
(1987) 02 BOM CK 0028

In the Bombay High Court

Case No : Letters Patent Appeal No. 14 of 1984

Maria Madeirae Fernandes

APPELLANT

Vs

Vishnu Mahadeo Kanekar

RESPONDENT

Date of Decision : 05-02-1987

Acts Referred:

Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 — Section 22, 22(2), 22(3), 22(4), 23

Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Rules, 1969 — Rule 7

Citation : AIR 1987 Bom 240 : (1987) 2 BomCR 224 : (1987) 89 BOMLR 347

Hon'ble Judges : Pendse, J;Kamat, J

Bench : Division Bench

Advocate : J. Dias and S. Albuquerque, for the Appellant; F. Rebello, for the Respondent

Judgement

Kamat, J.—This Letters Patent Appeal by the landlady is against the order of the single Judge dt. 12th April, 1984 rendered in Writ Petn. No. 64 of 1983 challenging the validity of the order of the Administrative Tribunal dt. 10th Mar. 1983 in eviction Appeal No. 24 of 1980 and the order of the Additional Rent Controller. South Goa, Margoa, dt. 30th Sept. 1980 in Case No. Building 53 of 1980. By the impugned order dt. 12th April 1984 in Writ Petition No. 64 of 1983 the two orders one dt. 10th Mar. 1983 made by Tribunal and the other of the Additional Rent Controller dt. 30th Sept. 1980. whereby the tenant had been ordered to vacate the residential premises under his occupation and directed him to put the landlady in possession within 30 days were set aside.

2. The question posed in this Letters Patent Appeal turns on the interpretation of S. 32 and S. 22 of the Goa, Daman and Diu Buildings Lease, Rent and Eviction Control Act. 1968. hereinafter for brevity sake called "the Rent Act". For the purposes of appreciating the contention raised by Shri Dias. learned counsel for the appellant landlady .a few facts be stated.

3. The appellant filed proceedings for eviction of the tenant on 11th April, 1980

under Sec. 22(2)(a) of the Rent Act for non payment of the rents along with other grounds like damage to the premises and nuisance. The respondent-tenant was served with the summons of these proceedings on 2nd May 1980 which required him to attend the Court of the Additional Rent Controller on 5th June 1980. However, on 5th June 1980 nothing happened as the Rent Controller was not available and the matter stood posted for 10th July 1980. On 10th July 1980 the tenant presented his written statement which was taken on record and at the same time filed an application for deposit of the arrears of rent from Nov. 1979 till the date of the filing of the application with a further prayer to allow him to continue to deposit the further rents till the culmination of the proceedings.

4. On 14th July 1980 the appellant landlady moved an application praying therein to stop further proceedings averring therein that the tenant has no right to contest the proceedings as he has failed to pay the arrears or deposit the same before the Controller within 30 days from the date of service of the summons on him. Obviously this application was under S. 32 of the Rent Act. On a notice of this application being given to the tenant, the tenant showed cause by his reply dt. 1st Sept. 1980 bringing to the notice of the Rent Controller that he has already moved an application for deposit and so far no orders have been passed thereon with the result he was not able to deposit the arrears of rent. The Additional Rent Controller, however, on the same day, that is, 1st Sept, 1980 passed an order on tenant's application dt. 10th July 1980 permitting the tenant to deposit the arrears and recurring rents without prejudice to the right of the landlady and undisputably all the arrears of rent were deposited up to date on 6th Sept. 1980.

5. The appellant-landlady's application under S. 32 for stopping proceedings was thereafter taken upon and an order was passed by the Controller on 30th Sept. 1980 directing the tenant to vacate and hand over the possession of the premises to the appellant within one month thereof as the tenant had failed and neglected to deposit arrears within 30 days from the date of service of the summons of the proceedings on him. The Controller held that inasmuch as the tenant had been served with a notice of the proceedings of eviction he ought to have moved an application for depositing the rents and ought to have deposited the rents within the prescribed time and in any case no sufficient cause was shown by the tenant for filing the application beyond the time prescribed. Being aggrieved by this order of the Controller the tenant knocked the gates of the Administrative Tribunal in an appeal but, however, that appeal was dismissed by the Order of 10th Mar. 1983.

