

THE HIGH COURT OF KARNATAKA AT BANGALORE.

DATED THIS THE 24TH DAY OF FEBRUARY, 2003.

BEFORE

THE HON'BLE MR.JUSTICE A.V.SRINIVASA REDDY.

(R)

**H.R.R.P. NO. 706/1999 C/W H.R.R.P. Nos. 697/1999,
1167/1999, 598/1999, 599/1999, 406/1999, 1020/1999
1007/1999 and HRRP 573/99.**

In HRRP No 706 OF 1999

BETWEEN

- 1 SHAHWAR BASHEER
W/O LATE SYED P.BASHEER
AGE:56 YRS,R/O NO.7/1, HALL ROAD
RICHARDA TOWN
BANGALORE-5
- 2 SYEDA FARAHNAZ,
AGE:33 YRS,REPRESENTED BY
HER GPA HOLDER SYED AKRAM REZA
S/O LATE SYED P.BASHEER, R/O NO.7/1
HALL ROAD, RICHARDS TOWN
BANGALORE-5
- 3 SYED ANJUM REZA
AGE:32 YRS
S/O SYED P.BASHEER, R/O NO.7/1
HALL ROAD, RICHARDA TOWN
BANGALORE-5
- 4 SYEDA MEHNAZ
AGE:31 YRS

S/O SYED P.BASHEER, R/O NO.7/1
HALL ROAD, RICHARDA TOWN
BANGALORE-5

- 5 SYEDA SHEHNAZ
AGE:29 YRS
S/O SYED P.BASHEER, R/O NO.7/1
HALL ROAD, RICHARDA TOWN
BANGALORE-5
- 6 SYEDA AKRAM REZA
AGE:28 YRS
S/O SYED P.BASHEER, R/O NO.7/1
HALL ROAD, RICHARDA TOWN
BANGALORE-5
- 7 SYEDA SURIYANAZ
AGE:26 YRS
S/O SYED P.BASHEER, R/O NO.7/1
HALL ROAD, RICHARDA TOWN
BANGALORE-5 ... PETITIONERS

(By Sri : SHETTY & HEGDE ASSOCIATES)

AND :

- 1 VEENA MOHAN
W/O C.V.KRISHNA MOHAN
AGE:35 YRS,
R/O NO.32, BENSON CROSS ROAD
BENSON TOWN
BANGALORE-46 ... RESPONDENT

(By Sri : HOLLA & HOLLA FOR C/R)

IN HRRP No 697 OF 1999

BETWEEN

1 VEENA MOHAN
W/O C.V.KRISHNA MOHAN
AGE:35 YRS, R/O NO.32, BENSON CROSS ROAD
BENSON TOWN,
BANGALORE-46 ... PETITIONER.

(By Sri : HOLLA & HOLLA)

AND :

- 1 SHAHWAR BASHEER
W/O LATE SYED P.BASHEER, AGE;54 YRS
NO.7/1, HALL ROAD
RICHARDA TOWN
BANGALORE
- 2 SYEDA FARAHNAZ
S/O LATE SYED P.BASHEER, AGE;31 YRS
NO.7/1, HALL ROAD
RICHARDA TOWN
BANGALORE
- 3 SYED ANJUM REZA
S/O LATE SYED P.BASHEER, AGE;30 YRS
NO.7/1, HALL ROAD
RICHARDA TOWN
BANGALORE
- 4 SYEDA MEHNAZ
D/O LATE SYED P.BASHEER, AGE;29 YRS
NO.7/1, HALL ROAD
RICHARDA TOWN
BANGALORE
- 5 SYEDA SHEHNAZ
D/O LATE SYED P.BASHEER, AGE;27 YRS
NO.7/1, HALL ROAD
RICHARDA TOWN
BANGALORE

6 SYED AKRAM REZA
S/O LATE SYED P.BASHEER, AGE;26 YRS
NO.7/1, HALL ROAD
RICHARDA TOWN
BANGALORE

7 SYEDA SURIYANAZ
D/O LATE SYED P.BASHEER, AGE;24 YRS
NO.7/1, HALL ROAD
RICHARDA TOWN
BANGALORE

... RESPONDENTS

(By Sri : K SHASHI KIRAN SHETTY AND)

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HRRP 706/99 & 697/99 are filed under Sec.50(1) of the KRC Act against the order dated 5-3-1999 passed in HRC No.423/97 on the file of the Chief Judge, Court of Small Causes, Bangalore allowing the petition filed under Sec.21(1)(f) of the Karnataka Rent Control Act and dismissing the petition under Sec.21(1)(h) and (b) of the Rent Control Act.

In HRRP No 1167 OF 1999

BETWEEN

1 CHAND BEGUM
SINCE DECEASED BY HER LEGAL REP

2 KHALEEM
MAJOR
S/O CHAND BEGUM,
W/O MOHD.HABEEBULLAH
R/A NO.22, COOKES ROAD
ARUNACHALAM MUDALIAR ROAD
BANGALORE - 560 001

- 3 BABU
MAJOR
S/O CHAND BEGUM,
W/O MOHD.HABEEBULLAH
R/A NO.22, COOKES ROAD
ARUNACHALAM MUDALIAR ROAD
BANGALORE
560 001
- 4 NAYEEM
MAJOR
S/O CHAND BEGUM,
W/O MOHD.HABEEBULLAH
R/A NO.22, COOKES ROAD
ARUNACHALAM MUDALIAR ROAD
BANGALORE
560 001
- 5 AGHAS
MAJOR
S/O CHAND BEGUM,
W/O MOHD.HABEEBULLAH
R/A NO.22, COOKES ROAD
ARUNACHALAM MUDALIAR ROAD
BANGALORE - 560 001

... PETITIONERS

(By Sri : BALARAJ A C)

AND :

- 1 SMT MEHERUNNISA
W/O ABDUL GAFFAR KHAN
MAJOR
R/A NO.120, ARMSTRONG ROAD
BANGALORE
- 2 SRI ABDUL GAFFAR KHAN
S/O LATE ABDUL KAREEM KHAN

MAJOR
R/A NO.120, ARMSTRONG ROAD
BANGALORE

... RESPONDENTS

(By Sri : K NARAYANA)

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HRRP 1167/99 is filed under Sec.50(1) of the Karnataka Rent Control Act, 1961 against the order dated 12-10-1999 in HRC No.10406/96 on the file of the Addl.Small Causes Judge,Bangalore allowing I.A.No.6 filed under Sec.151 Code of Civil Procedure r/w.3(r) r/w. Rule 35 of the KRC Act.

