

LEGAL MAXIM

Generale nihil certum implicat - A general expression implies nothing certain.

Generalia praecedunt, specialia sequuntur - Things general precede, things special follow.

Generalia specialibus non derogant - Things general do not derogate from things special.

Generalis regula generaliter est intelligenda - A general rule is to be generally understood.

Gravius est divinam quam temporalem laedere majestatem - It is more serious to hurt divine than temporal majesty.

Habeas corpus - That you have the body.

Habemus optimum testem confitentem reum - We have the best witness, a confessing defendant.

Haereditas est nomen collectivum - Heir is a collective name.

Haeres est nomen juris, filius est nomen naturae - Heir is a term of law, son, one of nature.

Haeres legitimus est quem nuptiae demonstrant - He is the lawful heir whom the marriage indicates.

Source: Inrebus.com.

LAW LEXICON

Forfeiture - A cancellation. A legal action whereby a contract purchaser following default loses all his interest in the property.

Garnishment - A legal proceeding in which a debtor's money, in the possession of another (called the garnishee) is applied to the debts of the debtor, such as when an employer garnishes a debtor's wages.

General jurisdiction - Refers to courts that have no limit on the types of criminal and civil cases they may hear.

Good time - A reduction in sentenced time in prison as a reward for good behavior. It usually is one third to one half of the maximum sentence.

Government Printing Office - The agency in charge of printing, binding, and selling of all government communications.

Grand Jury - A jury of inquiry whose duty it is to receive complaints and accusations in criminal matters and if appropriate issue a formal indictment.

Grantor - The person who sets up a trust. Also referred to as "settlor."

Grievance - An injury, injustice, or wrong which gives ground for complaint. For example, in labor law a complaint filed by an employee regarding working conditions to be resolved by procedural machinery provided in the union contract.

Source: Jurist International.

YOUR ADVOCATE

This week Your Advocate is Barrister Omar Khan Joy, Advocate, Supreme Court of Bangladesh. He is the head of the chambers of a renowned law firm, namely, 'Legal Counsel', which has expertise mainly in commercial law, corporate law, family law, employment and labor law, land law, banking law, constitutional law, criminal law, IPR and in conducting litigations before courts of different hierarchies. Our civil and criminal law experts from reputed law chambers will provide the legal summary advice.

Query

I am a divorced woman live in Uttara with my son of 13 years old. The problem I face is regarding my land lady. She is very much interfering. She almost everyday come at my place and sneak into my room to see whether I am with any other person or not. She in several occasions said bad things to me about me being single. I can't even leave this place because it is very convenient for me to stay here as my son's school is nearby. Moreover, these days it is difficult to rent a flat for single women. Is there any permanent solution of it in a legal way?

Ms. A Gulshan, Dhaka.

Response

I would like to thank you very much for your query. From the given facts, it appears that you are in an uncomfortable situation so far your landlady's interference in concerned. From the legal point of view, the relationship between the landlord and tenant is primarily governed by the lease/rent agreement concluded between them. As the Lessee (i.e. the tenant), you have got exclusive possession over the leased premises. Accordingly, you are also entitled to disallow the landlady from entering the premises, nonetheless it is owned by her. Therefore, it is also very much obvious that the Landlady cannot enter into the premises whenever she likes and sneak into the rooms to observe what is going on inside unless there is anything contrary in the lease agreement allowing her to do so, which is very unlikely. The landlady has to seek your consent in case she wants to enter into the leased premises.

However, generally speaking in the context of Bangladesh, there may be some factors which are likely to be relevant in a situation like your's. Usually there is a clause in Lease agreement (which may be express or implied) prohibiting illegal, immoral, unsocial and unreligious activities in the leased premises. It is very much obvious for your relatives, family members, and friends (including males) to visit and even stay in your house. But, considering the social context in which we live in, it is also very much likely for most of the people will interpret it negatively, if different males visit you and stay for a longer period. Thus, an inference may be drawn. Though may be incorrectly, that something immoral is going on in your flat! As you are already aware of the difficulty faced by a single woman to rent a flat nowadays and given the fact that those difficulties are mainly caused by wrong perceptions, we would like to advise you to share the matter with those who are your near ones and visit your house quite often. As warranted by the situation, you may maintain some control over the persons visiting your house. Besides, you should look for an amicable solution to the problem by sitting with your landlady and have the situation explained before her. You should try to make her clear that the bad things already whispered against you are baseless. If possible, you can introduce some of your friends, relatives and family members (visiting your premises) to her. This will be a practical solution to your problem. You must also keep in mind that your son is growing and you don't also want him to know different rumors about you from some corners.

