

[Shri B. K. Gadgvi]

On all counts, the Member's apprehension is not well placed. It is quite unjustified. It will not have any effect either on cultivation or on the people who are making their trade in the country or it will not mar the exports and export promotion also will not be hampered by it. And as such, I submit that the Resolution may be adopted.

MR. DEPUTY SPEAKER: The question is:

"That in pursuance of sub-section (2) of section 8 read with sub-section (3) of section 7 of the Customs Tariff Act, 1975 (51 of 1975), this House approves the notification of the Government of India in the Ministry of Finance (Department of Revenue), G.S.R. No. 1235(E), dated the 27th November, 1986, increasing the export duty leviable on black pepper from the level of Rs. 3 per kilogram to Rs. 5 per kilogram from the date of issue of the said notification."

*The motion was adopted.*

14.53 hrs.

DELHI APARTMENT OWNERSHIP  
BILL, 1986

[English]

Consideration of Rajya Sabha  
Amendment

THE MINISTER OF URBAN DEVELOPMENT (SHRIMATI MOHSINA KIDWAI): I beg to move:

"That the following amendment made by Rajya Sabha in the Bill to provide for the ownership of an individual apartment in a multistoreyed building and of an undivided interest in the common areas and facilities appurtenant to such apartment and to make such apartment and interest heritable and transferable and for matters connected therewith or incidental thereto, be taken into consideration:

Clause 24

That at page 18,—

*after line 26, insert—*

Provided that nothing contained in this sub-section shall affect the right, title or interest acquired by any allottee or other person in common areas and facilities from any promoter on or before the 28th day of February, 1986".

It has become necessary to protect the interests of apartment owners and allottees from prolonged and avoidable litigation. This protection for the allottees and apartment owners is all the more necessary as the proposed legislation seeks to remove the promoters from the scene when once the apartments and common areas have been allotted.

In cases where third parties have acquired interests in common areas the promoters are no longer affected, and have often disappeared. Laws are preferably not made retrospectively and since this amendment is proposed to protect the interests of the ordinary allottees, that is why this amendment has become necessary and I would request the Hon. Members to agree to this amendment.

MR. DEPUTY SPEAKER: Motion moved:

"That the following amendment made by Rajya Sabha in the Bill to provide for the ownership of an individual apartment in a multistoreyed building and of an undivided interest in the common areas and facilities appurtenant to such apartment and to make such apartment and interest heritable and transferable and for matters connected therewith or incidental thereto, be taken into consideration:

Clause 24

That at page 18,—

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"Provided that nothing contained in this sub-section shall affect the right, title or interest acquired by any allottee or other person in common areas and facilities from any promoter on or before the 28th day of February, 1986."

**SHRI BASUDEB ACHARIA :** I do not understand why this amendment has been brought in this House now. That was not brought when we passed the Delhi Apartment Ownership Bill in the last session. A particular date has also been mentioned to give effect to this amendment. For whom has this amendment been brought? It was not explained by the Hon. Minister why this amendment has been brought. I think, it has been brought in order to protect some rich people, who are residing in the multi-storeyed buildings. Hence I oppose this amendment which will serve only the interest of residents of multistoreyed buildings of Delhi area alone.

**SHRI THAMPAN THOMAS :** This is a very serious matter. We passed this Bill without the amendment. Now the Minister has come with this amendment. Therefore, it is quite natural that we should get time for discussion. This has got very wide implications, because there is a specific date mentioned here. I would like to know whom the Government wants to protect, because apartments in Delhi are very costly. The tenants are really a harassed lot and they require protection. At the time of introduction of the Bill, the Hon. Minister has assured us that the purpose of the Bill is to give certain protection. Now that protection is taken away by this amendment. We passed that Bill with the protection, i.e. any tenant who is there, has got the right to hold the property; he will become owner of the property, and the land attached to the estate will be of common use and when common use is there, they will live there with all rights. This has to be protected. Now this amendment says that on 28th February, 1986 if any person has got any right in the common property that will continue. Then what is the purpose of the Act? This is a serious moot question which we will have to discuss. Hon'ble Members are unaware of it. Today in the morning, we saw in the cover this amendment. Today, there is a very thin attendance in the House. Irrespective of party affiliation I think, it requires a discussion as to whom this Government wants to save and why it wants to throw poor tenants at the mercy of some persons who were holding it earlier. Therefore, my submission is this that the very purpose of the law is defeated. Therefore, this may not be permitted.