In HRRP No 598 OF 1999

BETWEEN

- 1 ARUN BHAURAO KAKATKAR
BY LRS MANGALADEVI
R/O ARUN BUNGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 2 MANGALADEVI ARUN KAKATKAR
R/O ARUN BUNGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 3 ARATI ARUN KAKATKAR
R/O ARUN BUNGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 4 PUJA ARUN KAKATKAR
R/O ARUN BUNGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 5 BHUSHAN ARUN KAKATKAR

R/O ARUN BUNGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM

6 VISHAL ARUN KAKATKAR
R/O ARUN BUNGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM

7 PARVATIBAI
R/O ARUN BUNGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM

8 ARJUN BHAURAO KAKATKAR
R/O ARUN BUNGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM

9 RAMESH BHAURAO KAKATKAR
R/O ARUN BUNGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM

... PETITIONERS

(By Sri : RAVI G SABHAHIT)

AND :

1 ASHOK RUDRAPPA CHAVAN
CHAVAN COMPOUND,
POONA B'LORE RD
BELGAUM

... RESPONDENT

(By Sri : CHANDRAKANTH R GOULAY FOR C/R)

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HRRP 598/99 is filed under Sec.115 of C.P.C against the order dated 31-3-1999 passed in H.R.C. No.9/98 on the file of the I

Addl. Judge, Belgaum dismissing the revision petition and confirming the order passed in H.R.C.291/79 dt. 9-12-1997 allowing the petition under Sec.21(1)(h) of the KRC Act.

In HRRP No 599 OF 1999

BETWEEN

- 1 ARUN BHAURAO KAKATKAR
BY LRS MANGALADEVI
R/O ARUN BANGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 2 MANGALADEVI ARUN KAKATKAR
R/O ARUN BANGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 3 ARATI ARUN KAKATKAR
R/O ARUN BANGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 4 PUJA ARUN KAKATKAR
R/O ARUN BANGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 5 BHUSHAN ARUN KAKATKAR
R/O ARUN BANGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 6 VISHAL ARUN KAKATKAR
R/O ARUN BANGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM

- 7 PARVATIBAI
R/O ARUN BANGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 8 ARJUN BHAURAO KAKATKAR
R/O ARUN BANGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM
- 9 RAMESH BHAURAO KAKATKAR
R/O ARUN BANGALOW
NEAR II RAILWAY GATE
TILAKWADI, BELGAUM ... PETITIONERS

(By Sri: RAVI G SABHAHT)

AND :

- 1 ASHOK RUDRAPPA CHANAVAN
CHAVAN COMPOUND
POONA BANGALORE RD,
BELGAUM ... RESPONDENT

(By Sri/Smt : CHANDRAKANT R GOULAY)

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HRRP 599/99 is filed under Sec.115 C.P.C against the order dated 31-3-1999 passed in HRC 15/98 on the file of the I Addl. District Judge, Belgaum allowing the petition and setting aside the order passed in HRC No.291/79 dated 9-12-1997 by the I Addl. Civil Judge (Jr.Dvn) Belgaum, partly allowing the petition filed under Sec.21(1)(h) of the Act.

In HRRP No 406 OF 1999

BETWEEN

RAJANNA D
S/o. late B.Doddaiah,
Residing at No.49,
G Street, Jogupalya,
Ulsoor,
Bangalore.

...PETITIONER.

(By Sri : S V SHASTRI)

AND :

DEVARAJ MUDALIAR P E,
BY LRS:

- a) Smt.Savitri Mudaliar,
- b) Rajalakshmi.
- c) D.Sundarraaj @ Venkatesh.

All are residing at No.8/2,
New No.168, 1st floor,
Bazaar Street, Ulsoor,
Bangalore-560 008.

... RESPONDENTS

(By Sri : K SURYANARAYANA RAO FOR R1(A&B)

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HRRP filed under Sec.50(1) of the KRC against the order dated 10-12-1998 passed in HRC No.2066/95 on the file of the Addl. Small Causes Judge, Bangalore city dismissing the petition filed under Sec.21(1)(h) of the KRC Act.

In HRRP No 1020 OF 1999**BETWEEN**

- 1 SMT SUKIN
W/O ALLABAX RAJANNAVAR
AGE:40 YRS
OCC:HOUSEHOLD WORK
R/O ATTIKOLLA
DHARWAD
SINCE DECEASED BY HER L.RS
 - 2 ALLABAX IMAMSAB RAJANNAVAR
AGE:50 YRS, OCC:PRIVATE SERVICE
R/O ATTIKOLLA
DHARWAD
 - 3 RAJIYABEGUM W/O DADAKALANDAR NAVLUR
AGE:25 YRS, OCC:HOUSE HOLD WORK
R/O ATTIKOLLA
DHARWAD
 - 4 FAYAZ AHAMMAD S/O ALLABAX RAJANNAVAR
AGE:21 YRS, OCC:COOLIE
R/O ATTIKOLLA
DHARWAD
- ... PETITIONERS

(By Sri : J S SHETTY)

AND :

- 1 SMT RABIYABI
W/O HAJARATSAB SUBEDAR, AGE:MAJOR
OCC:HOUSEHOLD, R/O KESHWARPUR
HUBLI, SINCE DECEASE BY HER L.RS
- 2 NASHIR
S/O HAJARATASAB SUBEDAR
AGE:MAJOR, OCC:BUSINESS

R/O KESHWARPUR
HUBLI

- 3 HUBBUMMA
S/O HAJARATASAB SUBEDAR
AGE:MAJOR, OCC:HOUSEHOLD WORK
R/O KESHWARPUR
HUBLI
- 4 SHAMMU
S/O HAJARATASAB SUBEDAR
AGE:MAJOR, OCC:HOUSEHOLD WORK
R/O KESHWARPUR
HUBLI ... RESPONDENTS

(By Sri : MALLIKARJUN S MYLAR FOR)

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HRRP filed under Sec.115 C.P.C against the order dated 22-7-1999 passed in Rent Revision No.74/92 on the file of the II Addl. District Judge, Dharwad, dismissing the revision petition and confirming the order dated 23-3-1992 passed in HRC 76/85 on the file of the I Addl. Munsiff, Dharwad, allowing the petition filed under Sec.21(1)(p) of the KRC Act.

