
(1997) 04 MAD CK 0061

In the Madras High Court

Case No : Civil Revision Petition No's. 450 to 452, 453, 470 and 526 of 1997

M/s. Boston and others

APPELLANT

Vs

S.A. Akbar and etc.

RESPONDENT

Date of Decision : 24-04-1997

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 10(3), 25

Citation : AIR 1997 Mad 357 : (1997) 2 LW 507 : (1998) 1 MLJ 270

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Advocate : R. Krishnamurthy and G. Subramaniam, s for M/s. Ayyadurai, R. Baranidharan and Vedavalli Kumar, for the Appellant; K.P. Unni Krishnan, for the Respondent

Judgement

1. All these revisions are by the respective tenants in the various rent control petitions filed by the respective landlords. Even though all the Rent

Control Petitions were separately tried, since the matter relates to portions of the same building, and more or less a common defence was also

taken by the revision petitioners, though separate orders have been passed by the Rent Controlleras well as the Appellate Authority, when the

matter came before this Court, in these Revisions, a common argument was taken by all the revision petitioners, which is agcnrcal defence taken in

all these cases. Since all the matters were heard together, I intend to dispose of the same by this common order, though facts relating to various

Revisions are separately extracted.

2. C.K.P. No. 450 of 1997 :

In this case, the landlord is one S.A. Akbar, who is the absolute owner of shop

No. 6 in the ground floor of premises No. 5, Purusawalkam High Road. Vepery, Madras-7. The agreed rent is Rs. 600/- and it is payable on the first of every succeeding month. It is said that the first respondent, i.e., first petitioner herein is a registered firm of which the other petitioners are the partners. It is alleged in the petition that the landlord is carrying on business under the name and style of Wali Snacks, in premises No. 3/7, Whannels Road, Egrnore, Madras-8, which is a rented building. The property belongs to one Mrs. N. M. Thahira, who has issued a notice to the respondent herein, asking him to vacate the shop. since the building is required for demolition and reconstruction. For the above reason, the landlord sought eviction of the petitioners herein, for the purpose of shifting his business to the demised premises. It is further averred that he has no non-residential building of his own within the City of Madras, for carrying on the business which is carried on in the rented building.

3. In the counter statement filed by all the revision petitioners, they contended that the eviction petition is not maintainable, and the same has been filed with an ulterior motive, in order to harass and intimidate them. It is further averred that since the petitioners refused to adhere to the exorbitant rent, advance and pagadi, eviction petition has been filed without any bona fide to force them to pay or satisfy their demands. It is said that the previous owner of the entire building is Messrs. Hotel Silver Star Private Limited. There are nine shops in the ground floor, and all the purchasers are either close relatives or near relatives of the previous owner. All the sale deeds have been executed only with a premeditated design to evict the tenants, if they failed to submit to the exorbitant demands of the landlord. It is said that all the correspondence relating to the purchase of the property, intimation from the previous owners, communication for collection of rent are also on a similar basis. The revision petitioner also received a letter on 1-12-1983 from an advocate by name M. K. Hidayathullah, directing them to pay the monthly rent to Hajee K. M. Mohammed Ali at No. 664, Poonamallee High Road. The same pattern and system has been followed in respect of other tenants also. In accordance with the desire of the landlord, rent was paid to the power of attorney with effect from 1-11-1983, as the landlord was then residing at Bombay. It is further said that all the purchasers of the ground floor are also having permanent residence

