

(2010) 07 MAD CK 0161

In the Madras High Court

Case No : C.R.P. (NPD) . No"s. 1055 of 2003 and 1984 of 2010 and C.M.P. No. 11096 of 2003 and M.P. No. 1 of 2010

M. Balakrishnan

APPELLANT

Vs

Smt. Jeeva Mercy Kamala, Smt. G.R. Elizabeth Jebakumari
and G. Daniel Phillip

RESPONDENT

Date of Decision : 02-07-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Constitution of India, 1950 — Article 227

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 10(2), 10(3), 8(5)

Citation : (2010) 07 MAD CK 0161

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : A. Amalraj, for the Appellant; V. Raghavachari, for R1 and R2, for the Respondent

Final Decision : Dismissed

Judgement

G. Rajasuria, J.—Inveighing the orders dated 31.3.2003 and 05.01.2020 passed in R.C.A. Nos. 218 of 1998 and 368 of 1999 by the VIII Judge (Appellate Authority), Small Causes Court, Madras, confirming the orders dated 16.3.1998 and 19.3.1999 passed in R.C.O.P. Nos. 2204 of 1993 and 1710 of 1995 by the XII Judge, Small Causes Court, Madras, these civil revision petitions are focussed.

2. Niggard and bereft of unnecessary details, the germane facts for the disposal of these revision petitions would run thus:

(i) The respondents/landlords filed the R.C.O.P. 2204 of 1993 on the ground of wilful default in paying of rent, invoking Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 (hereinafter referred to as "the act" for short) and also on the ground of additional accommodation invoking Section 10(3)(c) of the Act. The matter was contested before the Rent Controller.

(ii) Ultimately, the Rent Controller ordered eviction. Being aggrieved by the

same, R.C.A. 218 of 1993 was filed for nothing but to be dismissed. As against which, C.R.P. No. 1055 of 2003 has been filed.

(iii) It so happened that during the pendency of the R.C.O.P. No. 2204 of 1993, one other R.C.O.P. also was filed on the ground of wilful default in payment of rent, which occurred even during the pendency of the earlier RCOP proceedings. After contest, the said RCOP was ordered directing eviction of the tenant. As against which, R.C.A. No. 368 of 1999 was filed and that was also dismissed. Wherefore a separate revision in C.R.P. No. 1984 of 2010 has been filed. As such both the revisions are pending before me.

3. Heard both sides.

4. The grounds as found set out in both the revisions are almost one and the same. The quintessence of the grounds of revisions and the arguments as advanced on the side of the revision petitioner would run thus:

(a) Both the Court below failed to take into account that there was no wilful default in paying the rents on the part of the revision petitioner/tenant.

(b) The tenants, in fact tendered the rent, which was unjustifiably denied by the present landlords' propositus. Thereafter, by way of showing bona fides, the tenant also took steps u/s 8(5) of the Act for depositing the rent in the Court and that was dismissed, because during the pendency of the said petition, the then landlord died and steps have not been taken to implead his LRs.

(c) The tenant paid two instalments in a sum of Rs. 15,000/- each, one at the time of initial lease and another at the time of enlarging the area of lease premises. If the advance amount of Rs. 30,000/- is taken into account, then by no stretch of imagination it could be held that there was default much less wilful default in payment of rent by the tenant.

(d) Before the Rent Controller the initial lease agreement could not be produced and only at the appeal stage, by way of additional evidence the following documents were sought to be filed:

(i) Xerox copy of Rental agreement dated 1.2.1986 (original agreement is with the respondents and proper notice issued to produce the original before Court)

(ii) Xerox copy of cheque dated 26.11.1993 in Cheque No. 938888 for Rs. 24,000/-

(iii) Xerox copy of letter dated 27.11.1993 addressed to the first respondent.

(iv) Acknowledgment dated 30.11.1993 (original) cheque.

(v) Notice dated 2.12.93 sent by the respondent Counsel to appellant counsel.