In HRRP No 1007 OF 1999

BETWEEN

- 1 S N MURTHY
S/O B SUBBA RAO
62 YRS, R/O 47, OLD NO 7
MODEL HOUSE, STREET NO 1
BASAVANAGUDI
BANGALORE ... PETITIONER

(By Sri : C V NAGESH)

AND :

1 V A MADAN GOPAL
 SINCE DEAD REP BY B KASTURI MADAN
 W/O LATE V A MADAN GOPAL
 50 YRS, PREMISES NO 47, OLDNO7
 MODEL HOUSE STREET NO 1
 BASAVANAGUDI
 BANGALORE ... RESPONDENT

(By Sri : H K RAMACHANDRA)

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HRRP 1007/99 is filed under Sec.50 of the KRC Act against the order dated 17-7-1999 passed in HRC No.530/94 on the file of the XIX Addl. Small Causes Judge, Bangalore, dismissing the petition filed under Sec.21(1)(a) and (h) of the KRC Act.

In HRRP No 573 OF 1999

BETWEEN

LAXMICHAND
 Since deceased
 BY LR :

PRAVEEN
 NAMAJOHI ROAD
 GADAG ... PETITIONERS

(By Sri : PRAVEENKUMAR RAIKOTE)

AND :

1 FAKIRSA RAJANSA MEHARWADE,
 MAJOR, GOVT. SERVICE.

- 2 NENKOSA @ VENKATESH,
MAJOR, BUSINESS.
- 3 DHARAMASA RAJANASA MEHARWADE
MAJOR, OCC: BUSINESS.
- 4 TOPPANASA RAJANASA MEHARWADE
MAJOR, OCC: BUSINESS.
- 5 MAHADEVA RAJANASA MEHARWADE
MAJOR, OCC: BUSINESS.
- 6 GURUMATHASA RAJANASA MEHARWADE
MAJOR, OCC: BUSINESS.
- 7 BHARAT
MAJOR, S/O. LAXMICHAND MUNDADA,
SARVODYA COLONY
GADAG
- 8 DINESH
S/O. LAXMICHAND MUNDADA,
MAJOR, OCC: BUSINESS,
R/O. NALVAD GALLI
GADAG
- 9 MAHENDRA @ MAHENDRASA,
S./O. LAXMICHAND MUNDADA,
PUJA SWEETS RAWAPUR
NAKATANA TAL
BHUI DISTRICT, GUJARAT
10. DAMAYANTHI
W/O. DEERAJLAL,
PLOT NO.8, ROAD NO.18,
SECTOR-1, NEW PANAVALLE
RAYAGAD DISTRICT, MAHARASHTRA
11. SMT. USHA,

W/O.PRAFULLABAI BHUTADA,
 MAJOR, OCCU: HOUSEHOLD,
 RESIDENT OF SAMBALAPUR,
 ORISSA STATE.

... RESPONDENTS

(By Sri: TARAKARAM ASSOCIATES FOR)

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HRRP filed under Sec.115 C.P.C against the order dated 4-3-1999 passed in RR No.28/92 on the file of the III Addl. District Judge, Dharwad, dismissing the revision petition and confirming the order passed in HRC 69/86 on the file of the Prl. Munsiff, Gadag. Dated 10-1-1992, by partly allowing the petition filed under Sec.21(1) (a) and (h) of the KRC Act.

These H.R.R.P.s having been heard and reserved for Orders, SRINIVASA REDDY J., this day, pronounced the following:

ORDER.

All these petitions give rise to a common question^{of law} for my consideration. The question is, whether by operation of Sec.5 of The Karnataka Rent Act, 1999 ('the present Act' for short) the landlords of the premises involved in these petitions are entitled to recover possession of the premises without the need to take recourse to Sec.27 of the Act.

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2. Let me first refer to the background which has given rise to this question. The Karnataka Rent Control Act, 1961 ('the repealed Act' for short) provided for inheritability of tenancy by the legal representatives of the original tenant. The inheritance was automatic and there was no end for this inheritance, in that, after the wife or husband of the original tenant, the sons and daughters and after them the grandson and grand-daughters could stake claim because the repealed Act recognised them all as statutory tenants by including in the definition of the term, 'tenant' the surviving spouse or any son or daughter or father or mother of a deceased tenant who had been living with the tenant in the premises as a member of the tenant's family upto the death of the tenant and a person continuing in possession after the termination of the tenancy in his favour. As the definition included in its sweep every conceivable member of the family, there was no end to the right of inheritance of the tenancy and if the landlord required the premises for his own use and occupation the only course open to him was to move the court for eviction under any of the available

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grounds under Sec.21 of the repealed Act. The Legislature having felt the need to provide for substantive and procedural provisions for eviction on grounds other than those contained in Sec.21 of the repealed Act, brought about an all new legislation viz. The Karnataka Rent Act, 1999 by enacting Act No.34 of 2001 which came into force with effect from 31st December, 2001. The present Act aims at streamlining and re-structuring the judicative apparatus in order to impart operational speed and modernise the whole approach in order to bridge the chasm that exists between the right of the landlord to the remedy of recovering possession of the leased premises as and when the need arises and the actual fructification of that remedy. It also classifies certain persons (landlords) into some special groups and treats them differentially by providing to them the benefit of recovering immediate possession. Section 5 of the present Act is one such comprehensive provision enacted with the specific purpose of limiting the inheritability of tenancy to certain specific period, the period of entitlement to the inheritency being different to different

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successors of the tenant depending on certain facts and circumstances which are enumerated in the provision itself. To better understand the specifics, I quote Sec.5 in full. It reads:

5. Inheritability of tenancy.- (1) In the event of death of a tenant, the right of tenancy shall devolve for a period of five years from the date of his death to his successors in the following order, namely:-

- (a) Spouse;
- (b) Son or daughter or where there are both son and daughter both of them;
- (c) Parents;
- (d) Daughter-in-law, being the widow of his pre-deceased son:

Provided that the successor has ordinarily been living or carrying on business in the premises with the deceased tenant as a member of his family up to the date of his death and was dependent on the deceased tenant:

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Provided further that a right to tenancy shall not devolve upon a successor in case such successor or his spouse or any of his dependent son or daughter is owning or occupying a premises in the local area in relation to the premises let.

