THAKUR MANMOHAN DEO AND ANOTHER

v.

THE STATE OF BIHAR AND OTHERS.

(AND CONNECTED APPEAL)

1960

September 19.

(S. K. DAS, J. L. KAPUR, K. SUBBA RAO, M. HIDAYATULLAH and N. RAJAGOPALA AYYANGAR, JJ.)

Ghatwali Tenure—Government ghatwalis—Applicability of Bihar Land Reforms Act—Legislative competence—Pith and substance of legislation—Bengal Regulation, 1814 (Regulation 29 of 1814)—Bihar Land Reforms Act, 1950 (Bihar 30 of 1950), ss. 2(o) (q) (r), 23 (1) (f), 32(4).

The appellants were holders of ghatwali tenure called Rohini and Pathrole ghatwalis and were governed by Bengal Regulation XXIX of 1814. The Bihar Land Reforms Act, 1950, was enacted by the Bihar State Legislature and came into force on September 25, 1950. In suits instituted by the appellants the question was raised as to whether under the provisions of the Act the State could acquire their ghatwalis. They claimed (1) that the Act was not applicable to the Government ghatwali tenures like Rohini and Pathrole ghatwalis which could not be acquired by the State under s. 3 of the Act, in view of the definition clause in s. 2 and ss. 23 (1) (f) and 32(4), (2) that the Act did not purport to repeal Bengal Regulation XXIX of 1814 and inasmuch as the said Regulation dealt with special tenures, the special law enacted with regard to such tenures would not be affected by the general law with regard to land reforms as embodied in the Act, and (3) that, in any case, ghatwali tenures, being of a quasi-military nature, must be held to fall under Entries 1 and 2 of List I of the Seventh Schedule to the Constitution of India and, therefore, the Act was outside the competence of the State Legislature.

Held: (1) that all ghatwali tenures including government ghatwalis came within the definition clause in s. 2 of the Bihar Land Reforms Act, 1950, and that ss. 23(1) (f) and 32(4), though they might be inapplicable to the ghatwali tenures in question, did not have the effect of excluding such tenures from the operation of the other provisions of the Act;

(2) that the Act in pith and substance related to acquisition of property and was covered by Entry 36, List II, Seventh Schedule to the Constitution and had no relation to Entries 1 and 2 of List I. Consequently, the State Legislature was competent to enact the Act;

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The State of Bihar v. *Maharajadhiraja Sir Kameshwar Singh of Darbhanga and Others*, [1952] S.C.R. 898, followed.

(3) that the principle that a special law relating to special tenure is not affected by a subsequent general law of land reforms had no application to the Act which in pith and substance related to acquisition of property and no question of the repeal of Regulation XXIX of 1814 arose.

Raja Suriya Pal Singh v. *The State of U. P. and Another*, [1952] S.C.R. 1056, applied.

CIVIL APPELLATE JURISDICTION: Civil Appeals Nos. 273 and 274 of 1955.

Appeals from the judgment and order dated December 10, 1954, of the Patna High Court in Appeals from Original Decree Nos. 309 and 310 of 1954.

L. K. Jha, J. C. Sinha, S. Mustafi and *R. R. Biswas*, for the appellants.

Lal Narayan Sinha, Bajrang Sahai and *R. C. Prasad*, for the respondents

1960. September 19. The Judgment of the Court was delivered by

S. K. Das J.

S. K. DAS J.—These two appeals on a certificate granted by the High Court of Patna are from the judgment and decree of the said High Court dated December 10, 1954. By the said judgment and decree the High Court dismissed two appeals which arose out of two suits, Title Suit no. 42 of 1950 and Title Suit No. 23 of 1952, which were tried together and dismissed with costs by the learned Subordinate Judge of Deoghar.

The plaintiffs of those two suits are the appellants before us. One of the appellants Thakur Manmohan Deo was the holder of a ghatwali tenure commonly known as the Rohini ghatwali, situate within the subdivision of Deoghar in the district of the Santal Parganas. The other appellant Tikaitni Faldani Kumari was the holder of the Pathrole ghatwali also situate in the same sub-division. Both these ghatwali tenures were formerly known as Birbhum ghatwalis and were governed by Bengal Regulation XXIX of 1814. In the year 1950 was enacted the Bihar Land Reforms Act

1950 (Bihar Act 30 of 1950), hereinafter called the Act. The Act came into force on September 25, 1950. The validity of the Act was challenged in the Patna High Court on grounds of a violation of certain fundamental rights and the High Court held it to be unconstitutional on those grounds. The Constitution (First Amendment) Act, 1951, was enacted on June 18, 1951, and in appeals from the decision of the Patna High Court, this Court held in *The State of Bihar* v. *Maharajadhiraja Sir Kameshwar Singh of Darbhanga* (1) that the Act was not unconstitutional or void on the grounds alleged, except with regard to the provisions in s. 4(b) and s. 23(f) thereof. The validity of the Act is, therefore, no longer open to question on those grounds, though in one of the suits out of which these two appeals have arisen, it was contended that the Act was ultra vires the Constitution.