at Bombay. It is further averred that the revision petitioner is doing business ever since 23-6-1971 on the specific understanding that their possession will not be disturbed, except for the fact that they should pay a reasonable enhancement in the rent payable by them. Based on the said assurance, substantial investments have been made by the respondent for purchase of furniture, fittings, interior decorations and investment for purchase of stock and materials. Originally the rent was Rs. 375/- and thereafter it was increased to Rs. 600/- from 1-4-1983. It is said that more than 75% of the original amount has now been increased. The landlords were not satisfied with even such a substantial increase and the present sale deeds have been executed as a modus operandi, to compel the tenants to pay a higher amount. It is further averred that the landlord is not doing business at 3/7, Whannels Road, Egmore, Madras. According to their information, no such business is being conducted by the landlord. The landlord is a permanent resident in Bombay and therefore, the question of carrying on business at Madras is totally false. They also denied the fact that Mrs. N. M. Tahira had issued notice to vacate. It is only an after thought in order to mislead the Court. For the notice of demand to vacate, a reply has been sent refusing to comply with the same, and the present petition has been filed with mala fide intention. It is further averred that under instructions from the landlord, they met one T.A. Khaleel Rehman to discuss the matters relating to the increase of rent, payment of advance, etc. The said Khaleel Rehman discussed the matter with various tenants occupying the respective shops on various dates. Discussions were held on 7-3-1986, and a demand was made for Rs. 15/- per sq. ft. towards rent, Rs. 1.5 lakhs towards advance and Rs. 1.5 lakhs towards pagdi. During that meeting, one Mr. K. Babu and Mr. T. A. Abdul Razack were present. 15 days after the discussion, the demand was reduced to Rs. 121/- per sq. ft. towards rent, Rs. 1 lakh towards advance and Rs. 11/2 lakhs towards pagadi. Since the demands were high, revision petitioners were not willing to pay the amount, and that was also brought to the notice of the landlords as per their letter dated 3-5-1986. It is only because the tenant could not meet the demands of the landlord, the present petition was filed with a mala fide intention to harass them. They say that no grounds have been made out under S. 10(3)(a)(iii) of the Rent Control

Act. for ordering eviction. They prayed for dismissal of the eviction petition.

4. C.R.P. No. 451 of 1997 :

In this case, the landlord is one C. M. Jiyavuddeen. First revision petitioner is a firm and other revision petitioners are individual partners of the

firm. Subject matter of the petition is shop No, 3 in groundfloor of Premises No. 5. Purasawalkam High Road, Madras-7. The agreed rent is Rs.

550A per month. In that case. The allegation is that the landlord is carrying on business in No. 3/9. Whannels Road. Egmore, Madras, under the

name and style of Egmore Thread Emporium, as Proprietor of that business, and that business is carried on in a rented building. It is further averred

that the landlord is now residing at No. 14. IV Lane. Strahams Road. Query. Madras, along with the members of his family. It is said that the

building which he has taken on rent for the purpose of carrying on his business is now required by the landlady, by name, Mrs. N. M. Tahnira. and

she has also issued a notice slating that she requires the building for immediate demolition and reconstruction. It is averred that the landlord has no

building either in the City of Madras or anywhere else, and so, for the purpose of continuing his business, the schedule premises is absolutely

necessary.

5. In the counter statement filed by revision petitioners, they contended that they came into occupation from September 1978 onwards. They

further deny that the landlord is doing business at No. 3/9. Whannels Road, Egmore, Madras. It is said that landlord is a permanent resident of

Bombay, and he has no residence at Madras. They also denied the alleged issuance of any notice by Mrs. N. M. Thahira. A similar contention as

in the other eviction petition was also taken, namely, the negotiation through Khaleel Rahman was also put forward. There also, it was alleged that

a demand was made for payment of rent at Rs. 15/- per sq. ft. Rs. 11/2 lakhs us advance and Rs. 112 lakhs as Pagadi. Subsequently. The same

was reduced to Rs. 12/- per sq. ft., one lakh of rupees as advance and Rs. 11/2 lakhs as Pagadi. It is their further case that since the amount

claimed was exorbitant, they refused to pay that amount, and the details of the amount were enforced both to the landlord and also to Khaleel

Rahman. They also say that the claim put forward by the landlord is lacking in good faith, and it is intended only to harass them, and further, to

make them accord to the exorbitant demand which they have earlier refused.