(vi) Original photographs with negative of landlords other premises bearing Door No. 187, 188 and 189 at Peambur Barracks Road, Chennai-12.

(vii) Photographs with negative of landlords other premises at Door No. 7, Perambur Barracks Road, Chennai-12.

(viii) Photographs with negatives of the landlords another premises at Door No. 224, Dimplers Road, Pattalam, Chennai-12.

but the learned appellate authority dismissed the said petition after hearing both sides, unjustifiably. As such the tenant was not given due opportunity to put forth his case.

(e) The telegram issued by the tenant, as evidenced by Ex.R5, was not responded to and that evinces that the landlords impliedly admitted that they were in receipt of totally a sum of Rs. 30,000/- towards advance.

(f) After the filing of the RCOP No. 2204 of 1993 a cheque was issued by the tenant in favour of the landlords to a tune of Rs. 24,000/- and thereafter also the rents were periodically paid and as such, absolutely it cannot be treated that there was wilful default on the part of the tenant in paying the rent.

(g) Both the Courts below failed to take into consideration the existing law on the point and analyse the facts placed before them.

(h) In respect of the ground of the landlords that they require the premises for additional accommodation so as to start VI standard English Medium class is turned out to be false because there were prevaricative stands on the part of the landlords. In the pleading the landlords stated one thing, but in the deposition, P.W.1-one of the landlords stated another thing.

(i) The revision petitioner/tenant was picked and chosen with mala fide intention by the landlords to evict him and not with any genuine intention to have additional accommodation for running the school.

(j) The tenant was occupying the second shop out of the four string of shops abetting the road. There is nothing to indicate as to why the second shop was chosen by the landlords for additional accommodation.

(k) Both the Courts below failed to take into account the relative hardship that would be caused to the tenant if the RCOPs are allowed. The tenant is only a small furniture merchant and if he is evicted, his entire livelihood would come to a grinding halt and thereby he would not be able to survive. But on the other hand, if the landlords are denied of their alleged requirement, nothing would happen, as they are having enough space as well as properties of their own.

5. The learned Counsel for the revision petitioner/tenant, reiterating the grounds of revisions as well as his arguments would pray for setting aside the orders of both the Courts below and for dismissing the RCOPs.

6. Per contra, by way of contradicting and denying, gainsaying and challenging the averments/arguments as put forth and set forth on the side of the revision petitioner/tenant, the learned Counsel for the respondents/landlords would

advance his arguments, the warp and woof, the gist and kernal of them would run thus:

(i) As on the date of filing of the first RCOP, viz., RCOP No. 2204 of 1993, the tenant indubitably and indisputably was in arrears of payment of 28 months' rent. Even as on the first hearing date, no arrears were tendered. Only thereafter a cheque was issued and subsequently, the records would speak by themselves that in lumpsum alone rents were paid and without any default the rents were not paid and that alone actuated and galvanised, propelled and impelled the landlords to file one other RCOP on the ground of wilful default in payment of rent, which occurred even pendente lite of the earlier RCOP.

(ii) Absolutely there is no shard or shred, miniscule or molecular, iota or jot extent of evidence to prove that a huge sum of Rs. 30,000/- in total was paid as advance in two instalments, so to say at the rate of Rs. 15,000/- each.

(iii) The additional evidence sought to be filed at the appellate stage was nothing but an after thought.

(iv) There was no admission on the part of the landlords that initially there was tenancy agreement, as the document sought to be adduced as additional evidence before the appellate authority in this regard was only a copy purported to have been signed by the deceased original landlord. There is nothing to indicate as to what prevented the tenant to produce that document even earlier.

(v) The landlords had no prevaricative stands in respect of the issue relating to the alleged receipt of advance. The contention on the side of the tenant that no landlord having head over shoulder would ever venture to lease out his premises without receiving any advance is neither here nor there for the reason that all the landlords are not usurious to get exorbitant advance and in such a case there could be no presumption as suggested by the learned Counsel for the tenant that in all probabilities the landlords might have received advance and that too to the extent of Rs. 30,000/-.

