

(1994) 05 MAD CK 0010

In the Madras High Court

Case No : C.M.P. No. 912 of 1994 in C.R.P. SR. No. 87274 of 1992

A. Thyagarajan and 5 others

APPELLANT

Vs

M/s. T.P. Chockalal Ramsait Factory (P) Ltd. and others

RESPONDENT

Date of Decision : 10-05-1994

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 21 Rule 103, Order 21 Rule 35, Order 21 Rule 97, Order 21 Rule 98
Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 11, 2(8), 26
Transfer of Property Act, 1882 — Section 108

Citation : (1994) 05 MAD CK 0010

Hon'ble Judges : Abdul Hadi, J

Bench : Single Bench

Advocate : R. Balasubramanian, for the Appellant; T.K. Seshadri, Advocate for the 1st Respondent and the 2nd Respondent not appearing in person or by Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Abdul Hadi, J.—This Civil Miscellaneous Petition by third, parties (six in number to the eviction petition) under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (herein after referred to as Act), R.C.O.P. No. 98 of 1984 on the file of the Rent Controller, Tirunelveli (District Munsif, Tirunelveli) and to the appeal therefrom in R.CA. No. 1 of 1989 on the file of the Appellate Authority (Principal Subordinate Judge) Tirunelveli), seeks permission to prosecute Civil Revision Petition in this Court against the concurrent eviction order in the above proceedings passed against the 2nd respondent herein viz., M/s. Mani & Sons Automobiles Engineering, the tenant of the petition-buildings belonging to the 1st respondent herein (landlord) viz., M/s. T.P. Chockalal Ramsait Factory (P) Limited. The said eviction order was obtained by the 1st respondent herein against the 2nd respondent herein in the abovesaid Rent Control Proceedings, on the ground of default in payment of rent. The petitioners herein claim to be sub-tenants of different portions of the said buildings and they have filed this petition

on the ground that in both the above said Rent Control proceedings, the 1st respondent has failed to "implead them (petitioners), even though they are sub-tenants for several years (ranging from 17 to 26 years as the case may be) carrying on business in the abovesaid different portions of the petition-buildings. They also allege in the supporting affidavit that the abovesaid eviction order passed on 25-10-1988 by the Rent Controller was consequent on the allowing of I.A. 132 of 1987 u/s 11 of the Act, on 3-5-1988. It is also alleged that the 2nd respondent filed the abovesaid R.C.A.1 of 1989 against the eviction order passed by the Rent Controller and the said R.C.A was also dismissed by order dated 18-8-1992. It is also alleged by the petitioners in the supporting affidavit that the 1st respondent also filed another eviction petition subsequently viz., R.CO.P. No. 145 of 1987 against the 2nd respondent seeking eviction of the 2nd respondent on another ground viz., demolition and reconstruction and that though the said R.C.O.P. was also allowed, the 2nd respondent's subsequent R.C.A.31 of 1987 filed against the eviction order passed in R.C.O.P.145 of 1987 has been allowed. It is also alleged that in the above said R.C.O.P. 145 of 1987 and R.C.A.31 of 1987 also the petitioners were not made parties. The further allegation in the supporting affidavit is that "the 2nd respondent has played into the hands of the 1st respondent and is colluding against us to defeat our rights" and that "2nd respondent has decided to give up fight and help the landlord to take possession, if necessary putting up a mock-fight". The further allegation is that the petitioners consequently filed O.S 451 of 1992 on the file of District Munsif's Court, Tirunelveli on 13-8-1992 for injunction against the 1st respondent to prevent it from executing the eviction order obtained both in R.C.O.P.98 of 1984 and 145 of 1987. It is also alleged that the order of eviction was erroneous and the Appellate Authority has erred in confirming the order of eviction without determining on the merits whether the default was willful. It is also alleged that the petitioners-sub tenants are entitled to the protection under Sec.26 of the Act and that they reserve their rights to contest the proceedings in execution. In the above circumstances the above referred permission is sought for in this C.M.P.