6. C.R.P. No. 452 of 1997 : The revision petitioner is one Mr. A. P. L. Subhiah, and the subject-matter of the petition is Shop bearing No. 5/2,

Purasawalkam High Road, Madras-7, where the tenant is occupying the building at the rate of Rs. 600/- per mensem. In that case, the landlord

has stated that he is conducting a Photo Studio by name "Regent Photo Studio", at No.3/1, Whannels Road, Egmore, Madras. It is further averred

that the respondent has purchased the running business along with the leasehold interest. After purchasing the business, and while he was carrying

on the business activity, the landlady of that building has sought eviction on the ground that the building requires immediate demolition and

reconstruction. It is alleged that the landlord has no other non-residential building of his own in the city of Madras, and that the demised premises is

required by him for running his photo studio.

7. In the counter statement, the revision petitioner has denied the allegation that the respondent is carrying on business at Whannels Road. Madras.

It is also alleged that they came into possession in the year 1971. agreeing to pay Rs. 335/- which was subsequently enhanced to Rs. 600/- per

mensem. In that case also, the tenants have taken the very same contention, i.e., meeting of Khaleel Rahman and the demand made by him for

higher rent. It is further stated that originally Door No. 3/1, at Whannels Road, was in the occupation of one Seeni Ibrahim. He was also a tenant.

That Seeni Ibrahim also filed R.C.O.P. No. 1355 of 1986 on the very same ground. Subsequently, that eviction petition was withdrawn. It is,

therefore, contended that the present eviction petition is barred. According to the tenant in that eviction petition. it was only to harass him, such a

petition was tiled. He also sought for dismissal of the eviction petition.

8. C.R.P. No. 453 of 1997 : In this Revision Petition, the landlord is one Pitchai Mohammed. The subject matter of the Revision is Old No. 3, and

New No. 5. groundfloor, Purasawalkam High Road, Madras. The agreed rent is Rs. 600/- and the revision petitioner is carrying on business under

the name and style of Messrs. Duraflex. It is alleged in the revision petition that the landlord has business at Bombay, and he is also carrying on

business at 3/4, Whannels Road, Egmore. Madras, under the name and style of Messrs. Citizen Traders, on a monthly rent of Rs. 150/-. There

also, the landlady Mrs. N. M. Thahira. Has requested the landlord, to vacate lhal premises, to enable her to demolish and reconstruct the building.

It is said that the landlord has, no other building of his own to carry on his business and, therefore, sought eviction of the tenants.

9. In the counter statement filed by the revision petitioners, they admitted the rental arrangement and also admitted that the respondent herein is

their landlord. According to them, they came into possession of the schedule premises since 1971, after having paid an advance of Rs. 15,000/-. It

is said lhal when a demand was made through the counsel for the respondent, by name. Mr. T. P. Sankaran, a reply was also sent. They also not

advocate Mr. T. P. Sankaran. and, at his instance, met the agent of the landlord T. K. Khaleel Raliman. It is further averred that advocate Mr. T.

P. Sankaran gave them a slip of paper asking them to meet that agent to have the matter settled. It is said that pursuant to the said direction,

petitioners 2 and 3 met the agent Khaleel Rahman at White Memorial Hall, 2/1, West Cross River Side, Egmore, Madras-8. At that time, the agent

Khaleel Rahman wanted enhancement of rent, calculated at the rate of Rs. 15/- per sq. ft. and also demand Rs. 11½ lakhs as non-refundable

advance. Since the demand could not be satisfied, the present eviction petition is filed without any good faith. They prayed for dismissal of the

eviction petition.

9A. C.R.P.No. 470 of 1997 : In this Revision, the landlord is one K.V.K. Abdul Hameed, who is conducting a business by name Messrs. Bhana

Travels. He also alleges that he is an occupant of a room in No. 3/2, Whannels Road, Egmore, Madras, and the landlord of that room now

requires it on the ground of the demolition and reconstruction. She has also demanded the tenant, revision petitioner herein, to vacate the room, on

the ground of bona fide requirement for own occupation. The subject matter of the petition is, Shop No. 8, Purasawalkam High Road, Madras.

10. In the counter statement, they have said that they are paying a monthly rent of Rs. 550/-. They admit that the respondent herein is the landlord.