6. The tenant instituted the Writ Petn. No. 64 of 1983 challenging these two orders. The petition was disposed of by the learned Single Judge who by the Order dt. 12th April 1984 upset the two Orders of the Additional Controller and the Tribunal solely on one ground, namely, that once the Controller had allowed the respondent-tenant to file his written statement on 10th July 1980 thereby permitting the tenant to contest proceedings, the stage for stopping the

proceedings under sub-sec. (4) of S. 32 of the Rent Act is not available to the landlady. As a consequence of this Order the main proceedings against the tenant had to be decided by the Controller on its merits.

7. What is challenged now by the landlady is her right to get the tenant evicted under sub-sec. (4) of S. 32 of the Rent Act irrespective of the fact that the tenant had filed his written statement and the same was admitted and taken on record on 10th July 1980. The submission of Shri Dias, counsel for the appellant, is that S. 32 is all pervasive and applies at all the stage of the proceedings for eviction when pending until its culmination. He urges that S. 32 can be invoked in every case of eviction on any of the grounds available under Ss. 22, 23 and 30 of the Rent Act and is an independent and distinct provision and comes into play only when a tenant wants to contest the proceedings filed against him and that being so it enjoins upon the tenant to pay to the landlord or deposit not only arrears of rent but also the recurring rents falling due and payable until the termination of the proceedings. He further urges that the word "contest" used in S. 32 includes all the stages of the proceedings until finally adjudicated and viewed thus "contest" will mean not merely filing of the written statement but also the cross-examination of the landlady and her witnesses, leading defences and final arguments on merits. Secondly, according to him, sub-sec. (3) of S. 22 operates on a different plane and covers a different field where the tenant wants to terminate the proceedings at its very inception and all that he has to do is to pay the arrears and cost irrespective of default or no default on his part, however, this provision is available only when eviction is sought on grounds of nonpayment of rents and falling in arrears of rent under S. 22(2)(a).

8. The learned single Judge held that once the written statement is taken on record, the stage for not allowing the tenant to contest the proceedings goes off the board, In that he observed that when there is a failure on the part of the tenant to pay the arrears or deposit the same he is not permitted to contest the proceedings of eviction against him but, however, once the written statement is filed he is permitted to contest the proceedings and in this view of the matter he held that the appellant's application to stop proceedings and in this view of the matter he held that the appellant's application to stop proceedings under S. 32(4) does not survive. What prevailed upon the learned Single Judge is that once the stage of S. 22, sub-sec. (3) is crossed, the stage of filing written statement arises and when written statement arises and when written statement is filed, the contest is over and the question of applicability of S. 32(4) surpasses.

9. There is considerable merit in the submission of Shri Dias. In our view the learned single Judge has clearly fallen in error in narrowly construing the word "contest" appearing in sub-sec. (1) of S. 32. To better appreciate the contentions, it may be advantageous to extract S. 32 of the Rent Act which reads as under: -

"32. Payment or deposit of rent during pendency of proceedings for eviction.-

(1) No tenant against whom a proceeding for eviction has been instituted by a landlord under this Act shall be entitled to contest the proceeding before the Controller or any appellate or revisional authority or to prefer any appeal or revision under this Act, unless he has paid to the landlord or deposits with the Controller or the appellate or revisional authority, as the case may be, all arrears of rent due in respect of the building up to the date of payment or deposit and continues to pay or deposit any rent which may subsequently become due in respect of the building, until the termination of the proceedings before the Controller or the appellate or revisional authority.

(2) The deposit of rent under sub-sec. (1) shall be made within such time and in such manner as may be prescribed.