2. The 2nd respondent remained ex parte. The 1st respondent filed a counter-affidavit stating as follows:- As against the order in the abovesaid R.C.A. 1 of 1989 the 2nd respondent filed C.R.P. 2444 of 1993 on the file of this Court but the said C.R.P. was dismissed by order dated 4-12-1993 and hence the present petition is not maintainable. Though the present petition was filed as early as 1992, the present petitioners, after coming to know about the dismissal of the above said C.R.P., are dragging on the matter by numbering the present petition only in the year 1994 and not allowing the 1st respondent to enjoy the fruits of the eviction order obtained by it. Even when the 1st respondent filed Execution petition and obtained warrant for delivery, the petitioners thwarted the 1st respondent's said attempt to get delivery through the Execution Court. The allegation that the petitioners are carrying on business in the petition-buildings is not true and that they are sub-tenants thereof is also not true. The petition-

buildings were Set out on a monthly rent of Rs. 600/- and the relationship of landlord and tenant was only between the 1st respondent and the 2nd respondent. The allegation that the petitioners are sub-tenants for several years doing business is denied. At no point of time the 1st respondent has given any permission to the 2nd respondent either orally or in writing to sub-let the property. The 2nd respondent has been fighting the matter tooth and nail. As against the order in R.C.O.P.145 of 1987 the 1st respondent filed C.R.P. 3557 of 1992 on the file of this Court and it has been admitted. There are huge arrears of rent to the tune of Rs. 26,400/- to be recovered from the 2nd respondent. Nothing is shown even in the Commissioner's report filed after the inspection of the petition-buildings, in R.C.A 31 of 1987 regarding the alleged enjoyment of the portions of petition-buildings by the petitioners. The allegation that the 2nd respondent has played into the hands of the 1st respondent and is colluding with the 1st respondent is denied. The petitioners are also aware of the eviction proceedings between the 2nd respondent and the 1st respondent and in fact, all orders were made known before the trial Court in O.S. No. 451 of 1992. The petitioners herein, at the time when delivery was ordered, have brought up this petition to defeat the rights of the 1st respondent, At no point of time in the entire proceedings did the 2nd respondent state that the property was sub let to the petitioners. The petitioners cannot canvass the correctness or otherwise of the order and they have nothing to do with the same. The petitioners are entitled to any protection as u/s 26 of the Act (sic). The petitioners are neither necessary parties nor proper parties to either the R.C.O.P. or any subsequent proceedings.

3. A reply affidavit was filed by the petitioners reiterating the allegations made in the original affidavit.

4. Now, Learned Counsel for the petitioners mainly contends, relying on several decisions of Supreme Court viz., Raval and Co. Vs. K.G. Ramachandran and Others, and P.J. Gupta and Co. Vs. K. Venkatesan Merchant and Others, that the abovesaid Act is a self-contained Code and as per Section 26 of the Act, (which according to him, varied the corresponding provision Section 12-C in the old Rent Control Act of 1949), the sub-tenants, if they are not made parties, are not bound by the eviction order obtained against the chief tenant. According to him, Section 26 has modified the general law and therefore, Jagadguru Gurushiddaswami Vs. Dakshina Maharashtra Digambar Jain Sabha, which is not a decision under the Act, but under the general law, cannot be relied on, nor Devaraja Bhatt Vs. V.S. Raja and Others, and similar decisions under the old 1949 Act are applicable. On the other hand, K.K. Krishnan Vs. M.K. Vijaya Ragavan, Tirath Ram Gupta Vs. Gurubachan Singh and Another, which arose under Rent Control law has to be applied in the present case. He also contends that there is collusion between the 1M and 2nd respondent (viz., Landlord and the child tenant respectively) in having obtained the abovesaid concurrent eviction order. He also contends that the petitioners are entitled to get permission sought for despite the abovesaid dismissal of C.R.P. 2444 of 1993 on 3-12-1993 filed against the concurrent eviction order passed in R.C.O.P. 98 of

1984 and confirmed in R.C.A. 1 of 1989. He also contends that the Division Bench judgment of this Court reported in 1968 I M.L.J. 386 = 81 L.W.8 (DB) (Madurai Nayagamma v. Plantation Merchant's Association) which approved different single judge's decision of this Court reported in (1965) II M.L.J.265 = 78 L.W.489 and 1967 1 M.L.J.83 (Parthasarathy v. Chitra Pillai) and (1967) 1 MLJ 337, (Abdul Jameel v. M/s. Simson Machonochy & Ors) requires reconsideration in the light of certain observations in the latter Division Bench Judgment of this Court reported in (1984) II M.L.J. 50 = 97 L.W.347 (DB) (Natarajan v. Nachimuthu). In this connection he also contends that another single Judge's decision reported in 1982 I MLJ 340 supports his contention. Further according to him, Karam Singh Sobti and Another Vs. Shri Pratap Chand and Another, also supports his contention.