But they deny that the respondent is carrying on business at No. 3/2, Whannels Road, and that he has also a building on a monthly rent of Rs.

150/-. Revision petitioner also denied the fact that the respondent has any business at Madras. According to him, the landlord is a permanent

resident of Bombay and he is residing at Baniwala; Sithertha Nagar, Thana East, Bombay-(sic) that the landlady has sought eviction of the

respondent as also denied. It is further said that Messrs. Bharu Travels, though existed for namesake, no business activity was carried on,. The

other allegations regarding meeting Khaleel Rahman and has alleged demand for enhanced rent, were also repeated by the revision petitioner

herein. He also said that various sale deeds have been executed by the original owner Messrs. Silver Stay Private Limited only to coerce the

various tenants to pay the enhanced rent.

11. C.K.P.No. 526 of 1997 : The subject matter of this revision is Shop No. 9, Ground floor. Old No. 3, New No. 5, Purasawalkam High Road,

Madras, where the landlord is one K. K. Fakkir Mohammed, who alleges to have been running a business under the name and style, "Milan

Footwear", at 3.6, Whannets Road, Egmore. Madras-8. There also, the landlord has said that he has business at Bombay, and the landlady Mrs,

N. M. Thahira has requested him to vacate the premises. Since he has no other building of his own, he seeks eviction of the tenant, for his own

occupation.

12. Tenants, revision petitioners herein, objected to the maintainability of the eviction petition on the ground that prior party has not been

impleaded. Apart from the same, they have taken other contentions raised by other tenants in the other Revision Petitions. They also deny the

allegation that the landlord is doing business at Whannels Road. They further repeat the meeting with Khaleel Rahman and his demand for getting

enhanced rent. They contend that the petition is lacking in good faith, and sought dismissal of the Eviction Petition.

13. On the above pleadings, the Rent Controller took oral and documentary evidence. After evaluating the evidence. Rent Controller came to the

conclusion that (1) the landlord has no non-residential building of his own to carry on his business: (2) the landlord was carrying on business long

before the eviction petition was filed: (3) the allegation that the tenant was asked to pay enhanced rent was not substantiated: (4) shop rooms were

purchased by the respective landlords bona fide for the purpose of carrying on business, and the various sale deeds taken by them are valid,

especially when the tenants themselves recognized them as landlords and paid

rent; (5) the allegation that the various sale deeds were executed in the names of various landlords with intent to get possession from the tenants, since they refused to pay enhanced rent, is not true; (6) All the Applications filed by the landlords are bona fide; and (7) merely because all the eviction petitions were prosecuted by the same counsel, that cannot be taken as a circumstance against them. The further contention that the sale deeds were executed at the same time to close relations and associates of Messrs. Silver Star Private Limited is not true, and the fact that all these landlords are occupying portions of the building of Mrs. Thahira is also not a ground to doubt their bona fides. It was further found that Mrs. Thahira did file application for eviction against various tenants. Even though initially the suit was withdrawn by her, that will not take away the requirement of the landlords, for, they can expect another litigation at any time. The Rent Controller also took note of the fact that immediately after the withdrawal of the Civil Suit, Mrs. Thahira did file an eviction petition before the Rent Controller, and the same is pending. It was further found that owners of the building also cannot be insisted to continue their business in a rented premises. The demand of the landlords to get possession of the schedule premises was with utmost good faith. All the Eviction Petitions were allowed.

14. Aggrieved by the order of eviction, tenants preferred various Appeals before the Appellate Authority. The Appellate Authority also confirmed all the findings of the Rent Controller. The evidence evaluated by the Rent Controller was minutely discussed by the Appellate Authority also and it gave an independent finding that the Order passed by the Rent Controller is correct, and the landlords required the buildings for their own occupation. It was further found that all the statutory requirements have been proved all the Applications were also filed bona fide. The various surrounding circumstances which were alleged by the tenants impeaching the genuineness of the claim of the landlords were also minutely considered by the Appellate Authority, and it found that all these contentions were baseless. The Order of eviction was confirmed.

