctioning the Scheme of Amalgamation under Sections 391 and 394 of the Companies Act whereunder the leases, rights of tenancy or occupancy of the transferor company get vested in and become the property of the transferee company, it would make no difference insofar as the applicability of Section 14(1)(b) is concerned, as the Act does not make any exception in favour of a lessee who may have adopted such a course of action in order to secure compliance with law."
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> (emphasis supplied)

[See also: ***Speedline Agencies v. T. Stanes & Co. Ltd.***[23]]

12. The exposition of law emerging from the aforesaid decisions is clear. Section 14(1)(b) of the DRC Act is wide enough to encompass every mode by which possession or tenancy rights of the demised premises are transferred from the original tenant to another entity. Once the possession of the tenanted premises, together with the accompanying rights, passes to an entity other than the original tenant without the written consent of the landlord, and the tenant losing its identity and control of possession of the tenanted premises, Section 14(1)(b) of the DRC Act stands automatically attracted. Therefore, what is material is that – (a) there is a transfer of tenancy rights and possession of the tenanted premises; and (b) such transfer is done without the written consent of the landlord.

13. In the present case, it is undisputed that upon the amalgamation taking effect, on 19.12.1986, the original tenant, *viz*. HCB ceased to exist and all its rights, liabilities, assets and interests, including the tenancy rights *qua* the tenanted premises stood vested in PNB. As a result, HCB parted with the possession of the tenanted premises and PNB came to occupy the same. It is equally undisputed that such a transfer took place without the written consent of

[23] (2010) 6 SCC 257.

the landlord. Therefore, both the ingredients of Section 14(1)(b) of the DRC Act, as stated in Para 7 (supra), stood fully met.

14. The respondent(s), *per contra*, have sought to distinguish the aforesaid line of judicial precedents merely because they arose in the context of amalgamations effected under Sections 391 r/w Section 394 of the Companies Act 1956, where the process was initiated by the companies themselves and was thus voluntary in nature. According to the respondent(s), since the amalgamation in the present case was effected pursuant to a Gazette Notification and a scheme prepared by RBI under Section 45 of the BR Act, the transfer of tenancy rights and possession must be regarded as involuntary and falling outside the ambit of Section 14(1)(b). However, we are unable to agree with this contention and find it to be unsustainable in law. The ratio of ***Parasram Harnand Rao*** (supra) and ***Singer India Ltd.*** (supra) makes it abundantly clear that the applicability of Section 14(1)(b) upon occurrence of a factual situation, namely, sub-letting or assignment or otherwise parting with possession of the whole or any part of the premises by the tenant. The said provision does not distinguish between voluntary and involuntary transfers, nor does it carve out any exception in favour of transfers effected pursuant to a scheme of amalgamation or to secure compliance with law. Therefore, where, upon amalgamation effected under Section 45 of the BR Act, the tenancy rights vest in another entity and possession *qua* tenanted premises passes to it without the written consent of the landlord, the ingredients of Section 14(1)(b) shall stand fully satisfied. The reasons necessitating such transfer or whether it was voluntary or involuntary, are wholly immaterial for the purposes of attracting the said provision.

15. Therefore, in view of the law laid down in ***Parasram Harnand Rao*** (supra) and ***Singer India Ltd.*** (supra), the ground of eviction under Section 14(1)(b) of the DRC Act is clearly made out in the facts of the present case. Our conclusion

is further fortified by the decision of this Court in ***Bhairon Sahai v. Bishamber Dayal***[24], wherein it was held that "*Parting with the possession of the premises without consent of the landlord was sufficient for eviction of the tenant without getting into the question of subletting or assignment.*"

16. The respondent(s) further contended that the amalgamation in the present case was triggered pursuant to a scheme framed by RBI in exercise of its '*statutory power*' under Section 45 of the BR Act. Such a scheme-framing process, according to them, is legislative in nature. It was submitted that since the tenancy rights stood vested in PNB pursuant to the operation of a statutory scheme, the said transfer could not be equated with assignment or parting with the possession within the meaning of Section 14(1)(b) of the DRC Act. In our considered view, such a contention is misconceived.