(3)

(4) If any tenant fails to pay or to deposit the rent as aforesaid, the Controller or the appellate or revisional authority, as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceeding and make an order directing the tenant to put the landlord in possession of the building.

(5).....

Taking S. 32 as it is, it is clear to us that any proceedings for eviction of a tenant irrespective of whether it is under S. 22 or under S. 23 or under S. 30 inasmuch as the proceedings are for eviction of the tenant the section must apply. Where the tenant desires to contest the proceedings filed against him for his eviction and in case he is in arrears of rent, a duty is cast on him to deposit not only the arrears of rent up to the date of the filing of the proceedings but further continue to deposit the rents till the proceedings are culminated and/or pay and continue to pay the same to the landlord. S. 22 of the Rent Act provides for the otherwise abridged grounds for the eviction of the tenant by the landlord. S. 23 speaks of the right of the landlord to obtain possession from the tenant when the landlord himself requires the building for his own occupation or that of his family members. In addition S. 30 also gives a ground in favour of the landlord to evict his tenant on the ground that the building is reasonably and bona fide required for carrying out the repairs, alterations and additions and when the building is bona fide required for the immediate purpose of demolishing and erecting a new building in its place, the right of the tenant to re-occupy notwithstanding. Therefore, when an eviction of the tenant is sought either on any of the grounds specified under S. 22 or under Ss. 23 and/or 30, in the event the tenant is in arrears of rent, no sooner such proceedings are filed against him, he is statutorily required to pay to the landlord or deposit before the Controller all the arrears of rent and continue to pay or deposit the recurring rents till the culmination of the proceedings under S. 32 and that too in the case of arrears within 30 days from the date of the summons served on him and in cases of rent falling due during the pendency of the proceedings to pay the same in accordance with R. 7 of the Goa, Daman and Diu Buildings (Lease. Rent and

Eviction) Control Rules. 1969. that is to say within 15 days from the date on which the rent becomes due and payable by him. On a true and proper reading of this Section and the scheme of the Act it is explicit that it embraces all cases of eviction filed against a tenant. A similar view had been already taken by the learned Judicial Commissioner in the decision of *Leelali Javerbhai v. Smt. Maria Bemvinda da Costa*. reported in AIR 1973 Goa 46 while answering a specific question raised that S. 32 has no application when a proceeding is initiated by a landlord under S. 30(2) of the Rent Act. it was rightly negated by the learned Judicial Commissioner.

10. S. 22 of the Rent Act reads:-

"22. Grounds of eviction. - (1) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf.

(2) If the Controller after giving the tenant a reasonable opportunity of showing cause against the application is satisfied -

(a) that the tenant is in arrears in payment of rent due by him in respect of the building for a total period of three months and has failed to pay or tender such arrears of rent as are legally recoverable from him within thirty days of the receipt of or of the refusal of a registered notice served on him by the landlord for such arrears: or:

(b) that the tenant has without the written consent of the landlord -

(I) transferred his right under the lease or sublet the entire building for a purpose other than for which it was released of damage as are likely to impair materially the value or utility of the building: or

(d) that the tenant has been guilty of such acts and conducts which are a nuisance to the occupiers of other portions of the same building or of buildings in the neighbourhood:

(e) that the tenant of a dwelling house has, whether before or after the commencement of this Act, built acquired vacant possession of. or been allotted a residence or

(f) that the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause, or

(g) that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and that such denial or claim was not bona fide, the Controller shall make an order directing the tenant to put the landlord in possession of the building: and if the Controller is not so satisfied he shall make an order rejecting the application.

(3) No order for the eviction of a tenant shall be made on the ground specified in cl. (a) of sub-sec. (2). if the tenant. within thirty days of the service of the summons of proceedings on him, pays or tenders to the landlord or deposits with

the Controller the arrears of rent due by him up to the date of such payment, tender or deposit together with the cost of application:

Provided that no tenant shall be entitled to the benefit under this sub-section. if, having obtained such benefit once in respect of any building he again makes a default in the payment of rent of that building for a total period of three months.