15. It is these concurrent findings of the Authorities below that are challenged in these Revision Petitions.

16. Even though learned Senior Counsel appearing for the revision petitioners

argued the Revisions minutely and quile elaborately, the scope of interference in Revision is limited to the grounds mentioned in Section 25 of the Tamil Nadu. Buildings (Lease and Rent Control) Act. The finding by the Rent Controller that the building is bona fide required for their own occupation, and confirmed by the Appellate Authority, is a finding of fact. The scope of revisional powers came up for consideration by the Supreme Court in various cases, and also by this Court.

17. In *Helper Girdharbhai Vs. Saiyed Mohmad Mirasaheb Kadri and Others*, in paragraph 15, their Lordships said that the power to hear a revision is generally given to a superior Court so that it may satisfy itself that a particular case is decided according to law. Their Lordships further said that the revisional authority could ensure that there was no miscarriage of justice and the principles of law have been correctly borne in mind, the facts had been properly comprehended in that light. If that was done in a particular case then the fact that the revisional authority or the High Court might have arrived at different conclusion is irrelevant. Lastly their Lordships said that, "As we read the powers, the High Court must ensure that the principles of law have been correctly borne in mind. Secondly, the facts have been properly appreciated and a decision arrived at taking all material and relevant facts in mind. It must (sic not) be such a decision which no reasonable man could have arrived at. Lastly, such a decision does not lead to a miscarriage of justice. We must, however, guard ourselves against permitting in the guise of revision substitution of one view where two views are possible and the Court of Small Causes has taken a particular view. If a possible view has been taken, the High Court would be exceeding its jurisdiction to substitute, its own view with that of the Courts below because it considers it to be a better view. The fact that the High Court would have taken a different view is wholly irrelevant.

18. In *Hiralal Kapur Vs. Prabhu Choudhury*, , it was held in paragraph 8 of the judgment, their Lordships held thus :--

..... Though u/s 25(B)(8) of the Delhi Rent Control Act the powers of the High Court are somewhat wider than similar powers of revision under

Section 115 of the Civil Procedure Code, it is well established by a series of decisions that the power of revision under the Rent Control Acts

does not entitle the High Court to enter into the merits of the factual

controversies between the parties and to reverse findings of fact in this regard.

In paragraph 13 of the judgment, their Lordships said that the question whether a building is bona fide required or not is a mixed question of law

and fact. But the High Court should not have interfered with the findings of the Rent Controller on that point.

19. In K.A. Anthappai Vs. C. Ahammed, it was a case arising under the Kerala Rent Control Act. Section 20 of the Kerala Act is in pari materia

with the Tamil Nadu Act. In that case, their Lordships said that "the power conferred on the High Court is essentially a power of superintendence

and despite the wide language employed, the High Court should not interfere with the findings of fact of the subordinate authority merely because it

does not agree with the said findings. The revisional Court must be reluctant to embark upon an independent re-assessment of the evidence and to

supplant a conclusion of its own, so long as the evidence on record admitted of and supported the one reached by the Court below". Their

Lordships further went on and said that "The question whether the building is required bona fide by the appellant for his own residence is primarily

one of fact and the findings recorded by the appellant/authority after considering the evidence on record could not be interfered with by the High

Court in exercise of the revisional jurisdiction u/s 20 of the Act because it could not be said that the said finding recorded by the appellate authority

was not supported by the evidence on record. The said finding was reversed by the High Court on the basis of a reassessment of the said

evidence. We find it difficult to agree with the reasons given by the High Court for embarking on this reassessment of evidence. Although me

appellate authority has observed that there is no specific pleading by the respondent in the counter that the bona fide requirement set up by the

appellant is false but in spite of the said observation the appellate authority has examined whether the said claim of the appellant is false and after

considering the evidence adduced by both the parties, the appellate authority has found "that the claim of the appellant is not false. Similarly, the High

Court is not right in holding that in its approach to the question of bona fides of the claim made in the petition the appellate authority, has not

considered the cumulative effect of all the facts and circumstances established in the case." (Emphasis);