17. This Court in ***K.I. Shephard*** (supra) has categorically held that the scheme-making process under Section 45 of the BR Act is administrative in nature and not legislative. The Court held that merely because a scheme framed under Section 45 of the BR Act is required to be sanctioned by the Central Government and placed before both the Houses of Parliament, it does not become legislative in nature. It was observed as under:

> "9. … Learned Counsel for RBI and the transferee banks have taken the stand that the scheme-making process under Section 45 is legislative in character and, therefore, outside the purview of the ambit of natural justice under the protective umbrella whereof the need to put the excluded employees to notice or enquiry arose. It is well settled that natural justice will not be employed in the exercise of legislative power … But is the scheme-making process legislative? Power has been conferred on the RBI in certain situations to take steps for applying to the Central Government for an order of moratorium and during the period of moratorium to propose either reconstruction or amalgamation of the banking company. A scheme for the purposes contemplated has to be framed by RBI and placed before the Central Government for

[24] (2017) 8 SCC 492

sanction. Power has been vested in the Central Government in terms of what is ordinarily known as a Henry VIII clause for making orders for removal of difficulties. Section 45(11) requires that copies of the schemes as also such orders made by the Central Government are to be placed before both Houses of Parliament. We do not think this requirement makes the exercise in regard to schemes a legislative process. It is not necessary to go to any other authority as the very decision relied upon by Mr Salve in the case of *Cynamide India Ltd* [(1987) 2 SCC 720] lays down the test. In para 7 of the judgment it has been indicated: (SCC pp. 735-36)

> "Any attempt to draw a distinct line between legislative and administrative functions, it has been said, is 'difficult in theory and impossible in practice'. Though difficult, it is necessary that the line must sometimes be drawn as different legal rights and consequences may ensue. The distinction between the two has usually been expressed as 'one between the general and the particular'. 'A legislative act is the creation and promulgation of a general rule of conduct without reference to particular cases; an administrative act is the making and issue of a specific direction or the application of a general rule to a particular case in accordance with the requirements of policy'. 'Legislation is the process of formulating a general rule of conduct without reference to particular cases and usually operating in future; administration is the process of performing particular acts, of issuing particular orders or of making decisions which apply general rules to particular cases.' It has also been said: 'Rule-making is normally directed towards the formulation of requirements having a general application to all members of a broadly identifiable class' while, 'an adjudication, on the other hand, applies to specific individuals or situations'. But, this is only a broad distinction, not necessarily always true."

Applying these tests it is difficult to accept Mr Salve's contention that the framing of the scheme under Section 45 involves a legislative process. There are similar statutory provisions which require placing of material before the two Houses of Parliament yet not involving any legislative activity. The fact that orders made by the Central Government for removing difficulties as contemplated under sub-clause (10) are also to be placed before the two Houses of Parliament makes it abundantly clear that the placing of the scheme before the two Houses is not a relevant test for making the scheme-framing process legislative. We accordingly hold that there is no force in the contention of Mr Salve that the process being legislative, rules of natural justice were not applicable."

(emphasis supplied)

Thus, in view of the above, the amalgamation scheme framed by the Reserve Bank of India, in exercise of power under Section 45(4) of the BR Act, cannot be accorded the status of a statutory enactment so as to override the operation of Section 14(1)(b) of the DRC Act.

18. The decisions relied upon by the respondent(s), *viz.*, ***G. Sridharamurti*** (supra) and ***Shyam Coop. Housing Society*** (supra) are clearly distinguishable and have no application to the facts of the present case. These decisions were rendered in the context of the Esso (Acquisition of Undertakings in India) Act, 1974, a legislative enactment which expressly provided for the vesting of tenancy rights in the Central Government by operation of Sections 5 and 7 thereof. By virtue of these statutory provisions, the Central Government was held to have become a statutory tenant. The present case, however, stands on a completely different footing. Here, we are dealing with a scheme of amalgamation effected under Section 45 of the BR Act which, as held in ***K.I. Shephard*** (supra), is not a legislative enactment. The aforesaid decisions, therefore, lend no support to the case of the respondent(s).

19. Additionally, the respondent(s) have placed reliance on ***Ganesh Bank of Kurundwad Ltd. v. Union of India***[25], to argue that the scheme made by RBI, in exercise of Section 45 of the BR Act, is made in public interest. However, in our opinion, since we have held that the minute possession is parted with Section 14(1)(b) applies irrespective, no occasion arises to consider any other factor, including the one raised in ***Ganesh Bank of Kurundwad Ltd.*** (supra).