5. On the other hand, the Learned Counsel for the 1st respondent contends that the above said judgment reported in (1968) I MLJ 386 (DB) concludes the question involved in the present case and the law laid down therein has only been upheld in the latter Bench decision reported in (1984) II MLJ 50 (DB) (Natarajan v. Nachimuthu & Ors) and nothing contra has been said in the latter Division Bench Decision. Accordingly, according to the said Learned Counsel, I am bound by the above referred to Division Bench Judgment of this Court. He also distinguished (1982) II MLJ 340 (Mohammed Saleha v. Syed Nuruddin). He also contends that the Supreme Court decisions relied on by the counsel for petitioners have no application to the present fact relating to sub-tenants. At any rate, despite those Supreme Court decisions 1984 II MLJ 50 (Natarajan v. Nachimuthu & Ors) only reiterated the law laid down in 1968 I MLJ 386 = 81 L.W.8 (Madurai Nayagamme v. Plantation Merchant's Association) The said counsel also points out that, in any case, in equity, this petition cannot be allowed since the petitioners were aware of the above referred Rent Control proceedings but kept quiet for long and just at the time when delivery is to be given to the 1st respondent, the present petition (which was filed belatedly in 1992) was moved before this Court in 1994 only.

6. I have considered the rival submissions. It is absolutely clear to me that this petition has no merit at all. The very same question involved in the present case came up before the above said Division Bench case reported in (1968) I MLJ 386 = 81 L.W.8 (Madurai Nayagamme v. Plantation Merchant's Association) (K. Srinivasan, J., and R. Sadasivam, J.). The relevant observation therein are as follows:-

The question that has been referred to this Bench by Alagiriswami, J. is:- "Whether an order of eviction obtained against a chief tenant could be executed by evicting the sub-tenants who were not made parties to the application for eviction. . .

The definition of "tenant" in section 2(8) of the Act does not take in a sub-tenant.... u/s 12C of the earlier Madras Buildings (lease and Rent Control) Act 25 of 1949 any order for the eviction of a tenant passed under the Act shall be

binding on all subtenants under such tenant whether they were parties to the proceeding or not, provided that such order was not obtained by fraud or collusion. In his Order of Reference Alagiriswami, J. has referred to the decisions of this Court which have uniformly held that in spite of the wording of Section 26 of the Act, the eviction order could be executed against sub-tenants though not made parties to the eviction application. He has made this reference on the ground that the change in law, effected by Section 26 of the Act, has not been fully considered in those (sic) of Ramamurthi, J. in *Ramachandra Chetty v. Mothaliyandan Chettiar* (1965 (2) MLJ 265 = 78 L.W.489) and *Abdul Jameel v. Messrts. Simpson and Machnnochy Ltd.* (1976 (1) MLJ 337) which was not reported at the time of reference. In the earlier decision, Ramamurthi, J. has referred to the decision of the Supreme Court in *Rup Chand Gupta Vs. Raghuvanshi Private Limited and Another*, At page 1892 of he said decision, in paragraph 13, the Supreme Court has pointed out that where the landlord institutes a suit against the lessee for possession of the land on the basis of a valid notice to quit served on the lessee and does not implead the sub-lessee as a party to the suit, the object of the landlord is to eject the sub-lessee from the land in execution of the decree and such an object is quite legitimate, and that the decree in such a suit would bind the sub-lessee. The Supreme Court pointed out that this may act harshly on the sub-lessee but this is a position well understood by him when he took the sublease. This is what Ramamurthi, J., has referred to in *Ramachandra Chetti v. Mothiliyandan Chettiar* as settled law, that, if a decree for eviction is passed against the main tenant, the order of eviction can be straightaway enforced and executed as against the sub-tenant and, pointed out that by enacting Section 26 of the Act it was not intention of the Legislature to make a deliberate departure from this settled and accepted position in law.