The principal issue in the two suits which now survives is issue no. 3 which said: "Do the provisions of the Bihar Land Reforms Act, 1950, purport to acquire the plaintiffs' ghatwalis? If so, are they *ultra vires* in their application to such ghatwalis? This issue was decided against the appellants by the learned Subordinate Judge and the decision of the learned Subordinate Judge was upheld on appeal by the High Court of Patna in its judgment and decree dated December 10, 1954, from which decision these two appeals have come to us.

Three main points have been urged on behalf of the appellants. The first point is one of construction and the appellants contend that on a proper construction of the relevant provisions of the Act, it does not apply to ghatwali tenures like the Rohini and Pathrole ghatwalis. Secondly, it is contended that if the provisions of the Act apply to the appellants' ghatwali tenures, then the State legislature was not competent to enact it, because ghatwali tenures like the Rohini and Pathrole ghatwalis, were of a quasi-military nature and if the Act applies to them, it must be held to relate to items 1 and 2 of the Union List (List I) and, therefore, outside the competence of the State

(1) [1952] S.C.R. 898.

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legislature. The third contention is that the Act does not purport to repeal Bengal Regulation XXIX of 1814 and in as much as the said Regulation deals with special tenures, the special law enacted with regard to such tenures would not be affected by the general law with regard to land reforms as embodied in the Act. We shall deal with these three contentions in the order in which we have stated them. But before we do so, it is necessary to explain, briefly, the nature of these ghatwali tenures.

We may quote here some of the provisions of Bengal Regulation XXIX of 1814. The Regulation says in s. 1 that lands held by the class of persons denominated ghatwals in the district of Birbhum form a peculiar tenure to which the provisions of the existing Regulations are not expressly applicable; it then states that according to the former usages and constitution of the country, this class of persons are entitled to hold their lands, generation after generation, in perpetuity, subject nevertheless to the payment of a fixed and established rent to the zamindar of Birbhum and to the performance of certain duties for the maintenance of the public peace and support of the police. The Regulation then lays down certain rules to give stability to the arrangement established among the ghatwals and these rules are contained in ss. 2, 3, 4 and 5. It would be enough if we quote ss. 2, 3 and a part of s. 5.

"S. 2. A settlement having lately been made on the part of the Government with the ghatwals in the district of Birbhum, it is hereby declared that they and their descendants in perpetuity shall be maintained in possession of the lands so long as they shall respectively pay the revenue at present assessed upon them, and that they shall not be liable to any enhancement of rent so long as they shall punctually discharge the same and fulfil the other obligations of their tenure.

S. 3. The ghatwali lands shall be considered, as at present, to form a part of the zamindari of Birbhum; but the rent of ghatwals shall be paid direct to the Assistant Collector stationed at Suri, or to

such other public officer as the Board of Revenue may direct to receive the rents.

S. 5. Should any of the ghatwals at any time fail to discharge their stipulated rents, it shall be competent for the State Government;

to cause the ghatwali tenure of such defaulter to be sold by public sale in satisfaction of the arrears due from him, in like manner, and under the same rules, as lands held immediately of Government, or to make over the tenure of such defaulter to any person whom the State Government may approve on the condition of making good the arrear due; or

to transfer it by grants assessed with the same revenue, or with an increased or reduced assessment, as to the Government may appear meet; or

to dispose of it in such other form and manner as shall be judged by the State Government proper."