(vi) The factum of having sent telegram as per Ex.R5 has not at all been proved. Marking is different from proving and in this case there is nothing to indicate that such a telegram was sent and it was received by the landlords.

(vii) In respect of additional accommodation is concerned, the tenant cannot dictate terms as to which portion of the landlords' property should be taken by the landlords. The fact that the landlords are running the school is beyond doubt and steps have been taken by the landlords to start VI standard in their English Medium School. It is for the landlords to use that demised premises for any one of the purposes connected with the school, so to say for the purpose of nutritious meal scheme or for accommodating teachers' room. Wherefore it is not open for the tenant to say that the place may not be suitable for such and such purpose etc.

Accordingly, the learned Counsel for the respondents/landlords prays for

dismissal of both the revisions.

7. The points for consideration are as under:

(i) Whether both the Courts below were correct in holding that the tenant/revision petitioner committed wilful default in paying the rents, based on the records available before them?

(ii) Whether both the Courts below were justified in giving a finding that the landlords require the demised premises for additional accommodation in the wake of the evidence placed before them?

8. Points (i) & (ii): Both these points are taken together for discussion, as they are interconnected and entwined, interlinked and interwoven with each other.

9. On both sides decisions were cited, hence, at the outset itself, before discussing the factual issues, it is just and necessary to refer to those precedents.

The revision petitioner/tenant cited the following decisions in order to highlight as to what would constitute "wilful default" and in what circumstances the tenant cannot be mulcted with liability by labelling him as "wilful defaulter".

(i) K. Narasimha Rao Vs. T.M. Nasimuddin Ahmed, ;

(ii) 2009(1) CTC 817 ? P. Kannaiah v. V.R. Chinnaraj;

(iii) 2002(1) CTC 487 ? J.J. Lal Pvt. Ltd. and Ors. v. M.R. Murali and Anr.;

(iv) S. Sundaram Pillai and Others Vs. `R. Pattabiraman and Others, ;

(v) (1985) 1 Scc 605 - S. Sundaram Pillai and Ors. v. R. Pattabiraman and Ors.;

(vi) M/S Chordia Automobiles Vs. S. Moosa and Others, ;

(vii) P.M. Punnoose Vs. K.M. Munneruddin and Others,

10. Per contra, the learned Counsel for the respondents/landlords cited the following decisions (4 decisions)

(i) 1989 (1) L.W. 29 ? C. Natarajan v. S. Anandammal

(i) 1994-2-L.W.661 ? A.P. Swamy v. V. Kunjithapadam;

(ii) Mrs. R. Kempammal Vs. K. Aravindakshan,

11. A mere poring over and perusal of the above excerpts, including the whole judgments would unambiguously and unequivocally highlight and spotlight the fact that the law on the concept "wilful default" as of now is well settled. I would like to formulate an Universal logical proposition as under:

All cases of non-payment of rent will not amount to cases of wilful default. Once a tenant is shown as defaulter in paying rent, he cannot be labelled as a person who committed wilful default. In order to constitute "wilful default", the following elements should be there, as found delineated in the decisions of the Honourable

Apex Court in M/S Chordia Automobiles Vs. S. Moosa and Others,

8. Wilful default means an act consciously or deliberately done with open defiance and intent not to pay the rent. In the present case the amount of rent defaulted firstly is on account of the fact that the agent of the landlord did not come to collect the rent for some reason. Further, notice of default contained the disputed rent. This fact coupled with the fact that eviction suit was filed before maturing a case of wilful default in terms of the explanation to the proviso of Section 10(2). The dispute of rent admittedly was genuine. Further, we find the conduct of the appellant throughout in the past being not of a defaulter or irregular payer of rent. Thus, all these circumstances cumulatively come to only one conclusion that the appellant cannot be held to be a wilful defaulter.