The decision in *Parthasarathi Chetti v. Chitra Pillai* (1967 (1) MLJ 83) Natesan, J. though rendered prior to the date of reference has been reported subsequently and this decision deals with the very point which has led to this reference. At page 88 of the decision Natesan, J. has pointed out:

The object of the particular provision in the old Act and the effect of the variation by the new Act can be appreciated only if the general law in regard to the matter and the procedural law relating to executing of the order in question is understood.

Under Section 12-C of the Madras Act 25 of 1949 an order for eviction of a tenant passed under the Act shall be binding on all sub-tenants under such tenant, whether they were parties to the proceeding or not, provided, that such order was not obtained by fraud or collusion. But, u/s 26 of the Act, only the binding nature of the order of eviction against the sub-tenants who were made parties, was specified, leaving the general law as to the rights and liabilities of the sub-tenants not made parties in tact. It is clear from the latter part of Section 26 of the Act that persons who became sub-tenants after the date of

application for eviction shall be bound by the order of eviction, whether made parties or not. If the sub-tenants are made parties, the order of eviction would be binding on them of its own force and execution could be levied under Order 21, Rule 35, Civil Procedure Code. But if the sub-tenants are not made parties to the eviction application they will not be parties to the order and any obstruction for delivery in execution would fall only under Order 21, Rule 98, Civil Procedure Code. Natesan, J. has pointed out, at page 88 of the decision in Parthasarathi Chetti v Chitra Pillai (1967)1 MLJ 83 that in such circumstances the provisions of Order 21, Rule 97, Civil Procedure Code, have to be availed of by the decree-holder and if the Court is satisfied that the objection was wanton and made without just cause, the obstruction could be directed to be removed and the decree holder placed in possession, dispossessing the sub-tenant. The sub-tenant, who is not made a party may set up independent right to continue in possession of the demised premises. Thus, as pointed out by Natesan, J., a sub-tenant who was not made a party to the eviction application may set up his own title or he may plead a direct tenancy, apart from contending that the eviction order had been obtained fraudulently and in collusion. The rights of a sub-tenant, who has not been made a party, are sufficiently protected by the general provisions contained in Order 21, Rules 98 to 103, Civil Procedure Code.

We, therefore, answer the question in the affirmative, that is to say, that the order of eviction obtained against the chief tenant can be executed by evicting the sub-tenants who were not made parties in the application for eviction.

7. The above decision squarely applies to the present facts and I am also bound by the said Division Bench judgment. It may also be pertinent to point certain other observations in the above referred to Supreme Court decision reported in *Rup Chand Gupta Vs. Raghuvanshi Private Limited and Another*, It related to a piece of land (no doubt, not a building under Rent Control law) and, in the context of a suit by the sub-lessee of the said land, challenging the decree, for ejectment obtained by the landlord against the lessee without impleading the sub-lessee in the ejectment proceedings as collusive. The Supreme Court, inter alia, referred to the definition of "collusion" in Wharton's Law Lexicon, 14th Edition, Page 212 which ran thus:-

Collusion in judicial proceedings is a secret arrangement between two persons that the one should institute a suit against the other in order to obtain the decision of a judicial tribunal for some sinister purpose.

Thereafter the Supreme Court has observed as follows:-

This definition of collusion was approved by this Court in *Nagubai Ammal and Others Vs. B. Shama Rao and Others*, Thus the mere fact that the defendant agree with the plaintiff that if a suit is brought he would not defend it, would not necessarily prove collusion It is only if this agreement is done improperly V. the sense that a dishonest purpose is intended to be achieved that they can be said to have colluded....

It has been rightly pointed out by the High Court that in all cases where the landlord institutes a suit against the lessee for possession of the land on the basis of a valid notice to quit served on the lessee and does not implead the sub-lessee as a party to the suit, the object of the landlord is to eject the sub-lessee from the land in execution of the decree and such an object is quite legitimate. The decree in such a suit would bind the sub-lessee. This may act harshly on the sub-lessee; but this is a position well understood by him when he took the sub lease. The law allows this and so the omission cannot be said to be an improper act.