(4) In any proceeding falling under Cl. (a) of sub-sec. (2) if the Controller on an application made to it is satisfied that the tenant's default to pay, tender or deposit rent was not without reasonable cause, he may notwithstanding anything contained in subsec. (3) or in S. 32 after giving the parties an opportunity of being heard. give the tenant a reasonable time. to pay or tender the rent due by him to the landlord up to the date of such payment or tender and on such payment or tender the application shall be rejected."

We will have seen that this Section speaks of several grounds mentioned for the eviction case of arrears within 30 days from the date of the summons served on him and in cases of rent falling due during the penitence of the proceedings to pay the same in accordance with R. 7 of the Goa, Daman and Diu Buildings (Lkase. Rent and Eviction) Control Rules. 1969. that is to say within 15 days from the date on which the rent becomes due and payable by him. On a true and proper reading of this Section and the scheme of the Act it is explicit that it embraces all cases of eviction filed against a tenant. A similar view had been already taken by the learned Judicial Commissioner in the decision of Leelali Javerbhai v. Smt. Maria Bemvinda da Costa reported in AIR 1973 Goa 41. In that case it was clearly held that it is the tenant's duty to deposit rent as envisaged under S. 32 independent to the nature of the proceedings instituted by the landlord. In another decision of S. S. Kakodkar v. Dr. Inacio Cruz dos Martires Paes reported in AIR 1973 Goa 46 while answering a specific question raised that S. 32 has no application when a proceeding is initiated by a landlord under S. 30(2) of the Rent Act, it was rightly negated by the learned Judicial Commissioner.

10. S. 22 of the Rent Act reads: -

"22. Grounds of eviction. - (1) A landlord who seeks to evict his tenant shall apply to the Controller for a direction in that behalf.

(2) If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application is satisfied -

(a) that the tenant is in arrears in payment of rent due by him in respect of the building for a total period of three months and has failed to pay or tender such arrears of rent as are legally recoverable from him within thirty days of the receipt of or of the residual of a registered notice served on him by the landlord for such arrears" :

(b) that the tenant has without the written consent of the landlord-

(I) transferred his right under the lease or sublet the entire building or any portion thereof or

(ii) used the building for a purpose other than that which it was leased of damages" as re likely to impair materially the value or utility o th building :or

(d) that the tenant ha been guilty o such acts and conducts which are a nuisance to the occupies of other portions of the same building or or building in the neighbourhood:

(e) that the tenant of a dwelling house has whether before or after the commencement of this Act, built acquired vacant position of or been allotted a residence or

(f) that the tenant has ceased to a occupy the building for a continuous period of four months without reasonable cause or

(g) that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and tha such denial or claim was not bona fide, the Controller shall make an order directing the tenant to put the landlord in possession of the building and if the Controller is not so satisfied he shall make an order rejecting the application

(3) No order fo the eviction of a tenant shall be made on th ground specified in cl (a) of Sub-sec (2) if the tenant within thirty days of the service o th summons of proceeding on him pays or tenders to the landlord or deposits with the controller the arrears of rent due by him up to the date of such payment tender or deposit together with th cost of application:

Provided that no tenant shall be entitled to the benefit under this sub-section if having obtained such benefit once in respect of nay building he agin make sa default in the payment of rent of that building for a total period of three months.

(4) In any proceeding falling under cl.9a) of sub-sec (2) If the Controller on an application made to it I satisfied that the tenant"s default to pay tender or deposit rent was no without treasonable cause he may not withstanding anything contained in subSec 93) or in S,32 after giving the parties an opportunity o being heard give the tenant a reasonable time to payer tender the rent such payment o retender and on such payment or tender the application shall be rejected."