**SHRI INDRAJIT GUPTA (Basirhat) :** The Hon. Minister should explain what is the greater urgency for this amendment. Apparently, the necessity of it was not felt earlier. The House discussed the Bill and passed it. Now, suddenly the procedure followed also was not regular. I presume that they have taken the permission of the Speaker because only this morning when we opened our packet, we found a copy of the amendment.

15.00 hrs.

It was not circulated earlier as all Government amendments have to be. Well, I presume they got exemption from that by taking permission from the Speaker, but the main point of substance is that if this amendment is really nullified, the original purpose for which the Bill was passed in this House is something added on now subsequently—I do not know whether as an afterthought or due to pressure of certain interests who would later on appear on the scene. She must explain to us what are these rights in the common areas which they were seeking to protect and now they are removing that protection. It has been reported—I do not know—in comments in the Press and all that, that this is under pressure of the big vested interests. Actually, it is due to the pressure of the constructors or promoters of these big apartment houses that now suddenly a very extraordinary procedure is being followed. It is never done normally. The Government has now suddenly come forward with this amendment. So, if it defeats the very purpose of the original Bill, then certainly we cannot be made to agree to it like that. She should explain the whole thing openly and frankly and tell us.

**SHRIMATI MOHSINA KIDWAI :** Mr. Deputy Speaker, Sir, as you know, yesterday in the Rajya Sabha, an Hon. Member of the Rajya Sabha had moved this amendment.

**SHRI INDRAJIT GUPTA :** Which Member?

**SHRIMATI MOHSINA KIDWAI :** You know it was moved in Rajya Sabha by Shri Anand Sharma. It was moved by a Member of the Rajya Sabha in the Upper House and it was passed there. That is why it has come to this House. You know the procedure. We

[Shrimati Mohsina Kidwai]

are not moving the amendment in this very House. Yesterday it was passed in the Rajya Sabha. That is why we have come to this House.

Shri Indrajit Gupta has objected to the date being 28th February, 1986.

[Translation]

I have just now explained as to why we have brought this amendment. We want to protect the owners from litigation. It has been brought to provide relief to the flat-owners of a multi-storey building which was built 15 to 20 years ago. This Bill has been passed on 30th April, but the date has been mentioned as 28th February—

[English]

—because on 28th February, 1986 the Bill was introduced in Lok Sabha. That is why in the amendment it has been mentioned as 28th February, 1986.

[Translation]

It does not defeat this purpose. I do not agree with the Hon. Members that we have been pressurised by some lobby of the builders. You may well see that builders are not concerned with it. Therefore, this interest does not clash with any thing that we are giving any ownership to the Cooperative Society, D.D.A. or a person who has built a multi-storey building. It will apply to those who have got more than four flats and those who have got less than four flats have an option to be covered under it or not. Prior to this Bill, they did not have any heritable right, right of transfer and right to mortgage. The apartment owners are going to have all these rights under this Act. There is an amendment in this Act in which it has been said that instead of retrospective effect, it should be given prospective effect. It has been done in the light of this fact that some of them have given the places of common use to the third party during the last 15 years. The builder does not come in between. The party or the person who has had it, will have to face litigation.

SHRI BASUDEB ACHARIA : Nobody has faced any litigation so far.

SHRIMATI MOHSINA KIDWAI : When there is no Act in this regard, then

the question of litigation does not arise. We are going to provide this right under this Act that the people who live in the places of common use, will be given right of their apartments according to the apartment deed made earlier. This will apply to the places of common use and will effective after the 28th February. We have received thousands of cases regarding those places which are 15 to 20 years old. This Bill has been brought for them. It wan't be correct if you think that we have brought this Bill in order to protect influential people of under pressure of any lobby. There will be a number of cases of litigation in it.