(Emphasis supplied)

8. I also find that the latter Division Bench decision reported in (1984) II MLJ 50 (DB) (Natarajan v. Nachimuthu Chettiar) also reiterates the same law as laid down in (1968) I MLJ 386 (DB) (supra). The question referred for consideration in the latter Bench case was whether it was open to the sub-tenant to deny the title of the landlord in the proceedings for eviction taken under the Act. There, the landlord sought the eviction of his tenant, and the sub-tenants were also impleaded. The tenant did not contest the proceedings and remained ex parte. The subtenants did not deny the fact of the tenancy between the landlord and the tenant but contended that one Gowhar Begum was the landlady of the building and it was to her he was paying the rent and as such, the landlord in the petition had no competence to file the petition for eviction. The relevant observations therein are as follows:

The definition S.2(8) makes it obvious that a sub-tenant will not constitute a "tenant within the meaning of the Act....

The Scheme of the Act is such that a sub-tenant has no status or right of his own against the landlord except to the limited extent that is provided under the Act. The exception to the Rule has been provided only in those cases, where the sub-tenancy has been created with the knowledge and written consent of the landlord. In all other cases, the sub-tenant has no status of his own as against the landlord except to stand in the shadow of the tenant. Therefore, it follows that if a tenant does not choose to put forth a defence against the landlord, the sub-tenant has to be bound by the stand taken by the tenant and he cannot independently put forth any contention of his own.

The interpretation to be given to section 26 is that where a sub-tenant is made a "party to the proceedings, he can only raise a defence, which is available to him under law or in other words permissible under the Act. When he does not dispute his status as a sub-tenant under the tenant, the only defence available to him is to show that the sub-tenancy was not an unauthorised one, but had been created with the knowledge and written consent of the landlord. No other defence can be raised by a sub-tenant.

In so far as the second limb of section 26 is concerned, it confers a right on a sub-tenant to attack an order of eviction on the ground that it is vitiated by fraud

or collusion, because he was not a party to the proceedings. This would however not mean that a sub-tenant who is made a party to the proceedings, can also raise a plea of fraud and collusion, because he is bound by the stand taken by the tenant, who was as much a party to the proceedings, as the sub-tenant himself. In support of his contention, Mr. Ganapathy invited out attention to a few reported cases. He cited Karam Singh Sobti and Another Vs. Shri Pratap Chand and Another, to contend that a sub-tenant can file an appeal against the order of eviction, even if the tenant fails to prefer an appeal. From this he tried to build up an argument that the subtenant has parallel and co-extensive rights as those of a tenant. We cannot accept this argument, because, the right of a sub-tenant to file an appeal, springs from the fact that he had been made a party to the proceedings for eviction taken by the landlord. Therefore, as a party, he is entitled to file an appeal, even if the tenant fails to do so. But that would not mean that the sub-tenant gets an enlarged right of defence that what is conferred on him under the Act. It is one thing to say that a sub-tenant has a right of appeal; but it is an entirely different thing to say that by virtue of the right of appeal, the rights of a sub-tenant become enlarged under the Act. Therefore, the ratio laid down in the said case advanced cannot be the case of the petitioner in any manner.

(Emphasis supplied).

9. It must also be pointed out here that, in the present case, it is not the plea of the petitioners that the landlord-Ist respondent gave consent for the subletting. In fact, to the allegation in the Counter-affidavit that at no point of time, the first respondent has given any permission to the 2nd respondent either orally or in writing to sublet the property, there is no denial in the reply affidavit filed by the petitioners.

10. No doubt, Learned Counsel for the petitioners relied on the following passage in the above said decision viz., (1984) II MLJ 50 and contends that the petitioners who had been the sub-tenants even prior to the filing of the Rent Control petition, are not bound by the eviction order obtained in the said Rent Control Petition, they having been not impleaded in the proceedings which resulted in the eviction order.

The Section (Section 26) provides that if an order of eviction is passed on a tenant, it will be binding on all the sub-tenants as well, provided they were made parties to the application for eviction.