In a number of decisions of the Privy Council the nature of these tenures has been explained and in *Satya Narayan Singh* v. *Satya Niranjan Chakravarti* (1) Lord Sumner thus summarised the position at pages 198-199 of the report:

"In the Santal Parganas there are for practical purposes three classes of ghatwali tenures, (a) Government ghatwalis, created by the ruling power; (b) Government ghatwalis, which since their creation and generally at the time of the Permanent Settlement have been included in a zamindari estate and formed into a unit in its assessment; and, (c) zamindari ghatwalis, created by the zamindar or his predecessor and alienable with his consent. The second of these classes is really a branch of the first. The matter may, however, be looked at broadly. In itself 'ghatwal' is a term meaning an office held by a particular person from time to time, who is bound to the performance of its duties, with a consideration to to be enjoyed in return by the incumbent of the office. Within this meaning the utmost variety of conditions may exist. There may be a mere personal contract of employment for wages, which takes the form of the use of land or an actual estate in land, heritable and

(1) I.L.R. 3 Pat. 183.

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perpetual, but conditional upon services certain or services to be demanded. The office may be public or private, important or the reverse. The ghatwal, the guard of the pass, may be the bulwark of a whole country-side against invaders; he may be merely a sentry against petty marauders; he may be no more than a kind of gamekeeper, protecting the crops from the ravages of wild animals. Ghatwali duties may be divided into police duties and quasi-military duties, though both classes have lost much of their importance, and the latter in any strict form are but rarely rendered. Again the duties of the office may be such as demanded personal competence for that dischargo; they may, on the other hand, be such as can be discharged vicariously, by the creation of shikmi tenures and by the appointment and maintenance of a subordinate force, or they may be such as in their nature only require to be provided for in bulk. It is plain that where a grant is forthcoming to a man and his heirs as ghatwal, or is to be presumed to have been made though it may have been since been lost, personal performance of the ghatwali services is not essential so long as the grantee is responsible for them and procures them to be rendered (*Shib Lall Singh* v. *Moorad Khan* (1)). So much for the ghatwal. The superior, who appoints him, may also in the varying circumstances of the organisation of Hindostan be the ruling power over the country at large, the landholder responsible by custom for the maintenance of security and order within his estates, or simply the private person, to whom the maintenance of watchmen is in the case of an extensive property, important enough to require the creation of a regular office." It is not disputed before us that the Rohini and Pathrole ghatwalis are Government ghatwalis and admittedly they are governed by Regulation XXIX of 1814.

The question now is, does the Act apply to these ghatwalis? It is necessary now to read some of the provisions of the Act. Section 2 is the definition section, cl. (o) whereof defines a "proprietor", cl. (q)

(1) (1868) 9 W.R. 126.

defines a "tenure" and cl. (r) defines a "tenure-holder". The definition of the two expressions "tenure" and "tenure-holder" was amended by Bihar Act 20 of 1954. The amendments were made with retrospective effect and the amending Act said that the amendments shall be deemed always to have been substituted. Now, the three clauses (o), (q) and (r) of s. 2 are in these terms:

"S. 2(o)—"Proprietor" means a person holding in trust or owning for his own benefit an estate or part of an estate, and includes the heirs and successors-in-interest of a proprietor and, where a proprietor is a minor or of unsound mind or an idiot, his guardian, committee or other legal curator;

(q) "tenure" means the interest of a tenure-holder or an under-tenure-holder and includes—

(i) a ghatwali tenure,

(ii) a tenure created for the maintenance of any person and commonly known as kharposh, babuana, etc., and

(iii) a share in or of a tenure, but does not include a Mundari Khunt Kattidari tenancy within the meaning of the Chota Nagpur Tenancy Act, 1908, or a bhuinhairi tenure prepared and confirmed under the Chota Nagpur Tenures Act, 1869;

(r) "tenure-holder" means a person who has acquired from a proprietor or from any other tenure-holder a right to hold land for the purpose of collecting rent or bringing it under cultivation by establishing tenants on it and includes—

(i) the successors-in-interest of persons who have acquired such right,

(ii) a person who holds such right in trust,

(iii) a holder of a tenure created for the maintenance of any person,

(iv) a ghatwal and the successors-in-interest of a ghatwal, and

(v) where a tenure-holder is a minor or of unsound mind or an idiot, his guardian, committee or other legal curator."