20. In Gurbachan Singh (dead) through LRs. v. Saliabi alias Bibijan , it was held thus:--

It is not disputed that the landlord is carrying on a business in scraps and she bona fide requires the whole building for residence as well as

business. Bona fide requirement is a question of fact. So is comparative hardship. These questions have to be decided on the basis of evidence on

record. Appreciation of evidence is not the task of the High Court in exercise of its revisional power. On the facts of this case, the High Court was

wrong in reappreciating the evidence and reversing the conclusions concurrently reached by the Courts below. Accordingly, the suit for eviction in

respect of both the premises shall stand decreed, as per the orders of the Court below.

In the same Volume, at page 675 (Dr. D. Sankaranarayanan v. Punjab National Bank), in a case arising under the Tamil Nadu Rent Control Act,

in paragraph 2. it was held thus:--

..... We are of the view that learned counsel for the appellant is right when he contends that the revision petition was treated by the High Court as

if it were second appeal and, upon reassessment of the evidence, the findings of facts of the first appellate Court were reversed. This, in our view,

was impermissible in a revision petition.....

In the same volume, at page 679 (Asram Motors v. Bina Kumari), in a case arising under Tamil Nadu Rent Control Act, in paragraph 4 of the

judgment, their Lordships held thus :--

It is not necessary, where the High Court agreed with the findings given by the Courts below, to go into details of the correctness of the findings of

fact, act as a second Court of first appeal and set down in the judgment detailed reasons for agreeing with those findings.....

21. In Prativa Devi Vs. T.V. Krishnan, it was held thus:--

Although the revisional power conferred on the High Court under sub-section (8) of Section 25-B of the (Delhi Rent Control Act) may not be as

narrow as the revisional power u/s 115 of the Code of Civil Procedure. 1908. there was no ground on which the legality and propriety of the order

of the Rent Controller could be successfully assailed. The Rent Controller had kept the legal principles in view on an objective determination and

on a proper appreciation of the evidence in the light of the surrounding

circumstances came to a definite conclusion that the need of the appellant of the demised premises for her residential use was bona fide and that she did not have any alternative accommodation available for that purpose within the meaning of S. 14(1)(e) of the Act. The High Court ought not to have interfered u/s 25(B)(S) merely on the ground that on a reappraisal of the evidence it would have come to a contrary conclusion".

22. In Smt. Fatima Bee Vs. Mahamood Siddiqui and Mohd. Omer Siddiqui, a case coming under the A. P. Buildings (Lease. Rent and Eviction)

Control Act, 1960, in paragraph 7. it was held thus :--

The learned counsel for the appellant contended that the High Court committed not only an error of law but went beyond its jurisdiction in

reappreciating the evidence and reversing the finding regarding the bona fide requirement of the landlady. The High Court also committed a grave

error in doubting the correctness of the finding recorded by the Courts below that she is engaged in the business of manufacturing and selling

bangles along with her family members. In our opinion, this contention raised on behalf of the appellant deserves to be accepted. We are also of

the opinion that the High Court committed a grave error in reversing the finding that the claim of permanent tenancy was mala fide. The rent

Controller after appreciating the evidence led on behalf of the landlady and that of the tenants had recorded the finding that the landlady requires

the suit premises bona fide for carrying on her business. The Rent Controller has also recorded the finding after appreciating the rival evidence that

she was carrying on business as averred by her along with other family members. These were the findings of fact recorded after appreciating of

evidence. These findings were confirmed by the appellate Court after appreciating the evidence. No part of the evidence was misread by the

Courts below. Therefore, there was no jurisdiction for the High Court to reverse the said findings of facts. It was stated by the witnesses examined

on behalf of the landlady that their bangle business was carried on from three different shops, It was further stated by them that they intended to

carry on the said business from the suit premises, it was not even put to these witnesses that a lesser area would be sufficient for the purpose of

carrying on that business. It was, therefore, improper for the High Court to interfere with the findings of fact in this behalf on the ground that the

landlady has not shown how much area she requires for carrying on her business.