We will have seen that this Section speaks of several ground mentioned for the eviction of a tenant but however this section has been subjected to several constraints by itself. For instance no proceeding for eviction against a tenant would lie on ground of non payment of rent, unless the tenant is in arrears of payment of rent due by him in respect of a building for a total period of three months and has failed to payer tender such arrears of rent as are leglly rcoverable from him within 30 days of th receipt of or refusal of a registered notice served on him bythe landlord for recovery of such arrears. The first constraint is that the notice of demand must be given bythe landlord calling upon

the tenant to pay the arrears of rent giving him 30 days time and it is only on failure of the tenant to comply with the demand that the proceedings can be initiated. The Second constraint is that the tenant must be in arrears for a total period of three months. Sub -sec (3) of S.22 gives a new lease of life to the tenant that if within 30 days of the service of a summons on him he pays or tenders to the landlords or deposits with the Controller the arrears of rent due by him up to date of such payment, tender or deposit together with the cost of the application then in that case no order for eviction of the tenant can arise and the proceedings come to an end with that. However it is available only once. Whereas under cl. (a) of sub-sec 92) of s.22 a tenant is required to pay the arrears of rent which are legally recoverable within 30 days from the date of the receipt of the notice served on him by the landlord, insofar as sub-sec (3) of S.22 is concerned a duty is cast on the tenant to deposit all arrears of rent and not merely legally receivable rent within 30 days from the service of the summons once the proceedings are instituted against him. This aspect of the matter is already decided in an aspect of the matter is already decided in a Letters patent Appeal by this very bench vide Letters patent Appeal by this very Bench vide Letters patent appeal no.58 of 1983. This Letters Patent Appeal also decided that the words legally recoverable appearing in S.22(2)(a) cannot be telescoped in S.32 and the in order to contest the proceeding the tenant has to deposit all the arrears of rent.

11. Coming to sub-sec (4) of S.22 it must be held that this sub-section is entirely a distinct and separate provision is entirely a distinct and separate provision in favour of the tenant to come before the Controller at any time by an application saying that his default to pay and tender or deposit the rent was not without reasonable cause and that he is prepared to pay and tender the rents due on or before such date as the Controller may fix and if such application is accepted by the Controller the proceedings for his eviction come to an end. Whereas in sub-sec (3) of s.22 a limit of 30 days from the date of the receipt of the summons has been prescribed for a tenant to pay or deposit the arrears of rents together with the cost of the application, there is no such limit prescribed in sub-sec.(4) of S.22. The common feature of sub-sec.(3) and sub-sec (4) of S.22 is the acceptance of the position of being in arrears of rent but by their nature these two provisions are entirely different and operate on two different planes. Irrespective of whether the tenant is in default or not under sub-sec (3) he merely indicates his willingness to deposit the rent and agrees to pay the cost and gets out of the eviction and the proceedings are terminated there and then only. But under sub-sec (4) the tenant shows cause as to why his default should be condoned and it is for the Controller in his judicial discretion to accept the cause shown or to reject the application of the landlord and the tenant is not even required to plead that he is paying the cost of the application. there is no time limit nor limit on number of applications to be made. Sub-sec (4) We accord with the view taken by

a bench of this Court in the decision of Shaikh Ibrahim ShaikhMohamed v. Joao Andrade e souza in Letters Patent Appeal no.52 of 1983 decided on 5th dec.1984. In this case the tenant had made an application for deposit of arrears of rent and recurring rents. Later on applied for termination of the proceedings but. however that application failed to mention that he was agreeable to pay the cost and secondly that application was filed beyond 30 days from the date of service of the summons of the proceedings on him. The authorities did not grant relief to the tenant holding that it could not be held to be an application under sub-sec (3) of S.22. The petitioner was ordered to be evicted on merits. The orders to be evicted on merits. The orders of the authorities were challenged in a Writ Petition which was dismissed in limine by a single Judge. Though his letters patent appeal was dismissed on facts of the case, the Letters patent bench held on interpretation of S.22 that firstly the purpose of deposit of arrears of rent under S.32 and under S.22 (3) are quite distinct. Secondly it was held that sub-sec (4) of S.22 and sub-sec (3) of that Section operate on different planes. It was so held because sub-sec. (4) of S.22 applied at any stage of eviction proceedings notwithstanding sub-sec.(3) of S.22 or for that matter S.32 nor it sets out any time limit for making an application nor it prohibits filing of any number of applications. The argument that sub-sec(4) of S.22 would apply even to a defaulter in applying under sub-sec (3) was rejected and it was clearly held that they are two independent Sections. It is not possible to depart from this position.