[English]

We cannot foresee them. That is why this amendment has been brought.

SHRI THAMPAN THOMAS : One point I would like to ask the Hon. Minister. Will it not create two types of apartment holders because on a particular date, those who are holding the apartment will have a particular law and these who get apartments subsequently because of this amendment, will not be regularised ? Their regularisation will go.

MR. DEPUTY SPEAKER : The question is :

"That the following amendment made by Rajya Sabha in the Bill to provide for the ownership of an individual apartment in a multistoreyed building and of an undivided interest in the common areas and facilities appurtenant to such apartment and to make such apartment and interest heritable and transferable and for matters connected therewith or incidental thereto, be taken into consideration :

Clause 24

That at page 18,—

after line 26, insert—

"Provided that nothing contained in this sub-section shall affect the right, title or interest acquired by any allottee or other person in common areas and facilities from any promoter on or before the 28th day of February, 1986."

*The motion was adopted.*

MR. DEPUTY SPEAKER : We shall now take up the amendment recommended by the Rajya Sabha :

The question is :

Clause 24

That at Page 18,—

after line 26, insert—

“Provided that nothing contained in this sub-section shall affect the right, title or interest acquired by any allottee or other person in common areas and facilities from any promoter on or before the 28th day of February, 1986.”

*The motion was adopted.*

SHRIMATI MOHSINA KIDWAI : I beg to move :

“That the amendment made by Rajya Sabha in the Bill be agreed to.”

MR. DEPUTY SPEAKER : The question is :

“That the amendment made by Rajya Sabha in the Bill be agreed to.”

*The motion was adopted.*

15.07 hrs.

CHILD LABOUR (PROHIBITION AND REGULATION) BILL, 1986—*Contd.*

[*English*]

MR. DEPUTY SPEAKER : Now we take further consideration of the following motion moved by Shri P. A. Sangma on the 3rd December, 1986 namely :

“That the Bill to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments, as passed by Rajya Sabha, be taken into consideration.”

Shri Shyam Lal Yadav. You have already taken nine minutes.

SHRI SHYAM LAL YADAV (Varanasi) : The Handknotted carpet industry is purely a

cottage industry. Carpet weaving is a family affair. The underlying idea being to pass on the skill in the family so that the tradition of carpet making is kept alive. The weaver weaves carpet in his own house plying a subsidiary occupation which conforms to the best Gandhian concept of subsidiary income to an agriculturist and semi-agriculturist population. The carpet weaver should be conceived not as belonging to a proletariat class but as a village artisan plying a useful subsidiary profession.

The weavers by and large are agriculturist and semi-agriculturist classes working on the land for their main livelihood and weaving carpet in the non-agriculture season. Production is seriously affected during the agriculture sowing and harvesting season and production is good during the non agriculture season. This is an ideal system which has tremendous growth potential and nothing should be done to disturb it.

In carpet industry besides the process of weaving, there is hardly any employment of child labour in other categories of designers, binders, embossers, dyers, washers etc. Each category fulfils an important function but each category is separate one.

On the earlier opportunity I spoke about the report of the Committee of State Labour Ministers on Child Labour headed by Labour Minister of Gujarat Sri Sanatbhai Mehta.

I think the report of that Committee presented recently, has made some interesting study and their conclusions are practical and they deserve to be seriously taken into consideration. I think the Government must have gone into the Report. They paid a visit to carpet weaving belt of Bhadohi/Varanasi/Mirzapur. They studied the carpet weaving in great detail. Their observations and recommendations, I think, are very important and should be followed.

The problem of child labour cannot be over simplified nor can it be treated separately as one existing by itself. It is part of a very complex socio-economic phenomenon for which no quick or easy solution can be contemplated. Child labour is now certainly rooted in poverty. The Committee's recommendations, therefore, broadly comprise such