9. In S. Sundaram Pillai v. R. Pattabiraman this Court had occasion to consider the word "wilful default" u/s 10(2) of the aforesaid Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 which is reproduced below: (SCC pp.605-06, paras 21-26)

21. Before, however, going into this question further, let us find out the real meaning and content of the word "wilful" or the words "wilful default". In the book A Dictionary of Law by L.B. Curzon, at p.361 the words "wilful" and "wilful default" have been defined thus:

"Wilful" ? deliberate conduct of a person who is a free agent, knows that he is doing and intends to do what he is doing.

"Wilful default" ? Either a consciousness of negligence or breach of duty, or a recklessness in the performance of a duty.

22. In other words, "wilful default" would mean a deliberate and intentional default knowing full well the legal consequences thereof. In Words and Phrases, Vol 11-A (Permanent Edition) at p.268 the word "default" has been defined as the non-performance of a duty, a failure to perform a legal duty or an omission to do something required. In Vol.45 of Words and Phrases, the word "wilful" has been very clearly defined thus:

"wilful" ? intentional; not incidental or involuntary;

- done intentionally, knowingly, and purposely, without justifiable excuse as distinguished from an act done carelessly; thoughtlessly, heedlessly or inadvertently;

- in common parlance word "wilful" is used in sense of intentional, as distinguished from accidental or involuntary.

p.296 ? "Wilful" refers to act consciously and deliberately done and signifies course of conduct marked by exercise of volition rather than which is accidental, negligent or involuntary.

23. In Vol.III of Webster's Third New International Dictionary at p.2617, the

word "wilful" has been defined thus:

governed by will without yielding to reason or without regard to reason; obstinately or perversely self-willed.

24. The word "default" has been defined in Vol.I of Webster's Third New International Dictionary at p.590 thus:

to fail to fulfil a contract or agreement, to accept a responsibility; to fail to meet a financial obligation.

25. In Black's Law Dictionary (Fourth edn.) at p.1773 the word "wilful" has been defined thus:

"Wilfulness" implies an act done intentionally and designedly; a conscious failure to observe care; conscious; knowing; done with stubborn purpose, but not with malice.

The word "reckless as applied to negligence, is the legal equivalent of "wilful" or "wanton"

26. Thus, a consensus of the meaning of the words "wilful default" appears to indicate that default in order to be wilful must be intentional, deliberate, calculated and conscious, with full knowledge of legal consequences flowing therefrom. Taking for instance a case where a tenant commits default after default despite oral demands or reminders and fails to pay the rent without any just or lawful cause, it cannot be said that he is not guilty of wilful default because such a course of conduct manifestly amounts to wilful default as contemplated either by the Act or by other Acts referred to above.

As such keeping in mind the aforesaid dictum, I would like to analyse the facts before me as well as the arguments advanced on both sides.

12. Before venturing to proceed further I would also like to highlight that no doubt the Rent Control revisional jurisdiction is somewhat wider than ordinary revisional jurisdiction contemplated u/s 115 of C.P.C. and Article 227 of the Indian Constitution, yet the revisional Court cannot assume the role of Court of fact.

13. Unarguably and unassailably the fact remains that as on the date of filing of the first RCOP by the landlords, the tenant was in arrears of rent for 28 months, for which, on the tenant's side it has been clarified and expounded that the then landlord refused to receive the rent on the ground that the rent actually was not Rs. 800/- p.m. but it was only Rs. 2000/- p.m. whereupon alone apparently there appears to be arrears, even though in stricto sensu it cannot be termed as "wilful default". He would also refer to the petition filed u/s 8(5) of the Act for deposit of rent in Court.

