
(1996) 02 MAD CK 0036
In the Madras High Court
Case No : C.R.P. No. 2323 of 1989

Central Hameedia Stores and Others	APPELLANT
Vs	
Valliammmal @ Rajammal	RESPONDENT

Date of Decision : 27-02-1996

Acts Referred:

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 14(1)

Citation : (1996) 1 CTC 330 : (1996) 2 LW 721 : (1996) 2 LW 720

Hon'ble Judges : Jagadeesan, J

Bench : Single Bench

Advocate : Mohamed Yousuf, for the Appellant; Peppin Fernando, for the Respondent

Final Decision : Dismissed

Judgement

Jagadeesan, J.—The tenants are the petitioners. The respondent/landlady filed R.C.O.P. 11/87 on the file of the Rent Controller (District

Munsif), Sankarankoil to evict the petitioners herein on the ground of wilful default and for demolition and reconstruction.

2. The respondent's case is that the monthly rent for the premises is Rs. 500/- of which Rs. 350/- is to be paid every month on or before 5th of

succeeding month and Rs. 150/- has to be paid in the consolidated basis, once in six months. The petitioners failed to pay the rent from 30th

March to 30th September, accruing to Rs. 900/- at the rate of Rs. 150/- p.m and failed to pay the entire rent from 1.9.86 to 30.9.87. The building

is 60 years old and the respondent wants to demolish the existing superstructure and put up the new building in order to augment the income.

3. The petitioners opposed the application by filing counter stating that there is no arrears at all and the agreed rent is only Rs. 350/- p.m. and since

the respondent's grandson was collecting the rent, had refused to receive the rent, the rents were not paid.

4. However, during the evidence the petitioners represented that the rent had been deposited in the rent control court. After elaborately

considering the evidence, the Rent Controller ordered eviction. Against the said order, the petitioners filed an appeal before the Appellate

Authority in R.C.A.14/88. The Appellate Authority also concurred with the findings of the Rent Controller and dismissed the appeal, confirming

the order of the eviction. The present revision has been filed against said order of eviction.

5. Both the authorities had relied upon Exs.A14 and A15 and found that the rent is Rs. 500/- and the petitioners had been paying the rent at the

rate of Rs. 350/- p.m. and (he remaining Rs. 150/- once in six months on consolidated basis as contended by the respondent herein. The admitted

case of the petitioners is that the respondent has not received the rent and hence they filed the R.C.O.P seeking permission to deposit the same.

The petitioners filed R.C.O.P. 12/87 seeking permission to deposit the rent only subsequent to the filing of the eviction petition. If really the

respondent's grandson had refused to receive the rent from August, 1986, then naturally the petitioners ought to have filed the petition immediately

thereafter. They have not done so. They waited till the respondent files petition for eviction. Apart from that there is nothing on record to show as

to how much the petitioners are depositing every, month and whether the deposit is being made every month without any default. In the absence of

these materials, the conduct of the petitioners in depositing the rent cannot be taken into consideration. Hence the finding of both the authorities that

the petitioners have committed wilful default is a finding of fact and as such no interference is called for by this court.

6. Even though on the ground of demolition and reconstruction several arguments have been advanced by the counsel for the petitioners to the

effect that the condition of the building is the primary one to seek for eviction on this ground, and in the absence of any evidence to show that the

building is old and that requires immediate demolition, the eviction ought not to have been ordered on this ground.

7. The counsel for the respondent represented that admittedly the building is 60 years old and naturally the building requires certain repairs. Taking

into consideration of the situation of the building, in the heart of the town, the landlady wants to demolish the building in order to argument her

income. In such case, he relied upon the judgment reported in Lakshmanan v. Kanniammal, 1995 (II) MLJ 178. Though the finding given on the

ground of wilful default is sufficient to sustain the order of eviction, to complete the contention of the counsel on both sides, I think it is better to

deal with this point also.