12. What therefore emerges is that S.32 is independent of S.22. The same is to be invoked by the tenant in case he wants to contest the proceedings of eviction filed against him on any of the grounds under S.22 or under Ss.23 or 30. The beneficial facility provided to the tenant under sub-sec (3) of S.22 is only available against the ground spoken to under S.22 (a) when invoked by the provision under S.22(4) but in two different circumstances. However in the former case the question of admitting a fault or showing cause for default does not arise and in the latter case sufficient cause for default is required to be shown and there is no time limit prescribed. In any case, therefore, S.32 has no application at all. It, therefore, S.32 has no application at all. It therefore further transpires that S.22 is by itself a self contained Code and affords added facility of protection against eviction sought on the ground of non-payment of rents and that too dehors S.32. S.22 therefore operates in the field created by itself and we therefore, fully agree with the views expressed by the Division bench in Letters patent Appeal No.52 of 1983.

13. We adverted to the above discussion with a view to better appreciate the controversy in this appeal. We also made reference to various decisions up referred to in order to show how different aspects of these two sections shall be before the Court for consideration from time to time. Now coming to the main controversy that once the tenant is allowed to file his written statement and when permitted to deposit the rent, there is no longer default on the part of the tenant and the stage for stopping proceedings under S.32 (4) does not arise cannot be accepted for very strong reasons. In this connection it must be seen that the

right to file written statements or filing defenses not provided for under S.32 of the Rent Act. The right of the tenant to file his written statement or defend the proceeding is provided for by very sub-sec (4) of S.22 for that sub-section reads:-

"If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application is satisfied .

It is for the tenant to satisfy by showing cause against the application filed against him and showing cause can only mean filing the written statement or appropriate defence. All that S.32 mentions is that no tenant against whom proceedings for eviction have been instituted by a landlord under this Act shall be entitled to contest the proceedings before the Controller or any appellate or revisional authority or to prefer any appeal or revision unless he has paid..... The word "contest" here cannot be construed narrowly to hold merely filing a written statement or defences the word contest will have to be construed in a broad sense to mean every stage of the proceedings till its culmination. For instances the word "contest" will have to be construed in a broad sense to mean every stage of the proceedings till its culmination. For instances the word "contest" would embrace in it filing of the written statement, cross-examination of the landlord and his witness leading defence evidence and arguments on merits before the final order is made by the Controller . In our view if a restricted meaning is given to the word "contest" to mean only filing of the rewritten statement, it can bring about unforeseen difficulties in the way of the landlord and also undesirable results.

14. This section is envisaged by the legislature to protect the interests of the landlord to secure the rents from cantankerous tenants so that the landlord is not driven to file another proceeding for recovery of rents in another forum .

15. For instance in an eviction proceedings a tenant with view to contest make an application within 30 days..... service of summons on him and deposits the arrears and at some stage file his written statement and once having done that thereafter refuses to pay or deposit the recurring rents due. Can he be permitted to say that S.32(4) is not applicable as he has already filed the written statement and thereby permitted to contest the proceedings are finally concluded. What , therefore applied to the proceedings before the Controller would also apply before the Controller would also apply before the appellate and also before the revisional authority and no tenant can be made to go away without depositing the arrears or recurring rents. In this view of the matter it is not possible to accept that once the tenant has filed his written statement and deposited the rents due the stage of sub-sec (4) of S.32 surpasses, On the contrary it must be held that it is a statutory requirement on the part of a tenant to deposit if he is in arrears within 30 days and continue to deposit the recurring rents due and payable until the proceedings are culminated . Equally a right is created in favour of the landlord to move the controller or the appellate and or the provisional authority as the case may be by

an application to stop further proceedings at any stage and obtain a direction to the tenant to put him in possession. This is however subject to tenant showing sufficient cause for not stopping further proceedings and in which case the authorities are given discretion either to stop or not stop the proceedings.