14. The first appellate Court, on that aspect correctly and convincingly furnished its reasons in its order that the tenant even though stated to have filed the

application u/s 8(5) of the Act for depositing the rent in Court, he had not pursued it further. No doubt, during the pendency of the petition the then landlord died and it does not mean that the tenant can wriggle out of his liability by simply taking shelter under that. As such, the application filed u/s 8(5) of the Act did not result in actually the tenant depositing the entire arrears. The appellate Court correctly passed its remark on the laches on the part of the tenant.

15. The learned Counsel for the landlords also would submit by inviting the attention of this Court to the factual aspects involved in this case that at the first hearing of the RCOP, the rents were not tendered, and only thereafter cheque was issued by the tenant for a lumpsum of Rs. 24,000/- representing the past arrears. By paying such amount, the tenant cannot exonerate himself from his liability to explain as to how he was not a defaulter as on the date of filing of the RCOP by the landlords.

16. The learned Counsel for the respondents/landlords also inviting the attention of this Court to the various portions of the typed set of papers and the evidence would submit that every now and then the tenant paid lumpsum payments as rents.

17. The decisions cited supra on both sides would clearly display and demonstrate that during the pendency of the RCOP proceedings if lumpsum payments are made as rent by the tenant that itself would be indicative of the fact that he was in arrears. In fact that alone made the landlords to file one other RCOP on the ground that the tenant committed default, pendente lite of the earlier RCOP.

18. On the side of the tenant it is argued that in the pleadings the landlords contended that there was no agreement at all at the initial stage, even though in the tenant's typed set of papers, at page No. 1, the copy of the agreement is found set out,.

19. At this juncture, I would like to point out that even though the appellate authority has got the right to entertain additional evidence as per law, yet it is with in his discretion to find out as to whether the additional evidence sought to be adduced is ex facie and prima facie permissible.

20. The landlords, clearly and categorically without any reservation whatsoever, denied the very lease agreement dated 1.2.1996 purported to have been signed by their deceased propositus and in such a case the learned appellate authority properly applied the law and held that a mere photocopy without any authenticity could not be entertained as additional evidence. Over and above that the learned Counsel for the landlords also inviting the attention of this Court to the deposition of P.W.1-one of the landlords highlighted that while cross-examining P.W.1 not even a suggestion was put to him that such an agreement was in existence. As such, I am of the considered opinion that the appellate authority cannot be found fault with for not entertaining the said rental agreement.

21. One other document sought to be produced as additional evidence was the xerox copy of the cheque dated 26.11.1993. But that is an admitted fact and as such there was no necessity to produce it as an additional document. Document Nos. 3 to 5 are relating to correspondences, which were highlighted to be relevant at the appellate stage. Accordingly, I am of the view that the discretion exercised by the appellate authority in not entertaining the additional documents cannot be found fault with.

22. Considering the pro et contra, this Court could clearly see that there arose some controversy between the then landlord and the tenant relating to the quantum of rent payable and whereupon dispute erupted. Now the learned Counsel for the landlords would convincingly argue that even assuming that the rent was only Rs. 800/- p.m. at that time and not Rs. 2000/- p.m., nevertheless the tenant was a wilful defaulter, because he had not taken steps to deposit the rent.

23. My discussion supra would display and demonstrate that the tenant by his own conduct exemplified that he committed wilful default in paying the rent as correctly pointedly by both the Courts below and in fact, the appellate authority threadbare discussed those points as a last Court of facts and in my opinion no interference with such findings are required.

24. Further, while hearing arguments, I posed a specific question to the learned Counsel for the tenant whether he could establish before this Court that a sum of Rs. 30000/- was advanced by the tenant. If actually such advance was with the landlords then in that case he would have a fair chance of arguing before this Court that even though there was default, it could not be termed as wilful default, because as per law, the landlord should adjust the arrears with the excess advance amount available with him over and above one month's rent. The learned Counsel for the tenant, in response to the query raised by this Court, elaborated his argument inviting the attention of this Court to the telegram-Ex.R5.