But, in the light of the other observations in the said judgment, it cannot at all be said that the above passage would lead to the proposition that where such sub-tenants, who were not impleaded, will not be bound by the eviction order obtained against the tenant. Though the first limb of Section 26 says "Any order for the eviction of a tenant passed under this Act, shall be binding on all sub-tenants who were made parties in the application for eviction", it does not necessarily mean that persons who were subtenants prior to the filing of the

eviction petition, are not bound by the eviction order obtained by the landlord against the chief tenant.

10A. I may also point out that in 94 LW 102 - S. Balasubramaniam v. Gulab Jan also Nainar Sundaram, J. has also observed as follows:

If the landlord makes out a case for eviction under the Act against the main tenant, the sub-tenant cannot have any voice in such a contingency and has to abide by the decision in the action taken by the landlord against the main tenant. The sub-tenant cannot put forth any grievance since the Act confers upon him no protection whatsoever and his right to be in possession is, in the very nature of things, very nebulous and is a defensible right "Section 26 of the Act is only an enabling provision and it does not affect the well established principle that a sub-tenant has no independent right of his own to be protected under the Act and in the absence of contest by the main tenant for valid reasons and in the absence of collusion or fraud between the landlord and the main tenant, it is not permissible for the sub-tenant to stultify the proceedings for eviction by the landlord by putting forth any independent contest of his own. If the position is understood in the above light, I am unable to countenance the stand of the sub-tenant, the respondent herein against the proceedings for eviction by the landlord. As observed earlier, there is no proof of collusion or fraud by the landlord and the main tenants. Hence, it must be presumed that the main tenants found no justifiable and valid excuse or ground to contest the petition for eviction by the landlord and in the said circumstances, it is not within the competency of the sub-tenant therein to put forth a contest and nullify the proceedings for eviction by the landlord.

11. When, thus, two Division Benches of this Court and many other decisions have consistently held the same view, quite against the contention now advanced before me by the Learned Counsel for the petitioners, it is needless to say that I am bound by the said view. That apart, I do not also see any merit in the contention of Learned Counsel for the petitioners that the abovesaid view requires reconsideration.

12. In the light of the above referred to interpretation put on Section 26, by the above said two Division Bench Judgments, there is no scope at all for the other argument made by the Learned Counsel for the petitioners that Rent Control Act is a self contained Code and Section 26 therein, which according to him makes a departure from the general law, has to be applied so as to hold that sub-tenants, not made parties to the eviction petition, are not bound by the eviction order obtained therein.

But, as per the abovesaid view of the two Division Bench Judgments, Section 26, does not make any departure from the general law. The said general law was also laid down even in an earlier Supreme Court case AIR 1953 SC 515 : 67 L.W.12 (S.C) Gumshiddaswamt v. D.M.D Jain Sabha - stating that a sub-lessee would be bound by a decree for possession, obtained by the lessor against the

lessee.

13. I have further to state that AIR 1981 SC 1866 - Gurcharan Singh v. V.K. Kausha and Tirath Ram Gupta Vs. Gurubachan Singh and Another, relied on by the petitioners' counsel have no application to the actual question involved in the present case. No doubt, it was held in Tirath Ram Gupta Vs. Gurubachan Singh and Another, that against a common decree of ejectment passed against a tenant and the sub-tenant, sub-tenant alone can appeal in his own right against the decree and have the same set aside, even though the tenant decides not to file an appeal. In the above said case, the sub-tenant was already a party to the eviction proceeding and that is why it was held that he is entitled to file an appeal against the order of eviction passed even though the Chief tenant did not file an appeal. On that ground alone, similar decision was given even in Karam Singh Sobti and Another Vs. Shri Pratap Chand and Another, (as already adverted to in para 9 of this judgment). But in the present case, the sub-tenants were not parties. If they were parties they cannot be prevented from filing an appeal against the eviction order passed against them.