(2) If a person, being a successor mentioned in sub-section (1), was ordinarily living in or carrying on business in the premises with the deceased tenant but was not dependent on him on the date of his death, or he or his spouse or any of his dependent son or daughter is owning or occupying a premises in the local area in relation to the premises let to which this Act applies, such successor shall acquire a right to continue in possession as a tenant for a limited period of one year from the date of death of the tenant; and, on the expiry of that period, or on his death, whichever is earlier, the right of such successor to continue in possession of the premises shall become extinguished.

Explanation.- For the removal of doubts, it is hereby declared that,-

(a) where, by reason of sub-section (2), the right of any successor to continue in possession of the premises

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becomes extinguished, such extinguishment shall not affect the right of any other successor of the same category to continue in possession of the premises but if there is no other successor of the same category, the right to continue in possession of the premises shall not, on such extinguishment, pass on to any other successor specified in any lower category or categories, as the case may be;

- (b) the right of every successor, referred to in sub-section (1) to continue in possession of the premises shall be personal to him and shall not, on the death of such successor, devolve on any of his heirs."

3. In all these petitions the premises are in occupation of the successors of the tenants on the termination of the tenancy following the death of the tenant. The question for consideration in all these petitions is whether on the death of the tenants the successors to the tenancy could, even after the expiry of five years from the date of death of the tenant, stake claim for regulation of their eviction under Sec.27 which is the corresponding provision to Sec.21 of the repealed Act or have they to suffer automatic eviction from the premises as they have ceased to be tenants under the present Act. The central

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issue therefore to be considered is whether the successors to the tenancy stand stripped of their right to seek protection under Sec.27 which regulates eviction of a tenant under the Act, after the expiry of various periods stipulated in Sec.5 in respect of various classes of persons and subject to the conditions contained thereunder.

4. But, before I proceed to decide the issue involved, I have to refer to Sec.70 of the present Act which determines as to how the pending proceedings have to be dealt with under the present Act. The provision reads:

Sec.70. Repeal and Savings.-(1) The Karnataka Rent Control Act, 1961 (Karnataka Act 22 of 1961) is hereby repealed.

(2) Notwithstanding such repeal and subject to the provisions of Section 69,-

(a) all proceedings in execution of any decree or order passed under the repealed Act, and pending at the commencement of this Act, in any Court shall be

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continued and disposed off by such Court as if the said enactment had not been repealed.

(b) all cases and proceedings other than those referred to in clause (a) pending at the commencement of this Act before the Controller, Deputy Commissioner, Divisional Commissioner, Court, District Judge or the High Court or other authority, as the case may be in respect of the premises to which this Act applies shall be continued and disposed off by such Controller, Deputy Commissioner, Divisional Commissioner, Court, District Judge or the High Court or other authority in accordance with the provisions of this Act;

(c) all other cases and proceedings pending in respect of premises to which this Act does not apply shall as from the date of commencement of the Act stand abated.

(3) Except as otherwise provided in Section 69 and in subsection (2) of this section, provisions of Section 6 of the Karnataka General Clauses Act, 1899 (Karnataka Act III of 1899), shall so far as may be applicable in respect of repeal of the said enactment, and Sections 8 and 24 of the said Act shall be applicable as if the said enactment had been repealed and re-enacted by this Act.”

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5. The present Act though prospective in nature enjoins on the court under Sec.70 (2)(b) that all cases and proceedings pending at the commencement of this Act before the Court, shall be continued and disposed off by the court in accordance with the provisions of the Act. The Karnataka Rent Control Act, 1961 is repealed in toto under sub.sec.(1) and under Sec.70(2) (b) of the Act a mandate is given to the court to decide all cases pending consideration at the commencement of the Act in accordance with the provisions of the Act. Thus, though the present Act is prospective in nature the provisions are made retroactive in application in respect of all pending cases and proceedings. As these are cases and proceedings pending at the commencement of the Act, the provisions of the present Act would have to be applied in order to decide the issue involved in them. Some of the learned counsel appearing for the tenants disputed this position in law and cited before me the decision in R.RAJAGOPAL REDDY vs. PADMINI CHANDRASEKHARAN,



(1995) 2 S.C.C. 630. In the said case the question arose for consideration as to whether Section 4(1) of the Benami Transactions (Prohibition) Act, 1988 can be applied to suit, claim or action to enforce any right in property held benami against person in whose name such property is held or any other person, if such proceeding is initiated by or on behalf of a person claiming to be real owner thereof, prior to the coming into force of Section 4(1) of the Act. The Amendment Act prohibited the right to recover property held benami and barred any suit, claim or action to enforce any right in respect of any property held benami against the person in whose name the property is held or against any other person shall lie by or on behalf of a person claiming to be the real owner of such property. In holding that the Amendment Act is only prospective and would not bind the suits, actions or appeals already filed and pending, the Apex Court, held:

“ The Act by Section 7 has effected a repeal of Section 82 of the Indian Trusts Act and while repealing this provision no

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different intention appears from the Act to affect any right, privilege or liability acquired under Section 82 by either side or any pending proceedings regarding such obligation or liability. Therefore, such pending proceedings will have to be continued or enforced as if the repealing Act had not been passed.”

(underlining is mine)

6. The Apex Court arrived at the said conclusion on consideration of the fact that firstly, the provision was not made expressly retrospective by the legislature and secondly, it did not seek to affect the vested rights and corresponding obligations of parties and, therefore, it could not be held to have retrospective effect by necessary implication. But, herein, we are dealing with a provision which, though prospective in nature but by being made applicable to all pending matters, manifests its intention to affect the vested rights and corresponding obligations of parties whose petitions and appeals are pending before court at various stages of the judicial process. This expression of the legislature's intent to affect the vested rights and corresponding obligations of the parties by bringing into focus the provisions of the present Act in determining the issues involved, is amply clear from the certain-sure language employed in Sec.79(2)(b) of the present Act. Therefore, the ratio of the decision in R.Rajagopal

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Reddy, supra, would have no applicability to the facts of the present case.