23. On the basis of this settled position of law, it is clear that the question whether the building requires bona fide by the landlords for their own

occupation, is a question of fact, or at the most, it is a mixed question of law and fact. If findings are rendered by the Rent Controller one way or

the other and affirmed by the Appellate Authority. after evaluating the evidence, while exercising powers u/s 25 of the Act, this Court is not entitled

to reverse those findings of fact. A reading of the Order of the Rent Controller, as well as the judgment of the Appellate Authority which confirms

the same, makes it clear that they have entered a finding after appreciating the rival evidence, and it is not the case of the learned Senior Counsel

for the revision petitioners that any part of the evidence was misread by the Authorities below. It is not the case of the revision petitioners that the

Rent Controller as well as the Appellate Authority has not cared to take into account the legal principles, and that they have arrived at a decision

on an objective determination. It is also not their case that such a finding cannot be arrived at on an appreciation of the evidence that was available

before them. Revision petitioners have no case that any part of the evidence adduced by them was not taken into consideration.

24. Now I will refer to the submissions of the learned Senior Counsel for the revision petitioners.

25. In the decision reported in Hameedia Hardware Stores, represented by its partner S. Peer Mohammed Vs. B. Mohan Lal Sowcar, ,

paragraph 13 was read before me. An argument was put forward on the basis of the law declared in paragraph 13 that there must be a finding that

the landlord deserves to be put in possession which is in the occupation of the tenant and that he has got a rightful claim. It was further argued that

it is not the desire of the landlord that gives him the right to get possession, but he bona fide needs the same for his own use and occupation. It was

further argued that even if statutory grounds are made out landlord is not entitled to get possession immediately. He was to further prove that the

claim is bona fide.

26. On going through the orders of the Authorities below, it is clear that they have considered this legal position minutely and they have also

entered a finding that the landlords deserve to be put in possession and that

they have got a rightful claim. They have also further found that the claim is also bona fide. Learned counsel argued that Mrs. Thahira filed a Civil suit for getting possession from various tenants who are none other than the landlords in this case, and thereafter she allowed that suit to go for default, and she never attempted to have the same restored. One of the main reasons mentioned in the several eviction petitions is that Mrs. Thahira had asked them to vacate and that she intends to demolish and reconstruct the building. The proceedings which she has already initiated, has ended in dismissal and, therefore, the need which the landlords herein alleged in their eviction petitions, has ceased to exist.

27. I do not think, the said contention of the learned counsel is correct. It is true that Thahira filed a Civil Suit for evicting the tenants under the impression that Rent Control Act will not apply. It was submitted by learned counsel for the respondent that by the time the suit was filed, the five years' period after construction was over and, therefore, she cannot file a Civil Suit for getting possession. She allowed the said suit to go for default, and at the same time, she moved the Rent Control Court for getting an order of eviction. Learned counsel gave various dates on which the case was posted, and he also said that it was ripe for trial. The said submission of learned (counsel) for the respondent was not challenged by learned Senior Counsel for the revision petitioners, even if the landlords did not initiate legal proceedings, that does not follow that the need of the respondents had come to an end. The finding of the Rent Controller as well as the Appellate Authority is that they purchased the schedule properly only to do business in their (SIC)ding. They could not get possession immediately. As a temporary measure, they occupied the building belonging to Mr. Thahira, Law does not say that the landlords should always continue to do business in a rented premises, even if they are entitled to get possession of their own building. Nobody can doubt the claim of the landlord, especially when he has no other building of his own. or his honest desire to do business in his own premises. According to me, that honest desire should not be equated to that of a mere desire. It is really a bona fide need.

28. Learned Senior Counsel for revision petitioners further submitted that only the ground floor portion of the building was sold. When Messrs.