25. However in Ex.R5 one label of Department of Tele Communications is found pasted on it. Ex.P5 itself is only a typed paper and as correctly pointed out by the learned Counsel for the landlords no authenticity could be attached to it as the version found in that paper cannot be taken as one sent by way of telegram to the landlords and that too in the wake of the landlords' having denied such telegram received by them and also they denied categorically that no such advance was received.

26. The learned Counsel for the landlords inviting the attention of this Court to the deposition of P.W.1 would submit that nothing has been suggested during cross-examination of P.W.1 that totally a sum of Rs. 30,000/- was paid by the tenant to the landlords, for which the learned Counsel for the tenant would submit that it is for the landlords to deny what are all found stated in the counter and specifically no question is required to be put during cross-examination of

P.W.1 at the instance of the tenant.

27. No doubt, in rent control proceedings the punctilious of procedures as contemplated in the Evidence Act need not be adhered to strictly. Even then, in adversarial proceedings, so to say in the litigative battle when parties could not see eye to eye and that they are at logger heads, in addition to each one is trying to cut the ground under the feet of the other and also take the wind out of the sail of the opposite party, the tenant, who is very particular in pressing into service certain point, should have been diligent enough in putting appropriate suggestions even de hors the provisions of the Indian Evidence Act.

28. Be that as it may, from the deposition of R.W.1 what I could see is that there is nothing to indicate and exemplify that in total a sum of Rs. 30,000/- was paid as advance. A comprehensive reading of the deposition of R.W.1 would convey and connote, demonstrate and display show that he himself deposed before the Court that a sum of Rs. 15,000/- only was paid as advance. Incidentally I would like to observe that as on the date of filing of the first RCOP there was rental arrears for 28 months and at the rate of Rs. 800/- p.m. if calculated it comes to Rs. 22,400/-. R.W.1 in his deposition only stated that Rs. 15,000/- only was paid as advance. Over and above the advance amount there were arrears and as such I am of the considered view that the tenant has not proved satisfactorily that he paid totally the sum of Rs. 30,000/- as advance and that the landlords ought to have adjusted it towards the arrears.

29. I would also like to point out that in the pleadings the tenant took up the stand that even at the time of initial taking of the lease, the extent taken was 530 sq.ft and there was no question of subsequent enlargement of the demised premises. However, quite antithetical to such pleading, in the evidence, he would state that there was enlargement of the demised premises.

30. Be that as it may. It is trite proposition of law that the party who pleads should prove it. At this juncture, I recollect and call up the following maxims:

(i) Affirmanti, non neganti incumbit probatio ? The burden of proof lies upon him who affirms, not upon one who denies.

(ii) Affirmantis est probare ? He who affirms must prove.

31. Here the initial burden is always on the landlords to prove the wilful default in payment of rent by the tenant and if there are specific pleas like adjustment of advance etc, by the tenant, then it is for the tenant to prove the same. But in this case, my above analysis would demonstrate that the tenant failed to convince the Court that there was payment of advance of Rs. 30,000/- to the landlord and that it ought to have been adjusted towards arrears of rent. By way of adding fuel to the fire, absolutely there is no documentary evidence to prove such payment of advance also. Hence, in this view of the matter, a fortiori the analysis of evidence and the ultimate conclusion arrived at by both the Courts below, in revision, cannot be interfered with, as they decided the matter au fait

with law and au courant with facts.

Accordingly, point No. (i) is decided as against the tenant and in favour of the landlords.

32. Point No. (ii): On this point both sides cited decisions. It is therefore just and necessary to ponder over sun precedents:

On the side of the landlords the following decisions have been cited.

(i) S.R. Babu Vs. T.K. Vasudevan and Others, ;

(ii) Rasi Silks and K. Arunachalam Vs. T.A. Venkatachalam and Others,

On the side of the tenant the following decision has been cited.