7. In DILIP vs. MOHD.AZIZUL HAQ AND ANOTHER, 2000 3 S.C.C 607, the Apex Court laid down the dictum that the presumption against retrospective legislation does not necessarily apply to an enactment merely because a part of the requisities for its action is drawn from time antecedent to its passing. The Apex Court mentioned the distinguishing factor that the court should look for while determining the applicability of the provision to the past and future cause of action, even in statutes which have been given retrospective effect. Providing of a new remedy for enforcement of an existing right is the factor which should tilt the scale in favour of retrospective applicability is what has been observed by the Apex Court in the following passage:

“ The provision came into force when the appeal was pending.
Therefore, though the provision is prospective in force, it has



'retroactive effect'. This provision merely provides for a limitation to be imposed for the future which in no way affects anything done by a party in the past and statutes providing for new remedies for enforcement of an existing right will apply to future as well as past causes of action. The reason being that the said statutes do not affect existing rights and in the present case, the insistence is upon obtaining of permission of the controller to enforce a decree of eviction and it is, therefore, not retrospective in effect at all, since it has only retroactive force."

8. The present statute provides new remedies for enforcement of an existing right and therefore will apply to future as well as past causes of action and applying these provisions to past causes of action would not by itself render the statute retrospective in nature. In further elucidating the operation of the said principle the Apex Court, observed:

" Thus in theory the appeal being only a continuation of the hearing of the suit, the word 'suit' in the Rent Control order

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has to be understood to include an appeal. The result is that if at the time of the institution of the suit for eviction clause 13-A was not in force, but at the time of appeal such a clause was introduced, the tenant in appeal became entitled to its protection. In this case, although a decree for eviction had not been passed in the suit, that decree was under challenge in a proceeding arising out of that suit in appeal and was pending in a court. Thus it cannot be inferred that no proceedings were filed or pending against the tenant on the date of the amendment."

9. Therefore, the aspect whether the statute (the present Act) providing for new rights was in force at the time the eviction suit came to be decided becomes irrelevant for applying these provisions to a past cause of action. So long as the matter is pending in appeal or revision which are steps in a series of proceedings, all intrinsically connected with each other in the sole pursuit of legal remedy, a law that is made applicable to all pending proceedings would have retrospective applicability though the statute is given only prospective effect. This issue is settled by the decision of the Division Bench of



this court reported in ILR 2002 KAR 2304 (M/s.Mercury Press vs. Ameen Shacoor) wherein the Division Bench laid down the manner in which pending cases and proceedings under the Old Act, in regard to a premises to which the New Act applies, have to be dealt with after the coming into force of the present Act. The relevant observations of the Division Bench in this regard read:

“B) PENDING CASES AND PROCEEDINGS UNDER THE OLD ACT, IN REGARD TO A PREMISES TO WHICH THE NEW ACT APPLIES:

If any case or proceedings (other than execution proceedings) initiated under the Old Act is pending in regard to a premises to which the new Act applies, such case or proceeding either original or appellate or revisional, shall have to be continued and disposed of in accordance with the provisions of the New Act, though they were initiated under the Old Act.”

The argument advanced on behalf of the respondents-successors that the provisions of the present Act cannot be applied as the rights of the parties to the litigation stand crystallized on the date of the

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commencement of the lis and have to be determined by reference to the law applicable on that day has, therefore, to be discarded.

10. Now let me examine the issue arising for consideration with reference to the provisions of the present Act on the clear understanding that they have retrospective applicability. The expression, 'tenant' is defined under Sec.3 (n) of the Act to mean:

"any person by whom or on whose account or behalf the rent of any premises, is or but for a special contract would be payable, and includes,-

(i) sub-tenant;

(ii) any person continuing in possession after the termination of his tenancy, but does not include any person to whom a licence as defined in Section 52 of the Indian Easements Act, 1882 (Central Act 5 of 1882) has been granted;"

In these cases we are concerned only with the first part of the definition, i.e., 'any person by whom or on whose account or behalf the rent of any premises, is or but for a special contract would be,

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payable..' because the persons in occupation of the premises in these cases can, if at all, be governed by the first part of the definition and not the latter part. The definition as aforesaid is a truncated version of the definition of the said term as found in the repealed Act as it takes out from its ambit, 'the surviving spouse or any son or daughter or father or mother of a deceased tenant who had been living with the tenant in the premises as a member of the tenant's family upto the death of the tenant'. The privity of contract of lease is between the landlord and the tenant and the rent is payable by the tenant with whom the landlord has entered into a contract of tenancy. When the tenant who entered into a contract of lease with the landlord dies leaving behind him his family members who may continue in occupation of the leased premises, any rents paid by them would be a payment made on behalf of the deceased tenant and not on their own behalf because, strictly speaking, there is no privity of contract between them and the landlord. These persons cannot be construed as the persons by whom or on whose behalf or on whose account the rent

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of the premises is payable. If such a construction has to be given to the definition of the expression 'tenant' then it could be claimed by each and every one of the family members in occupation of the premises after the demise of the tenant that each one of them and all of them put together are tenants in their own right and that the rent that was paid subsequent to the death of the tenant was paid by them all in their capacity as tenants or by any one of them on behalf of all of them and that Sec.5 would become operative only after the death of all the persons presently in occupation. Such an interpretation of the term would render Sec.5 of the Act futile and meaningless. The truncated version of the expression 'tenant' as found in Sec.3(n) of the present Act gains further emphasis when we come to Sec.5 which deals with inheritance of the tenancy. These persons inherit tenancy under Sec.5 for a limited period under the present Act. By shifting them from the status of full-fledged tenants that they hitherto enjoyed under the repealed Act to the status of successors or inheritors of tenancy, the present Act limits their right to continue in occupation.

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After the expiry of the period of inheritance they cannot be treated on par with the tenants who have recourse to Sec.27 of the Act in defending a claim of the landlord for self-occupation and their right to continue in possession has to be construed purely with reference to Sec.5 of the present Act. The learned counsel who appeared for the ^{L.Rs of deceased} tenants dispute this position on the ground that the validity of an order ^{law} passed by a statutory functionary based on certain grounds with reference to the law as it prevailed at the time of making the order, has to be judged by the court sitting in revision only with reference to the law as it prevailed then.