16. The stage of option of the tenant to move the Controller under S.22(3) within 30 days of the date of service of summons is for avoiding eviction and put an end to the proceedings at its very inception. The tenant can equally apply at any time of the proceedings under S.22(4) by admitting his default and showing reasonable cause for such default. But in both the cases there is no theme of contesting the proceedings unlike Sections I no doubt to secure the arrears of rents of added facilities to the tenant in different circumstances. Therefore the stages spoken to in S.22 are entirely distinct from what is mentioned in S.32.

17. Now in the present case appellant landlady though she succeeds on the main ground, it must be seen that the tenant on the first effective date of hearing on 10th July 1980 moved an application for deposit of arrears of rents and in that he even mentioned that he is not in arrears of payment of rent for the months of Nov. and Dec. 1979. He further mentions that he had sent money order for the month of Jan 1980 but it was refused and for that matter even for the subsequent months. He was able to obtain an order for deposit only on 1st Sept. 1980. But it can be again said in his favour that in that application he offered to deposit all the arrears of rent deposited them by challenge issued to him by the controller on 6th Sept 1980.

18. We have already held that S.22 applied at any stage of the proceedings therefore it is open to the proceedings therefore it is open to the respondent tenant to move such application before the Controller showing reasonable cause with regard to the default in payment of the rents S.22(4) enjoins upon the tenant to show reasonable cause and if Controller is satisfied. the Controller can require the tenant to pay to the landlord or deposit in his Court all the amount due up to date and reject the needless to mention that welfare statutes must of necessity receive broad interpretation when legislation is designed to give relief it is not taking a stricter view of the matter. Judges ought to be more concerned with the context colour and content of the statutes. The object thereby afford protection to the tenants s.22 was amended in 1976 to remove hardship amendment as continued in Ss. 22(3) and 22(4) to the tenant to stop his eviction. Viewed thus the expression "Reasonable cause" regard to the object of the Act. while exercising discretion the Controller has to the first time or is to persistent feature whether it is bona fide or contumacious: whether it is done to harass the landlord or otherwise: in short what has to be found is whether on the facts and circumstances of the case there is reasonable cause for non payment.

19. It is true that the application dt. 10th July 1980 lacks specific prayer as required under s.22(4) but from the allegation made there in it is required to be found out whether there was reasonable cause on his part In our view therefore

taking all the facts and circumstances of the case that application of the respondent tenants could be treated as an application under S.22(4) we therefore direct the rent Controller to decide this application and consider the facts disclosed and if necessary record evidence and decide whether there was reasonable cause on the part of the tenant not to pay the rents to the appellant landlady. If the controller accepts the application of the respondent tenant then obviously the appellant landlady cannot succeed on the ground under s.22(4) in which case the Controller may proceed to decide the appellant landlady's application for eviction on the grounds of damage to the premises and nuisance.

20. For the reasons recorded above the impugned order of the learned single Judge dated 12th April 1984 in Writ Petn. No.64 of 1983 is set aside. But, now even we are not able to restore the orders of the Additional rent Controller South Goa, dated 30th Sept. 1980 in Case no. Building 53 of 1980 and the Administrative Tribunal dated 10th Mar. 1983 in Eviction Appeal No.24 of 1980 in view of the direction that we have made for treating the tenant's application dated 10th July 1980 as an application under S.22(4). Subject to the aforesaid observations this appeal is accordingly partly allowed but, however, the parties are to bear their own costs.

21. Appeal partly allowed.