Sri Kempaiah Vs. Lingaiah and Others,

33. A mere poring over and perusal of those decisions would clearly exemplify and connote that it is not enough to find out whether the landlord require the demised premises for a bona fide purpose, but the Court has to necessarily go into the factum of relative hardship that would result in case of either ordering eviction or not ordering so.

34. Here the learned Counsel for the tenant would submit that his client is in the lower stratum of life, being a small business man doing furniture business, whereas, the landlords are running school and they would not be prejudiced if no eviction is ordered. The learned Counsel also would submit that the rent controller as well as the appellate authority did not consider the hardship that would be caused to the tenant if evicted. According to him, the landlords pleaded that the students strength was 660, but P.W.1 on that aspect would depose that it was only 339. At one point of time the landlords would state as though they have already obtained permission from the Government for starting the VI standard English Medium class, but in the deposition P.W.1 would depose that such permission was yet to be obtained. Now the learned Counsel for the landlords would submit that already such a class has been started by the school authority.

35. The learned Counsel for the tenant, referring to all these pitfalls in the evidence on the part of the landlords would develop his argument that absolutely there is no bona fides on the part of the landlords in demanding the shop No. 2, which is under the occupation of the tenant. According to him there are four shops abutting the street and only in the first and second floors the school of the landlords is being run and in such a case leaving other tenants, the landlords were not justified in picking and choosing this tenant alone for eviction on the ground of additional accommodation.

36. Not to put too fine a point on it, the present tenant already, according to the landlords, committed default in paying rent and additionally the landlords wanted to add the ground of additional accommodation also and in such a case, the

landlords cannot be found fault with for they having chosen the present tenanted premises as the one which they should have it by way of additional accommodation. However, it is for the landlords to decide which portion of their tenanted premises should be taken back by them through process of law for their requirement and that the tenant cannot dictate terms and to that effect the decisions cited supra would make the point pellucidly and palpably clear.

37. The Rent Controller, no doubt dealt with the matter, but not elaborately. But the appellate authority dealt with the matter elaborately and pointed out the relative hardship that would emerge if no eviction is ordered. It is an admitted fact that the landlords are running an aided school and it is a truism to state that a school should have enough space and it is common knowledge that as per Government regulations most of the schools are issued with notices for being closed down if they do not acquire additional space for running the school.

38. Here the very description of the property itself would clearly indicate that the school is being run in the first and second floors and as correctly pointed out by the learned Counsel for the landlords, the school requires the said demised premises for accommodating their staff or in the alternative for implementing the nutritious meal scheme. It is not as though necessarily the demised tenanted premises should be used for conducting classes. If the tenanted premises is going to be used for any purpose connected with the running of the school, in my opinion that is sufficient and it should be termed as a "bona fide requirement".

39. Concerning hardship is concerned, here the tenant is only a single individual and he is concerned with his private business. No doubt the aided school is concerned with the welfare of a mass of students and if no eviction is ordered the landlords and their students would be put to quandary and discomfiture. Whereas, the tenant on the other hand would not put to that much hardship, as the tenant is expected to find some other place within a reasonable time and shift his business. Simply because he could not conduct the furniture business in the tenanted premises that it does not mean that once and for all his prospects for conducting furniture business would come to a close.

40. Hence, in these circumstances I am of the considered view that some time can be granted to the tenant for vacating the premises and that would meet the ends of justice. Accordingly, point No. (ii) is also decided as against the tenant and in favour of the landlords.

41. In view of the ratiocination adhered to supra, I could see no merit in the revisions. Accordingly, both the revisions are dismissed. No costs. Consequently, connected miscellaneous petitions are dismissed.

42. As far as time for eviction is concerned, heard both sides also on this and I am of the view that granting six months' time would meet the ends of justice. Accordingly, the revision petitioner/tenant shall by the end of December 2010 hand over possession of the demised premises to the respondents/landlords, subject to payment of rent regularly. An affidavit shall be filed to that effect by

the revision petitioner.