11. The question therefore arises whether the statutory right of tenancy that accrued to the L.Rs. of the deceased tenant under the superseded enactment can be taken away as the repeal of a law is operative for future and it ought not to affect action already taken and the legal consequences of such action. The revision in this court is a pending proceeding. The only difference between a suit and a

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revision is that a revision reviews and corrects the proceedings in a cause already constituted but does not create a new cause. The revision proceeding is a part of the cause because the order that emerges from the revision will become the final order determining the rights of the parties and the order impugned in revision would get merged in the order passed in revision thereby either altering or affirming the legal consequences of the orders impugned in revision. IN DILIP v. MOHD. AZIZUL HAQ, supra, while the matter was pending in appeal against an order passed by the court of first instance, by way of amendment, lands not being used for agricultural purposes also stood included in the definition of the term, 'premises'. The suit was filed under the common law on the understanding by the plaintiff that the property involved being an open plot the Berar Letting of Houses and Rent Control Order, 1949 was not applicable to the said premises. Dealing with the contrasting contentions raised, the Apex Court laid down the dictum as follows:

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“ It has been a principle of legislation in India at least from 1861 onwards that a court of appeal shall have the same powers and shall perform as nearly as may be the same duties as conferred and imposed on courts of original jurisdiction. Such a view was taken even before the Civil Procedure Code was introduced in *Kristnama Chariar v. Mangammal* (ILR (1903-05)26 Mad 91) that the hearing of an appeal is under processual law of the country being in the nature of a rehearing that the courts in this country have, in numerous cases, recognised that in moulding the relief to be granted in a case on appeal, the court of appeal is entitled to take into account even facts and events which have come into existence after the decree appealed against. As an appeal is a rehearing, it must follow that if an appellate court dismisses an appeal it would be passing a decree affirming eviction and thereby passes a decree of its own, and in the event it upsets the decree of the trial court, it would be again passing a decree of its own resulting in merger of decree of the trial court with that of the appellate court. In *Garikapati Veeraya v. N.Subbiah Choudhry* A.I.R. 1957 S.C.540 this ^{Apex} court enunciated that the legal pursuit of a remedy, suit, appeal and second appeal are really but steps in a series of proceedings, all connected by an



intrinsic unity and one to be regarded as one legal proceeding." (Para 5)

In SMT.DAYAWATI AND ANOTHER v. INDERJIT AND OTHERS, S.C.R 1966 (3) 275 the Apex Court was dealing with the question whether the new law would have a bearing on the rights of the litigants in an appeal. The Apex Court after dealing with the said question, observed:

" Ordinarily a court of appeal cannot take into account a new law, brought into existence after the judgment appealed from has been rendered, because the rights of the litigants in an appeal are determined under the law in force at the date of the suit. Matters of procedure are however different and the law affecting procedure is always retrospective. But it does not mean that there is an absolute rule of inviolability of substantive rights. If the new law speaks in language, which expressly or by clear intendment, takes in even pending

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matters, the court of trial as well as the court of appeal may give effect to such a law even after the judgment of the court of first instance. The distinction between laws affecting procedure and those affecting vested rights does not matter when the court is invited by law to take away from a successful plaintiff, what he has obtained under a judgment."

(underlining is mine)

12. To similar effect is the decision in GENERAL AUTO AGENCIES v. HAZARI SINGH, AIR 1977 RAJASTHAN 180. In the said decision the court was addressing the issue whether retrospective operation of a provision could be inferred from the implicit nature of the language employed in the provision. It held:

"No doubt, it is true that where vested rights are affected by any statutory provisions, the said provision should normally be construed to be prospective in operation and not retrospective,

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unless the provision in question relates merely to a procedural matter. The legislature is competent to take away vested rights by means of retrospective legislation. But it is equally clear that retrospective operation of statutory provision can be inferred even in cases where such retrospective operation appears to be clearly implicit in the provision constituted in the context where it occurs."

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When Section 70(2)(b) mandates that all pending proceedings, which would include the revision also, shall be continued and disposed off in accordance with the provisions of the Act, the retrospective operation of Sec.3(n) and Sec.5 of the Act has to be inferred and a party affected cannot escape from this conclusion by merely harping on the fact that the Act has been given only prospective effect. Sec.70(2) (b) of the Act stipulates that all cases and proceedings other than those referred to in clause (a) shall be continued and disposed off in accordance with the provisions of 'this Act'. It may be an axiomatic rule

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that the validity of an order passed by a statutory functionary based on certain grounds with reference to the law as it then prevailed has to be judged by the court sitting in revision only with reference to the law as it prevailed at that time. But this rule will hold good only so long as the intent of the legislature as it finds expression in the statute does not indicate otherwise. If there is a clear indication in the statutory provisions governing the case that this rule has to be given a go-by and the matter determined in accordance with a new set of provisions enacted with a specific intent and object, then there would be no gain-say in arguing that since the orders impugned are in accordance with the law that governed the case at the time when its was decided, that the court should refrain from interfering with it even if it is not in accordance with the present law. Such an argument, if accepted, would defeat the very object behind the enactment of Sec.5. By enacting Sec.70 in the present Act, the legislature has expressed its intent in no uncertain terms under clause (b) of sub.sec. 2 of Sec.70 that all pending matters shall be continued and disposed off in

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accordance with the provisions of the present Act. Therefore, even in exercise of the revisional powers it becomes the duty of this court to see whether the order impugned is in accordance with the present law and if it is not, this court has to interfere with it and determine the case in accordance with the present law. In S.N.KAPOOR v. BASANT LAL KHATRI, 2001 AIR SCW 4753 on the death of the petitioner-landlord during pendency of eviction proceedings his wife filed claim that the petition filed under Sec.14(1) (e) for eviction be converted as one under S.14-D of the Delhi Rent Control Act, 1958 as she having become a widow was entitled to recovery of possession and her claim considered accordingly. The High Court rejected the prayer on the ground that the High Court had no such powers to order for such conversion. The Apex Court finding fault with the approach of the High Court in refusing to consider the case as arising under Sec.14-D, observed:]

“ As a matter of fact subsequent development and altered circumstances are to be relevant in adjudging the nature and

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character of the claim made, at all stages of the proceedings.

That apart, in adjudging the claim under S.14-D what is required to be substantiated is that the landlady is a widow and that she wants the premises for her own residence and that claim by her is bona fide and not a feigned one.”