8. It is true that neither the petitioners nor the respondent had let in any evidence to prove the condition of the building. The respondent's evidence

is that the building is 60 years old and the same has not been disputed by the petitioners. The respondent further stated in her evidence that the

building is situated in the prime location in the town and if the building is demolished and a modern superstructure is put up, she may increase her

income. The condition of the building is one of the creteria. That has to be taken into consideration for the request u/s 14(1)(b) of the Tamilnadu

Buildings (Lease and Rent Control) Act, 1960 and that is not the sole ground. Hence the respondent is entitled to ask for the demolition of the

building. AR. Lakshmanan, J had discussed the very same issue in his judgment reported in Lakshmanan v. Kannammal Alias Pattammal 1995 II

MLJ 178 as follows:

As rightly contended by the learned counsel for the landlady, Section 14(1)(b) of the Act is not rendered inapplicable merely because the building

is not old or dilapidated but is in a good condition. In other words, if the intention of the landlady for demolition and reconstruction is proved to be

genuine and not spurious or specious, the landlady would be entitled to obtain an order for eviction u/s 14(1)(b) of the Act, whether or not the

condition of the building is such as to require immediate demolition, the age and dilapidated condition of the building not being sine que non for

such eviction. As held by our High Court in the decision reported in Arumugam Vs. D.R. Srinivasan, , if the landlady wanted to pull down a

relatively recent construction and put up a multistoreyed building according to modern requirements, the law does not prevent her provided it was

bona fide. The decision of the Supreme Court will come into play only when the landlady relies on the and condition of the building for the purpose

of Section 14(1)(b) of the Act.

Likewise, it is well established in this case that the means of the landlady to carry out the work of demolition and reconstruction is a relevant factor

to be taken note of by this Court and consider while testing her bona fides. As observed in the decision reported in D. Rukmani Ammal and

Others Vs. V.K. Izudden, , this does not necessarily mean that the landlady should jingle the coins before the Controller to establish this factor, I

am therefore, unable to hold that the applications have been filed merely with a view to evict the tenants. The contention of Mr. E. Padmanabhan,

that the entire eviction proceedings is nothing but a device to evict the tenants and in view of the conduct of the landlady, no order of eviction could

be passed on the facts of this case is not based on any acceptable material. Therefore, I reject the same. As pointed out by the Supreme Court in

P. ORR and Sons(P) Ltd. v. Associated Publishers (Madras) Ltd.? 1990 (2) LW. 547, in order to satisfy the test u/s 14(1)(b) of the Act, the

condition of the building need not have deteriorated to the extent of the building being in danger of crumbling down but the condition must be such

as to indicate a bona fide requirement for the timely, genuine and direct purpose of demolition and reconstruction. ... The decision reported in

Annamalai Nadar v. D. Thangamani 1991 (2) LW 609 is a judgment by a Division Bench consisting of Nainar Sundaram, J. as he then was and

Thanikkachalam, J where again by applying the test laid down in P. ORR & Sons (P) Ltd. v. Associated Publishers (Madras) Ltd 1990 (2) LW

547, the Bench held that the condition of the building need not have deteriorated to the extent of its being in danger of crumbling down but it should

indicate the bona fide requirement for the timely, genuine and direct purpose of demolition and reconstruction. As pointed out earlier, Mr. E.

Padmanabhan learned counsel for the tenants, made his submissions that the Appellate Authority ignored to take note of and adjudicate a vital and

relevant factor viz., the condition of the building. The learned counsel for the tenants was at pains to impress upon me that the existing condition of

the building does not warrant the upholding of the case of the landlady for demolition and reconstruction.

9. Though the burden is on the landlady to prove the condition of the building, when the tenants also got into the box to give evidence, they should

have let in evidence contra that the condition of the building is such that it does not require demolition. In the absence of any contra evidence, there

is nothing wrong in accepting the evidence of the landlady. Both the authorities below had categorically found that the requirement of the landlady u/s 14(1)(b) is bona fide.

10. For the reasons stated above, the civil revision petition is dismissed. The petitioners are granted six months time to vacate the premises, since they are using it for commercial purpose, on condition that they shall file an affidavit of undertaking within two weeks from today to vacate and hand over vacant possession on the expiry of six months.