However, in case the dispute reaches a point of no return, you may have a scope to file a suit for defamation vis-à-vis bad things said by your landlady. In case, your landlady does not want a peaceful solution and goes for eviction, it may also be possible to file a suit before the rent controller.

We hope that the above opinion shall help you to take appropriate step towards a solution to your problem and lead a happy and prosperous life.

For detailed query contact: omar@legalcounselbd.com.



HUMAN RIGHTS MONITOR

Migrant Labor in Libya

BEFORE the crisis, as many as 2.5 million migrants worked in Libya, making it one of the biggest importers of labor in the region. The migrants came mostly from Africa and Asia for jobs in the oil and construction industries. The influx of foreign workers began in the 1990s, when, in response to UN trade sanctions, Libya increasingly relied on sub-Saharan labor to fuel its oil economy. More recently, since 2003, when Libya's rapprochement with the United States and Europe began, the tide of migrants has continued to rise. As part of the privatization of Libya's economy, hundreds of thousands of workers have come from Bangladesh and the Philippines, as well as from other countries in North Africa and the Middle East. Some of them entered the country on legal work permits, but the vast majority came illegally.

Since the start of the fighting, close to 300,000 migrant workers have crossed from Libya into Tunisia and Egypt. Most are from poor countries that did not provide means for their citizens to return to their home countries. Most of the refugees arrived at the camps with little but the shirt on their backs, having been robbed by Libyan officials on their way out of the country. As the men and women at the Ras Adjir camp in Tunisia explained, this was not the first time they had been robbed or assaulted by Libyan authorities.

Migrant workers in Libya, as elsewhere, are subject to abuse at the hands of their employers and the larger network of profiteers who make money off of the migrant economy. Many paid were often promised more money than they were actually paid. One man from Bangladesh explained that he was promised a salary of \$600 a month, but wasn't paid at all on the first job. Forced labor is not uncommon. According to

outside as well as inside the workplace. They face a greater risk of being beaten and robbed and are beholden to ghetto landlords who charge excessive rent as a form of hush money. Sub-Saharan Africans face racial discrimination as well. In 2000, Libyan youth participated in a wave of anti-immigrant violence targeted at black Africans, resulting in the deaths of between 50 and 500 people, a precursor to the current, though questionable reports that large numbers of Africans are serving as mercenaries for Gaddafi's forces.

Although Gaddafi has opened the tap of migrant labor when it has served his political and economic purposes, variously invoking Pan-Africanism and Pan-Arabism, he has also cracked down hard on illegal migrants when the political winds have shifted. In recent years, the Libyan government sorted out the threat of deportation and randomly rounded up undocumented migrants or contract workers who have not renewed their licenses. Once rounded up, they are taken to one of at least ten known detention centers, where, according to Human Rights Watch, they have limited access to food, water, and sanitation. Detainees interviewed by Human Rights Watch report numerous instances of physical and sexual abuse, as well as accounts of detainees being unloaded into the desert or directly to human smugglers.

Source: www.eurasiareview.com

large sums to employment brokers who enlisted them in a form of indentured servitude, sometimes garnishing their wages until the debt was paid. Several Bangladeshi workers in Ras Adjir said they still owed their brokers the \$5,000 fee but had no way to pay it. Migrants the U.S. State Department's 2009 Human Rights Report on Libya, as many as one percent of all illegal migrants in Libya are victims of human trafficking forced into commercial sex work.