(underlining is mine)

13. Thus, where the essential pre-requisite to be substantiated to get relief under Sec.5 of the present Act is merely to show to the satisfaction of this court that the successors had outstayed the maximum period of inheritance permitted under Sec.5, this court cannot seek proof of any other ground provided for eviction of the tenant under Sec.27 of the Act for granting relief of possession of the petition premises as it would automatically follow under Sec.5 as the possession of the premises by the successors of the tenant becomes indefensible after the expiry of 5 years provided under Sec.5. Even if the landlord had suffered a negative finding in so far as his claim for self-occupation on the grounds hitherto available to him under the repealed Act and no exception could be taken to the order so passed

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by the court-below with reference to the provisions of the repealed Act declining the prayer for self-occupation, still, it would be open for the landlord to stake claim under Sec.5 and obtain possession of the premises in the occupation of the successors of the tenant after the expiry of the term permitted under Sec.5 because it is a new substantive remedy provided for the enforcement of an existing right. May be, the orders impugned in this revision cannot be faulted on the ground of lack of application of relevant principles governing the issue and on the ground of want of proper consideration. But, because the provisions of the present Act, especially Sec.5, were not in existence at the time the orders were passed and more still as there is no consideration of the material on record with reference to the altered law that governs the field now, this court sitting in revision can adjudicate the matter in terms of the altered law as subsequent developments and altered circumstances are relevant at all stages of the proceedings. Touching upon this aspect, the Apex Court, held:

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“ The common determining factor being the ‘bona fides’ in both the cases and the landlady seeks an adjudication on the basis of materials already on record there should be no impediment for the Authorities/courts functioning even under the Act to permit such conversion or alteration and consider the claims made under the altered provisions of law.”

(underlining is mine)

14. The submission to the contrary by learned counsel appearing on behalf of the tenants, therefore, cannot be accepted and these revisions have to be disposed off only with reference to Sec.5 of the Act.

15. But, for obvious reasons, some of the learned counsel appearing for the landlords wanted the court to determine their respective claims for self-occupation of the premises also with reference to the several grounds available under Sec.27 of the present Act. Their submission is that in case ^{is} an appeal preferred by the aggrieved party to the Apex Court from this order, ^{and} the interpretation ^{is} of Sec.5 by this court were to be struck down as incorrect, that they

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could harp back upon their right to claim possession vis-à-vis the grounds available under Sec.27 of the present Act which right, according to them, has been, in many of these cases, favourably considered by the courts below. But, in my opinion, this is impermissible under the scheme of the present Act. The present Act does not recognise the right of the successors to continue in possession after the expiry of the period of inheritance to which they are entitled to under Sec.5. The simple and unambiguous language in which Sec.5 is coined while derecognising the occupants of the tenanted premises after the stipulated period as tenants, simultaneously provides the landlord the right to recover possession of the premises without the need to prove the requirement of the premises by him and without imposing on him the necessity to resort to the long legal process with its slow motion mood. This underlines the intention of the legislature to break loose the landlord from the shackles of unlimited inheritance of the tenancy by persons in occupation of the premises after the death of the tenant. If we break

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down Sec.5 to its basic components it becomes obvious that it creates a new right to recover possession of the premises in occupation of the successors of the deceased tenant while at the same time taking away the right of the successors to the tenancy to continue in occupation. This right of the landlord to the benefit of immediate possession of the premises is indisputable, indefensible and free from the obligations cast on the landlord under Sec.27 of the Act. This new right cannot be denied to the landlord and nor could the legal representatives escape the legal consequences flowing from the operation of Sec.5 because that would amount to rendering the legislation futile and it is a well-settled law that legislative futility should be ruled out so long as interpretative possibility permits. Guided by this object oriented approach of the legislature in enacting Sec.5, I reject the extreme positions urged before me by the learned counsel for the ^{L.R's of} tenant. The wisdom of legislature in framing Sec.5 has to be respected by the courts because though it is ultimately for the court to pronounce, the framers of the law who are more familiar with the work-a-day world

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are not too inexpert or incompetent to make decisions, however far-reaching they may be. The Apex Court and several High Courts have often sounded the need in various decisions for a legal instrumentality which delivers justice with finality and fulness in rental matters and the present Act is programmed for such a constructive change.

16. There is one another aspect to which I must address myself before I conclude on Sec.5. It has been urged by counsel appearing for the ^{L.R.'s of} tenants that once these persons are denied their status of tenants they could only be evicted under the common law and they could not be dealt with under the provisions of the Act for determining any lis between them and the landlord as their rights cannot be determined with reference to the provisions of the Act as they are no longer tenants and the relationship of landlord and tenant essential for deciding the lis between them is no longer in existence after the expiry of the various periods stipulated under Sec.5 . The answer to this submission lies in the Act itself. The scheme of the

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Act, no doubt, does not admit of bestowing the status of a tenant to the persons in occupation after the expiry of various periods stipulated in Sec.5. Once the occupants of a premises are excluded from the definition of term 'tenant' and denied the protection accruing to a tenant under the Act, their downward shift in their status to that of 'legal representatives' without the right to continue in possession of the tenanted premises is automatic and the treatment metted out to them under the provisions of the Act should be as ordained by Sec.51. The said provision provides for proceedings by or against any legal representatives. It reads:

" 51. Proceedings by or against legal representatives.-(1) Any application made, appeal preferred, or proceeding taken under this Act by or against any person, may, in the event of his death be continued by or against his legal representative.

(2) Where any application, appeal or other proceeding would have been made, preferred or taken under this Act by or against any person such application, appeal or other proceeding may, in the event of his death, be made, preferred or taken by or against his legal representative."

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Therefore, Sec.51 provides the perfect answer to the submission of the learned counsel appearing for tenants that the legal representatives of the deceased tenant cannot be proceeded against under the provisions of the Act for purposes of evicting them from the tenanted premises. Under the present scheme of the Act one is either a tenant or a legal representative and never both. This shift in status is an unavoidable consequence flowing from the act of law because there is no justification for the court to depart from the ordinary meaning of words unless the provision is so unconscionable or totally unreasonable. There is a presumption in law that the Act of law does injury to no one and the court, due regard being had to this presumption in law, cannot indulge in any innovation while interpreting provisions of the Act for the purpose of thwarting the real intendment of Sec.5 . Precisely for this very reason I also decline the submission of learned counsel for the landlords that even if they were to succeed under Sec.5 of the present Act that the court should



proceed to judge and determine the relative merits of their cases with reference to Sec.27 of the Act. I understand their anxiety but I am precluded from doing so because the scheme of the Act when examined closely does not permit of such an approach as it does not bestow on any person the dual status of 'tenant' as well as 'legal representative'. One is either a tenant with all the attendant rights of protection that is available to him under Sec.27 of the Act or a mere legal representative with the sole right to continue in possession as provided under Sec.5. Unless such dual status is provided to a person, the court does not get jurisdiction to examine the relative merits of the case coming before it under both the provisions viz., Sec.5 and Sec.27 of the present Act. It is not only the right to seek a remedy under a certain provision that should determine the course to be adopted by a court but also the availability of the jurisdiction or the lack of it. On both these counts I find that under the provisions of the present Act there is absolutely no scope for considering the case of the parties to the present litigation with reference to Sec.27, where the