14. At any rate, it also appears to me that from all the above said decisions of Supreme Court relied on by the petitioners' counsel,

Raval and Co. Vs. K.G. Ramachandran and Others,

P.J. Gupta and Co. Vs. K. Venkatesan Merchant and Others,

A.I.R. 1975 SC 1751 (Gopalakrishna Chetty & Ors v. Gaeshan & Anr)

V. Dhanapal Chettiar Vs. Yesodai Ammal,

K.K. Krishnan Vs. M.K. Vijaya Ragavan,

What can be gathered is only that the Act is a self-contained Code in so far as the relationship between the landlord and the tenant as defined under the Act and not in so far as the relationship between the landlord and the sub-tenants, who are not "tenants" under the Act. In Raval and Co. Vs. K.G. Ramachandran and Others,) it has been held as follows, while dealing with the Act,

The above short analysis of the Act would show that the Act provides for every contingency that is likely to arise in the relationship of landlord and tenant.

(Emphasis supplied)

Further P.J. Gupta and Co. Vs. K. Venkatesan Merchant and Others,) only reiterates the principle laid down in Raval and Co. Vs. K.G. Ramachandran and Others, . In S.M. Gopalakrishna Chetty Vs. Ganeshan and Others, also it has been held as follows, dealing with same Act:

The Act with which we are concerned is a self-contained and complete Code for regulation of the rights between landlord and tenants as defined in the Act (See Raval and Co. Vs. K.G. Ramachandran and Others,) Thus a controversy that may arise between a landlord and others, who are not his tenants under the Act, is

outside the ken of this Act.

(Emphasis supplied)

In *V. Dhanapal Chettiar Vs. Yesodai Ammal*, also the Supreme Court relied on the following passage in an earlier Supreme Court decision *Rai Brij Raj Krishna and Another Vs. S.K. Shaw and Brothers*, in the context of Bihar Rent Act.

The Act thus sets up a complete machinery for the investigation of those matters upon which the jurisdiction of the Controller to order eviction of a tenant depends, and it expressly makes his order final and subject only to the decision of the Commissioner.

(Emphasis supplied)

In *K.K. Krishnan Vs. M.K. Vijaya Ragavan*, also the relevant observation is as follows:

It is clear from what has been said that not all the rights conferred on landlord and tenant by Section 108 and other provisions of the Transfer of property Act have been left intact by the various State Rent Acts.

(Emphasis supplied)

15. In so far as 1982 MLJ 340 *Mohammed Saleha -vs- Syed Nooruddin* relied upon by the Learned Counsel for the petitioners, I must first of all point out that the said judgment does not refer to any earlier decision of the point. The following observation therein was no doubt relied on by the said counsel.

Under Section 26 of the Act (XVIII of 1960) the landlord is expected to implead the sub-tenant also as a party in order to avoid any collusion between the landlord and the main tenant.

But, the abovesaid observation was made only in the context of finding out whether one Syed Ahamed involved in the abovesaid case was a sub tenant, or, only a brother of the chief tenant. The fact the he was not impleaded in the eviction proceedings, according to the learned Judge therein, is a piece of evidence to hold that he was not a sub tenant and only in that context the abovesaid observation has been made without any discussion whatsoever on that point. However, as already noted, as per the above referred to Division Bench judgments of this Court, the landlord is not bound to implead the sub tenant in the eviction proceeding against the tenant. Regarding the allegation that there is collusion between the respondents, there is total denial of the same by the 1st respondent. On the other hand, the 1st respondent alleges that there is collusion between the petitioners and the 2nd respondent who has remained ex parte. According to the 1st respondent, the 2nd respondent alone has set up the petitioners to file this petition after he has failed consecutively in the above referred to Rent Control Proceedings and suffered eviction order on the ground of willful default. The present petition has been filed on 28-9-1992 after the eviction order was confirmed by the Appellate Authority in RCA 1 of 1989 on 18-8-1992,

and even though the present CMP was filed on 28-9-1992, it was moved before this Court only in January, 1994, after the dismissal of above CRP 2444 of 1993 filed by the 2nd respondent against the order in RCA 10 of 1989 on 3.12.1993. In the above circumstances I find there is great force in the contention of the Learned Counsel for the 1st respondent, and I do not find any force in the contention of the Learned Counsel for the petitioners that there is collusion between the respondents, particularly in the light of the context made by the 2nd respondent (consistently upto the CRP stage) in this willful default proceeding, as well as in the other demolition and reconstruction proceeding, as narrated above. In the above circumstances, there is absolutely no merit in this petition and hence it is dismissed with costs. Counsel Fee is Rs. 1000/-.