Silver Star Private Limited was having a three storeyed building, the revision petitioners were occupying only the ground floor. That shows that the management of Messrs Silver Star Private Limited wanted to terminate the tenancy somehow or other. The said submission also cannot legally stand. It is in evidence that Messrs Silver Star Private Limited was heavily indebted to TIDCO and even the interest had far exceeded the Principal. They were not in a position to discharge the debt and, therefore, they decided to sell the shop room one by one. Resolution of the Company was passed. Learned counsel for the respondent submitted that even an offer was made to the tenants to purchase the shop rooms and they never expressed their willingness. It was thereafter the groundfloor portion was sold to various respondents in these Revisions. Except the ground floor, the remaining portions of the building are part of the Lodging House of Messrs. Silver Star Private Limited. So, it is a part of the Hotel. Therefore, the separation of the shop-rooms from the rest of the building is justified. It is also seen that under various sale deeds, the consideration received was to discharge the debt incurred with TIDCO. So, it is not a fraudulent transaction. In this connection, it may also be noted that the tenants are not entitled to put forward such a case when they have attorned their tenancy in favour of the landlords and have also recognised them as their landlords. Even though they alleged that the transaction is sham or nominal, subsequently, the said contention was withdrawn. There was a fear in their mind that such a contention may amount to denial of title. This by itself will entitle the landlords to get possession.

29. The further arguments of learned Senior counsel was that all the respondents are doing business in Bombay. Now, when they are migrating to Tamil Nadu on the alleged ground that they are doing business in Madras, a suspicion is created that the original owner could not get a person other than the one doing business at Bombay. It is also said that all these respondents are either associates or close relations of the Managing Director of Messrs Silver Star Private Limited. Mrs. Thahira is none other than the brother's daughter of the Managing Director. All of them belong to the same community, and most of them hail from the same place. The argument is that a conspiracy is hatched to evict these tenants.

30. All these contentions have been rightly rejected by Rent Controller as well as the Appellate Authority as most untenable. The Authorities below

have minutely discussed the evidence and in a well-considered Order, they have said that such a contention is only for contention sake. I do not

want to again repeat the evidence over again. I confirm the concurrent findings of the Authorities below.

31. It was further argued that when we consider the question of bona fides, the overall surrounding circumstances will have to be taken into

consideration and not each circumstance separately. I agree with the submission. But I find that the Authorities below have also considered this

contention only in the way in which it has been argued by learned counsel. On evaluating the evidence, the cumulative effect of all the facts and

circumstances and the surrounding circumstances were taken into consideration by the Rent Controller, and the same was also reappreciated by

the Appellate Authority. Learned Senior counsel for the revision petitioners further argued that there is an attempt on the part of the landlords

through one T.A, Khaleel Rahman to enhance the rent. Witnesses have also been examined to substantiate the same. It is their argument that since

the landlords failed to get enhanced rent, these eviction petitions were filed only to coerce them. It is their case that the intention of the landlords is

only to claim enhanced rent and not to claim for bona fide own occupation. Rent Controller as well as the Appellate Authority has considered this

point and come to the correct conclusion. Since I am confirming their finding, a further discussion of the evidence is not necessary.

32. Both the Authorities below have concurrently found that the landlords are carrying on business, and none of them has got non-residential

building in their possession and there is no disqualification for them to get an order of eviction. That is also a finding of fact for which no serious

argument was put forward.

33. In the result, confirming the concurrent findings of both the Authorities below, I dismiss all the Revision Petitions, however, without any order

as to costs.

34. At the far end of the arguments, learned Senior Counsel for the revision petitioners submitted that in case this Court confirms the concurrent

findings of the Authorities below, the tenants may be given some time to

surrender the building.

35. Taking into consideration the fact that the revision petitioners have been doing business in the schedule premises, I grant them four months time

to surrender vacant possession of the premises in their occupation, subject to the condition that they should file an affidavit of undertaking before

this Court within ten days from to-day, to the effect that they will handover possession to the landlords, without driving them to resort to any further

litigation, that they will pay arrears of rent, if any, within the said ten days, and continue to pay the rent as and when it becomes due while they are

in occupation of the premises, and also to the effect that they will not induct any other person in respect of the building in their occupation. If the

affidavit of undertaking is not filed as stipulated above, landlords are entitled to get possession, as if no time was granted.

36. Revisions dismissed.