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tenants have overstayed the period stipulated under Sec.5, after the demise of the tenant, not only because the successors in occupation of the tenanted premises are not entitled to such protection but also because this court is by the changed circumstances in law is compelled to limit the exercise of its jurisdiction only to adjudication of the case with reference to the provisions contained in Sec.5 of the Act. Such consideration would be necessary only in such of the cases where the period of inheritance still subsists. The vesting of a right of immediate recovery of the premises in favour of the landlords, the creation of a summary process and the package of connected provisions, all emphasize that the the present Act must be viewed as a whole and that the statute cannot be mocked at. But, before parting with these cases, I must place it on record that the right that accrues to the successors under Sec.5 is not an absolute right in that their right to continue in possession during the subsistence of the inheritance of tenancy is always subject to the right of the landlord to seek for their eviction if he requires the same or if a right accrues to him for such

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eviction from the acts of commission or omission of the successors in violation of their legal obligations of the contract of tenancy. After all the persons in occupation in their capacity as legal representatives cannot hope to have a better right than the original tenant himself. If the original tenant himself could be evicted under the grounds provided for in Sec.27 of the Act, the successors who merely step into the shoes of the original tenant cannot, during the subsistence of the inheritance of tenancy, claim to have derived a better right. Having thus resolved the knotty issue let me examine whether the persons presently in occupation of the premises are entitled to continue in possession or not by virtue of coming into operation of Sec.5 of the Act.

In H.R.R.P 706/1999 c/w. 697/99:

17. HRRP 706/99 is by the legal representatives of the deceased tenant Mr.Syed.P.Basheer who died on 20-5-1994. HRRP 697/99 is by the landlord. The premises in question was leased to the tenant

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Mr.Syed P.Basheer, the husband of the first petitioner in H.R.R.P 706/99. Even assuming that the petitioners are entitled to the inheritability of the tenancy for the maximum period of five years allowed under S.5, the said period having drawn to a close long ago, the legal representatives have no right to continue in possession of the petition premises any longer. Hence, the landlord is entitled to recover immediate possession. HRRP 706/99 filed by the legal representatives is, therefore, dismissed. HRRP 697/99 is allowed under Sec.5 of the present Act. However, considering the fact that the petitioners would require some time to find alternative accomodation, I grant three months time to the petitioners to quit and deliver vacant possession of the petition premises.

In H.R.R.P 1167/99:

The petitioners herein are the legal representatives of the deceased tenant Chand Begum who died on 3-10-1998. Even assuming that the legal representatives are entitled to the maximum of five years stipulated under Sec.5 their possession can be protected

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only till 3-10-2003. In the court-below the relationship of landlord and tenant had been questioned by the deceased tenant. The court-below has rightly rejected the same in the light of the lease agreement entered into between the landlord and the deceased tenant. The court-below has also referred to the rent receipts produced as Exs.R2 to R5. The petition was filed under Sec.21(1)(h) and (f) of the repealed Act. Though the petition premises is a commercial premises it is not urged by the tenants that it exceeds fourteen square metres. As the period of 5 years has not lapsed yet, the successors are entitled to continue in possession till 3-10-2003. In the facts and circumstances of the case, the interest of justice would be met if the revision is dismissed giving the legal representatives time till 3-10-2003 to quit and deliver vacant possession of the premises.

In H.R.R.P 598 and 599/99:

Both these revision petitions are filed by the legal representatives of the deceased tenant Arun Baburao who died on 9-8-

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1981. The maximum period permissible under Sec.5 of the Act having expired long ago, the landlord is entitled to recover possession of the petition premises forthwith. The revision petitions are, accordingly, dismissed giving the petitioners three months' time to quit and deliver vacant possession of the premises to the respondent.

In H.R.R.P 406 OF 1999:

This revision is by the landlord. The tenant in this case had died sometime before 2-3-1996, the exact date of death not forthcoming from the records. The maximum period of inheritance allowed under Sec.5 has therefore already elapsed and the legal representatives do not have any right to continue in possession of the tenanted premises. The landlord is entitled to recover immediate possession under Sec.5. The revision petition is accordingly allowed. However, considering that the legal representatives would require some time to find alternative accommodation, they are granted three months' time to quit and deliver vacant possession of the premises to the landlord.

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In H.R.R.P 1020/99:

— This revision is preferred by the Legal Representatives of the tenant who died on 12-4-1995. The right of inheritance enured to the benefit of the petitioners herein till 12-4-2000. Thus the petitioners have no manner of right to continue in possession any longer. The revision is dismissed directing the petitioners to quit and deliver vacant possession of the premises to the respondent-landlord within three months from today.

In H.R.R.P 1007 of 1999:

The tenant in this case had died on 29-10-1998. The revision is by the landlord being aggrieved by the order of the court-below dismissing the eviction petition filed under Sec.21(1)(a) and (h) of the repealed Act. The right of inheritance is available to the legal representatives only till 29-10-2003. As the right would enure to the landlord to recover immediate possession on 29-10-2003, it would be in interest of justice to direct the legal representatives to quit and

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deliver vacant possession of the premises to the landlord on or before 29-10-2003. Ordered accordingly.

IN HRRP No.573/99:

This revision petition is filed by the legal representatives of the deceased tenant. The premises in question is a commercial premises having a plinth area of not exceeding fourteen square metres and, therefore, the provisions of the Act are applicable to the premises involved in the present petition. The tenant-Laxmichand Mundada had expired on 2-11-1997. The maximum period of 5 years has since elapsed. In the light of the provisions of Sec.5, the legal representatives of the deceased ^{tenant} do not, as of the present, have any ^{her} right to continue in possession. The landlord is, therefore, entitled to the immediate recovery of possession of the premises. However, considering the fact that the legal representatives would require some time to make alternative arrangements, grant of three months' time to the legal representatives would meet the ends of justice. The revision is, accordingly, dismissed and the petitioner is granted three months'

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time to quit and deliver vacant possession of the premises to the respondents.

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Judge