The definition clauses (q) and (r) state in express terms

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that 'tenure' includes a ghatwali tenure and, 'tenure-holder' includes a ghatwal and the successors-in-interest of a ghatwal. The argument on behalf of the appellants is that the definition clauses should be so construed as to include zamindari ghatwalis only and not Government ghatwalis. Firstly, it is pointed out that cl. (r) in its substantive part says that a 'tenure-holder' means a person who has acquired from a proprietor or from any other tenure-holder a right to hold land for the purpose of collecting rent or bringing it under cultivation by establishing tenants on it; this part, it is submitted, cannot apply to a Government ghatwal, because a Government ghatwal does not acquire from a proprietor or from any other tenure-holder a right to hold land for any of the two purposes mentioned therein. In this connection our attention has been drawn to cl. (o) which defines a 'proprietor' and it is further pointed out that, as stated by Lord Sumner, Government ghatwals were either created by the ruling power or were since their creation and generally at the time of the Permanent Settlement included in a zamindari estate and formed into a unit in its assessment; therefore, it is argued that Government ghatwalis did not acquire any right from a proprietor or any other tenure-holder. Secondly, it is submitted that sub-cl. (i) of cl. (q) and sub-cl. (iv) of cl. (r) must be read in the light of the substantive part of the two clauses, even though the sub-clauses state in express terms that a 'tenure' includes a ghatwali tenure and a 'tenure-holder' inclues a ghatwal. It is pointed out that a zamindari ghatwal acquires his interest from a proprietor and the substantive part of clauses (q) and (r) may apply to a zamindari ghatwal and his tenure but the substantive part of the two clauses cannot apply to a Government ghatwal and his tenure. We are unable to accept this line of argument as correct.

Where a statute says in express terms that the expression 'tenure' includes a ghatwali tenure and the expression 'tenure-holder' includes a ghatwal and the successors-in-interest of a ghatwal, there must be compelling reasons to cut down the amplitude of the

two expressions. The Bihar legislature must have been aware of the distinction between Government ghatwalis and zamindari ghatwalis and if the intention was to exclude Government ghatwalis, nothing could have been easier than to say in the two definition clauses that they did not include Government ghatwalis. On the contrary, the legislature made no distinction between Government ghatwalis and zamindari ghatwalis but included all ghatwali tenures within the definition clauses. There are no restrictive words in the definition clauses and we see no reasons why any restriction should be read into them. It is worthy of note that the two definition clauses first state in the substantive part what the general meaning of the two expressions is, and then say that the expressions shall *inter alia* include a ghatwali tenure and a ghatwal and the successors-in-interest of a ghatwal. Thus, the two definition clauses are artificially extended so as to include all ghatwali tenures and all ghatwals and their successors-in-interest, irrespective of any consideration as to whether they come within the general meaning stated in the substantive part of the two clauses. Such artificial extension of the two definition clauses is also apparent from sub-cl. (v) of cl. (r) and sub-cl. (iii) of cl. (q). Sub-clause (iii) of cl. (q) excludes certain tenures from the definition clause which would otherwise come within the general meaning of the expression 'tenure' and sub-cl. (v) of cl. (r) extends the expression 'tenure-holder' to guardians committees and curators. When we are dealing with an artificial definition of this kind which states "means and shall include etc.", there is no room for an argument that even though the definition expressly states that something is included within a particular expression, it must be excluded by reason of its not coming within the general meaning of that expression.

The learned Counsel for the appellants has also called to his aid certain other provisions of the Act in support of the argument that the Act does not apply to Government ghatwalis. He has referred to s. 23(1)

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(f) and s. 32(4) of the Act. Section 23 deals with the computation of net income for the purpose of preparing a Compensation Assessment-roll, by deducting from the gross asset of each proprietor or tenure-holder, certain sums mentioned in clauses (a) to (f). It must be stated that what was cl. (g) of s. 23(1) before has now become cl. (f), because the original cl. (f) of s. 23(1) was held to be unconstitutional by this Court in *The State of Bihar* v. *Maharajadhiraja Sir Kameshwar Singh of Darbhanga* (1). Section 23(1) so far as it is relevant for our purpose states:

"S. 23(1) For the purpose of preparing a Compensation Assessment-roll, the net income of a proprietor or a tenure-holder shall be computed by deducting from the gross asset of such proprietor or tenure-holder, as the case may be, the following, namely:—

(a) .....
(b) .....
(c) .....
(d) .....
(e) .....

(f) any other tax or legal imposition payable in respect of such estate or tenure not expressly mentioned in clauses (a) to (e) or the value, to be commuted in the prescribed manner, of any services or obligations of any other form to be rendered or discharged as a condition precedent to his enjoyment of such estate or tenure".