Illegal migrants are subject to abuse

LAW WEEK

Yunus' plea hearing adjourned till Apr 4

The Supreme Court on 29 March adjourned till April 4 the hearing on the appeals filed against the High Court verdict that upheld a Bangladesh Bank order removing Muhammad Yunus from the office of Grameen Bank managing director. The seven-member bench of the Appellate Division headed by Chief Justice ABM Khairul Haque passed the adjournment order as the petitioners did not get the certified copy of the HC verdict. A lawyer for Yunus told The Daily Star that Yunus will file a regular leave to appeal petition with the apex court against the HC verdict by April 4. Earlier, Yunus was unceremoniously relieved of his duties on March 2 through a Bangladesh Bank letter sent to Grameen Bank Chairman Khondoker Muzammel Huq. - *The Daily star online edition 29 March 2011.*

Charge framing hearing against Sayedee adjourned

A Dhaka court on 29 March adjourned till April 25 the hearing on charge framing against detained Jamaat-e-Islami Nayeab-e-Ameer Delwar Hossain Sayedee in connection with a tax evasion case. Judge Mohammad Mozammel Hossain of the Special Judge's Court-3 passed the order after Sayedee's lawyer submitted a petition seeking an adjournment of the hearing. Sayedee was produced before the court on Tuesday. In the petition, lawyer Abdur Razzak said they had earlier filed a writ petition with the High Court (HC) challenging the legality of the case. After the hearing, the court issued a rule upon the government to explain why the proceedings of the case should not be declared illegal. But the hearing on the rule is now pending for hearing. So, they prayed for adjournment of the hearing. - *The Daily star online edition 29 March 2011.*

Case Against Koko, hearing deferred till April 17

A Dhaka court on March 28 deferred the hearing of the money laundering case against Arafat Rahman Koko, younger son of BNP Chairperson Khaleda Zia, and Ismail Hossain Saimon, son of former shipping minister late Akbar Hossain, till April 17. Judge Mohammad Mozammel Hossain of the Special Judge Court-3 passed the order after prosecution submitted a petition on grounds that no prosecution witnesses appeared before it yesterday. Earlier, on January 4 and 19 the court recorded the depositions of five witnesses, including complainant Mohammad Abu Sayeed, deputy director of the ACC, against the defendants. The duo has been charged with the laundering of Tk 23 crore to Singapore. - *The Daily star 29 March 2011.*

HC orders for 2 Jamaat leaders valid

The Supreme Court on 27 March upheld a High Court order that directed the jail authorities to provide division facilities to detained Jamaat-e-Islami leaders Muhammad Kamaruzzaman and Abdul Quader Molla. A seven-member Appellate Division bench headed by Chief Justice ABM Khairul Haque passed the order after dismissing a government petition against the HC order. The HC gave the order on December 15 last year in response to a writ petition by Kamaruzzaman and Quader Molla. The two were arrested in July last year on different charges and were later shown arrested in connection with crimes against humanity during the Liberation War in 1971. Meanwhile, the HC on 27 March stayed for four months the proceedings of a case filed for "hurting religious sentiment of Muslims" against four Jamaat leaders including its chief Motiur Rahman Nizami. The three others are party Secretary General Ali Ahsan Mohammad Mojaheed, Nayeab-e-amir Delwar Hossain Saydee and its Dhaka city chief Rafiqul Islam Khan. - *The Daily star 28 March 2011.*

HC asks SC register for pending case list

The High Court on 27 March directed the Supreme Court registrar to submit a list of its pending criminal cases, for which paper books are yet to be prepared for hearing appeals, to it within eight weeks. A paper book, which contains all relevant documents and information of a case including its first information report, charge sheet, statements of witnesses, and judgement of trial court, is necessary for the HC to hear and dispose of appeal against the trial court verdict on it. In response to a writ petition, the HC also issued a rule upon the authorities to explain within four weeks why they should not be directed to set up a separate printing press to prepare the paper books of its pending criminal cases for ensuring justice by their quick disposals. The HC bench of Justice Mohammad Anwarul Haque and Justice Akram Hossain Manju issued the rule following the petition filed as public interest litigation by Human Rights and Peace for Bangladesh. - *The Daily star 28 March 2011.*

Dear reader,

You may send us your daily life legal problems including family, financial, land or any other issues. Legal experts will answer those.

Please send your mails, queries, and opinions to: Law Desk, The Daily Star

64-65, Kazi Nazrul Islam Avenue, Dhaka-1215; Tel: