

(1920) 02 BOM CK 0004
In the Bombay High Court
Case No : O.C.J. Appeal No. 2 of 1920

B.D. Pudumji

APPELLANT

Vs

Sir Dinshaw Manekji Petit

RESPONDENT

Date of Decision : 25-02-1920

Acts Referred:

Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 — Section 9

Citation : (1920) 22 BOMLR 880 : 58 Ind. Cas. 27

Hon'ble Judges : Norman Machod, J;Heaton, J

Bench : Division Bench

Judgement

Norman Machod, Kt., C.J.—The plaintiff brought this suit against the defendant praying that the defendant might be ordered to vacate and give up possession of certain premises in his occupation to the plaintiff. The defendant is a monthly tenant of certain premises in a house belonging to the plaintiff on Hornby Road.

2. The defendant has pleaded the Rent Act, and denies that the premises in suit are reasonably and bona fide required by the plaintiff for demolishing the same and for erecting a new building.

3. Now, admittedly the house in which the defendant is a tenant together with the adjoining house is very old. The rooms are dark and badly ventilated; and certainly it would tend to the improvement of the premises and for the better conditions of the tenants who would occupy the new premises, that the present house should be pulled down and a new house built on the site with all modern conveniences. I cannot see, therefore, that there was anything unreasonable in the plaintiff's conduct in wishing to get the tenants of the present house to vacate in order that proper improvements might be made. It was never intended as far as I can see, by the Bombay Rent Act that the improvement of old, ill-erected, badly ventilated premises should be entirely stopped until the Rent Act is repealed. All that the Courts have to do in construing Section 9 of the Bombay Rent Act is to see that the landlord is acting reasonably. If it was found that the owner of a perfectly new building built, just before the Rent Act came into

operation, wanted to pull Down that building and build another one, it is quite possible that in these circumstances the Court would think that the landlord was quite unreasonable. In this case we have none of those circumstances, We have two houses which it is certainly desirable should be replaced by modern houses. Therefore, if this house was the only house that was mentioned in the case, it seems to me that the plaintiff is entitled to get the defendant to vacate.

4. But it is argued for the defendant that the plaintiff has another house in which he himself is occupying a room for the purposes of his office, while other rooms are occupied by companies in which the plaintiff is interested, and that the plaintiff is really pulling down what I may call the defendant's house in order that he may rebuild on the site new offices for himself and his other companies, because the present office building is likely to become unsafe in the near future. The defendant, therefore, suggests that the plaintiff ought to move himself from his present office building to the top floor of the defendant's house and pull down the office building before he pulls down the defendant's building. That, no doubt, would be an alternative. But is there any necessity by which the plaintiff is bound to follow that alternative which would be convenient to the defendant but would be less convenient for the companies in which the plaintiff is interested and who have rented premises in the office building ? Can it be said that the plaintiff is acting unreasonably and not bona fide if he follows the alternative which suits him best? And unless we can hold that in the case of two alternatives, the plaintiff must follow one, and if he follows the other his conduct is unreasonable, the defendant is bound to fail. I do not see myself how one can pin down the plaintiff to follow one particular alternative when to follow the other is perfectly reasonable ; certainly when you look at the plaintiff's ownership of the suit house without considering his ownership of other premises, there would be absolutely nothing unreasonable in his wanting to pull down that house and build another on its site.

5. In my opinion, therefore, the judgment of the Court below was right, and the appeal must be dismissed with costs.

Heaton, J.

6. I concur.