Now, the argument before us is that cl. (f) of s. 23(1) cannot apply to a Government ghatwal, because he can still be asked to perform the services and obligations which he had undertaken by reason of the office which he held. It is submitted that the Act does not purport to abolish the ghatwali office and as the office and the tenure are inseparably connected, the calculation referred to in cl. (f) cannot be made in the case of a Government ghatwali. Our attention has also been drawn to a later decision of the Patna High Court (Election Appeals nos. 7 and 8 of 1958) of March 20, 1959, wherein a distinction was drawn

(1) [1952] S.C.R. 898.

between acquisition and resumption of a ghatwali tenure and the argument that on the acquisition of the ghatwali tenure the office lapsed was not accepted. We have been informed at the Bar that that decision is under appeal to this Court. Therefore, we do not propose to say anything about the correctness or otherwise of the view expressed therein. It is enough to point out that assuming that the argument of the appellants is correct and cl. (f) of s. 23(1) does not apply, it does not necessarily follow that the appellants' ghatwali tenures cannot be acquired by the State Government under s. 3 of the Act. Section 23(1)(f) provides only for the deduction of a particular item from the gross asset of the tenure-holder for the purpose of computing the net income. Even if cl. (f) does not apply, the statute provides for other deductions mentioned in clauses (a) to (e). Those clauses indisputedly apply to a ghatwali tenure and a Compensation Assessment-roll can be prepared on their basis. It would not be correct to say that because a particular item of deduction does not apply in the case of a Government ghatwali, such ghatwali tenure must be excluded from the ambit of the Act; such a view will be inconsistent with the scheme of s. 23. The scheme of s. 23 is that certain deductions have to be made to compute the net income; some of the items may apply in one case and some may not apply. The section does not contemplate that all the items must apply in the case of each and every proprietor or tenure-holder.

We now come to s. 32 of the Act. Section 32(4) states:

"S. 32(4) if the estate or tenure in respect of which the compensation is payable is held by a limited owner or the holder of life-interest, the Compensation Officer shall keep the amount of compensation in deposit with the Collector of the district and the Collector shall direct the payment of the interest accruing on the amount of compensation to the limited owner or the holder of the life interest during his lifetime. Such amount shall remain deposited with the Collector until the amount of compensation or

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portion thereof after making payments, if any, under the proviso to this sub-section is made over to any person or persons becoming absolutely entitled thereto:

Provided that nothing in this sub-section shall be deemed to affect the right of any limited owner or the holder of a life interest to apply to the District Judge for the payment of a part of the amount of compensation to defray any expenses which may be necessary to meet any legal necessity."

It is argued that sub-s. (4) of s. 32 is also not applicable to a Government ghatwali, because the expression 'limited owner' occurring therein has been used in the sense in which it is understood in Hindu Law and the holder of a Government ghatwali is not a limited owner in that sense. Learned Counsel for the appellants has drawn our attention to the expression 'legal necessity' occurring in the proviso to sub-s. (4) in support of his argument that the expression 'limited owner' has the technical sense ascribed to it in Hindu Law. On behalf of the respondent State it has been argued that the expressions 'limited owner' and 'legal necessity' are not used in any technical sense and may apply to persons who under the conditions on which they hold the tenure cannot alienate or divide it. Here again we consider it unnecessary to pronounce on the true scope and effect of sub-s. (4) of s. 32. The short question before us is—are Government ghatwalis excluded from the ambit of the Act by reason of sub-s. (4) of s. 32? Let us assume without deciding, that sub-s. (4) does not apply to ghatwali tenure. What is the result? Section 32 merely provides for the manner of payment of compensation. If sub-s. (4) does not apply, the payment of compensation will have to be made in accordance with sub-s. (1) of s. 32 which says:

"S. 32(1). When the time within which appeals under section 27 may be made in respect of any entry in or omission from a Compensation Assessment-roll has expired or where any such appeal has been made under that section and the same has been disposed of, the Compensation Officer shall proceed to make payment, in the manner provided in this section, to the

proprietors, tenure-holders and other persons who are shown in such Compensation Assessment-roll as finally published under section 28 to be entitled to compensation, of the compensation payable to them in terms of the said roll after deducting from the amount of any compensation so payable any amount which has been ordered by the Collector under clause (c) of section 4 or under any other section to be so deducted."

Therefore, the result is not that Government ghatwalis will go out of the Act, because sub-s. (4) does not apply. The result only is that the holders of such tenures will be paid compensation in a different manner. What rights others having a proprietary interest in a ghatwali tenure have against the compensation money does not fall for decision here.