20. We also find merit in the appellant's contention that the reliance placed on ***Mrs Asha Rohatgi*** (supra) by the High Court was misplaced. The said decision

[25] (2006) 10 SCC 645.

arose in the context of an amalgamation effected under Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act 1980[26]. In ***New Bank of India Employees' Union*** (supra), this Court drew a clear distinction between the schemes framed under Section 9 of the Acquisition Act and those framed under Section 45 of the BR Act. While a scheme framed under Section 9 of the Acquisition Act was held to be legislative, the one framed under Section 45 of the BR Act was held to be administrative in nature. The two aforementioned provisions were, thus, held not to be *pari materia* and distinctive in nature. Given the difference in language between the two provisions, namely, Section 45 of the BR Act and Section 9 of the Acquisition Act, this Court distinguished the judgment of ***K.I. Shephard*** (supra) and held as thus:

> "32. … The High Court relied upon the decision in Shephard case [(1987) 4 SCC 431 : 1987 SCC (L&S) 438 : (1988) 1 SCR 188] and came to hold that the provisions of Section 45 of the Banking Regulation Act being in pari materia with Section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, and the scheme framed under Section 45 of the Banking Regulation Act, 1949 having been held by this Court to be not legislative, the scheme framed under the Acquisition Act as in the present case, must also be held to be not a legislative one. It is undisputed that in Shephard case … the amalgamation was of a private bank with a nationalised bank and the provisions of the Banking Regulation Act, 1949 applied. This Court in Shephard case [(1987) 4 SCC 431 : 1987 SCC (L&S) 438 : (1988) 1 SCR 188] on examining Section 45(11) of the Banking Regulation Act, 1949 came to hold that merely because a scheme framed is required to be laid before both the Houses of Parliament after the same has been sanctioned by the Central Government the scheme cannot be held to be legislative in nature. But in our considered opinion the High Court has failed to notice the fundamental distinction between the provisions of Section 45 of the Banking Regulation Act, 1949 and Section 9 of the Acquisition Act. Under Section 9 of the Acquisition Act under which Act the impugned scheme has been framed, every scheme framed by the Central Government has to be laid before each House of Parliament for a total period of 30 days and Parliament has the power to agree to the scheme and making any modification or in giving to a decision that the scheme should not be made and it is only thereafter the scheme has the effect either in the modified form or does not agree (sic). The

[26] 'Acquisition Act' for short.

> essential distinction between the two provisions therefore, is that whereas under the Banking Regulation Act, 1949 the scheme framed has merely to be placed before Parliament and nothing further but under the Acquisition Act the scheme becomes effective only after the same is placed before both the Houses of Parliament and after Parliament makes such modification and agrees to the scheme. In this view of the matter the decision of this Court in Shephard case [(1987) 4 SCC 431 : 1987 SCC (L&S) 438 : (1988) 1 SCR 188] has no application to a scheme framed under the provisions of the Acquisition Act and in our considered opinion, a scheme framed under Section 9 of the Banking Companies Acquisition and Transfer of Undertakings Act, 1980, is a legislative one. The High Court was in error in holding the scheme not to be a legislative one."
>
> (emphasis supplied)

21. In view of the aforesaid discussion, we hold that the amalgamation of the original tenant HCB with PNB rendered PNB liable to be evicted from the tenanted premises under Section 14(1)(b) of the DRC Act. The appeal is, accordingly, allowed. The impugned judgment and order dated 12.03.2012, passed by the High Court of Delhi at New Delhi in CM (M) No.485 of 2001, is set aside. The judgment and order dated 21.05.2001 passed by the Additional Rent Control Tribunal in RCA No.22/2000, whereby the suit for eviction was decreed, is restored.

22. Since the respondent(s) have been in possession of the tenanted premises for a long time, we grant a time till 31st January 2027 to deliver a peaceful and vacant possession of the tenanted premises to the appellant. The respondent(s) will furnish an undertaking before this Court to the above effect within a period of four weeks from the date of this judgment. The respondent(s) shall continue to pay rent on contractual terms/fixed by the Courts below. In case the respondent(s) fail to do so, then the appellant will be at liberty to proceed for taking possession in accordance with law.

Pending application(s), if any, shall stand disposed of.

……J.
(SANJAY KAROL)

……J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
JULY 09, 2026