Therefore, we are of the view that neither s. 23(1)(f) nor s. 32(4) have the necessary and inevitable result contended for by the appellants, viz., that the appellants' ghatwali tenures must be excluded from the operation of the Act even though the definition clauses expressly include them.

This brings us to the second point urged before us. That point can be disposed of very shortly. It is contended that if the provisions of the Act apply to Government ghatwalis, then the Act falls outside the legislative competence of the State Legislature in as much as the Act then becomes legislation with regard to items 1 and 2 of the Union List. These two items are—

"1. Defence of India and every part thereof including preparation for defence and all such acts as may be conducive in times of war to its prosecution and after its termination to effective demobilisation.

2. Naval, military and air forces; any other armed forces of the Union."

It is, we think, quite obvious that the Act has no connexion whatsoever with the defence of India or the armed forces of the Union. As Lord Sumner had pointed out as far back as 1923, though ghatwali duties might be divided into police duties and quasi-military duties, both classes had lost their importance and the latter were rarely if ever demanded. This

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Court had observed in *The State of Bihar* v. *Maharajadhiraja Sir Kameshwar Singh of Darbhanga and Others* (1):

"The pith and substance of the legislation, however, in my opinion, is the transference of ownership of estates to the State Government and falls within the ambit of legislative head entry 36 of List II. There is no scheme of land reform within the frame work of the statute except that a pious hope is expressed that the commission may produce one. The Bihar Legislature was certainly competent to make the law on the subject of transference of estates and the Act as regards such transfers is constitutional." (per Mahajan, J., at p. 926 of the report).

We think that in pith and substance the legislation was covered by item 36 of List II (as it then stood) and it has no relation to items 1 and 2 of List I.

Now, as to the last argument founded on Regulation XXIX of 1814. In our view the Act in pith and substance related to acquisition of property and consequently no question of the repeal of Regulation XXIX of 1814 arose; nor is it necessary to consider the principle that a special law relating to special tenures is not affected by a subsequent general law of land reforms. Such a principle has no application in the present case. The Act expressly includes all ghatwali tenures within its ambit and provides for the vesting of all rights therein absolutely in the State of Bihar on the issue of a notification under s. 3 and under s. 4 certain consequences ensue on the issue of such a notification notwithstanding anything contained is any other law for the time being in force. It is worthy of note that the Bengal Permanent Settlement Regulation, 1793 (Bengal Regulation I of 1793), did not stand in the way of acquisition of other permanently settled estates, and it is difficult to see how Regulation XXIX of 1814 can stand in the way of acquisition of ghatwali tenures. The point is really covered by the decision of this Court in *Raja Suriya Pal Singh* v. *The State of U. P.* (2) where it was observed:

(1) [1952] S.C.R. 898. (2) [1952] S.C.R. 1056, 1078-79.

"The Crown cannot deprive a legislature of its legislative authority by the mere fact that in the exercise of its prerogative it makes a grant of land within the territory over which such legislative authority exists and no court can annul the enactment of a legislative body acting within the legitimate scope of its sovereign competence. If, therefore, it be found that the subject of a Crown grant is within the competence of a provincial legislature, nothing can prevent that legislature from legislating about it, unless the Constitution Act itself expressly prohibits legislation on the subject either absolutely or conditionally."

For the reasons given above, we hold that none of the three points urged on behalf of the appellants has any substance. The appeals fail and are dismissed with costs; there will be only one hearing fee.

Appeals dismissed.

M/s. ANWARKHAN MAHBOOB CO.

v.

THE STATE OF BOMBAY (NOW MAHARASHTRA) AND OTHERS

(S. K. DAS, M. HIDAYATULLAH, K. C. DAS GUPTA, J. C. SHAH and N. RAJAGOPALA AYYANGAR JJ.)

Purchase Tax—If leviable on goods not specifically mentioned as taxable but come under the general description "all goods other than those specified"—Conversion of one commodity into another commercially different article—If amounts to consumption—Place of purchase for the purpose of taxation—Constitution of India, Art. 19 (f) & (g), 286—Bombay Sales Tax Act, 1953 (Bom. Act III of 1953), s. 10, Schedule B, Entry 80.

The petitioner Company carrying on the business of manufacturing *bidis* and having its head office at Jabalpur in the State of Madhya Pradesh made certain purchases of tobacco in the State of Bombay. The Sales Tax Officer assessed the petitioner to a purchase tax under the provisions of the Bombay Sales Tax Act, 1953. The petitioner contested the assessment of