

(1993) 01 KL CK 0025
In the High Court Of Kerala
Case No : O.P. No. 16391 of 1992

S N D P. Union and another

APPELLANT

Vs

Vamana Naik and others

RESPONDENT

Date of Decision : 08-01-1993

Acts Referred:

Constitution of India, 1950 — Article 227

Kerala Buildings (Lease and Rent Control) Act, 1965 — Section 11(3), 11(4)(iii)

Citation : (1993) 1 KLJ 167

Hon'ble Judges : K.T. Thomas, J

Bench : Single Bench

Advocate : P. Santhalingam and S. Radhakrishnan, for the Appellant;

Final Decision : Dismissed

Judgement

K.T. Thomas, J.—One of the buildings of the respondent (landlord) Was rented out to "SNDP Union" for housing its local office. When petitioner (who is the tenant) acquired a plot of 60 cents of land with a building thereon, land-lord initiated eviction proceedings against the tenant under the provisions of the Kerala Building (Lease) and Rent Control Act, 1965, (for short "the Act"). In addition to the ground envisaged in Section 11 (4) (iii) of the Act, land-lord tried to get eviction order on the ground envisaged in Section 11 (3) also contending that he needs the building for his own occupation to conduct a tutorial college. Although the landlord could not succeed on the latter ground, he did succeed on the former ground before the Appellate Authority (Rent Control Court had dismissed his application rejecting both the grounds). Tenant filed a revision before the District Court, by the Revisional Authority did not interfere and dismissed the revision. Hence, the tenant has filed this Original Petition under Article 227 of the Constitution of India. The main contention advanced by the petitioner-tenant is that the Appellate Authority wrongly exercised its jurisdiction by holding that the building acquired by the tenant is sufficient for its requirement. Petitioner further contended that the Revisional Authority failed to

exercise its jurisdiction when it declined to interfere.

2. Admitted facts are these: The building was rented out to the tenant for housing its office. The said building has a main room and two other small rooms. The plinth area of the main room is 82.18 Sq. Ms. The tenant subsequently purchased a plot of land (60 cents in extent); in the same town situate near a cinema theatre. There is a residential building on the said plot which consists of a number of rooms, but none of those rooms is as big as the main hall of the tenanted building.

3. Rent Control Court found that although the tenancy was created to house the office of the local SNDP Union, the main hall was additionally used for conducting the general body meetings of the local SNDP Union. In addition to it, some marriage functions were also held in the said building; and that since the, new building acquired by the tenant cannot be used for holding the general body meetings and marriage functions the said building is not reasonably sufficient for the requirement of the tenant. On the said finding the Rent Control Court declined to grant the order sought for by the landlord. But the Appellate Authority found that the new building is reasonably sufficient for the requirement of the tenant and hence the Appellate Authority directed the tenant to put the landlord in possession of the tenanted building.

4. Section 11 (4) (iii) of the Act is extracted below:

A landlord may apply to the Rent Control Court for an order directing the tenant to put the landlord in possession of the building-

(III) if the tenant already has in his possession a building or subsequently acquires possession of or puts up a building, reasonably sufficient for his requirements in the same city, town or village.

5. The clause consists of two limbs either of which is sufficient to equip the landlord to apply for eviction. The first limb has no application in this case. It is the second limb of the clause which is relevant here as the tenant had purchased another building subsequent to the creation of the tenancy. It is not disputed that the tenant acquired the said building sub-sequently. Hence the only aspect which rent control authorities had to consider, on the facts admitted or proved in this case, was whether the acquired building is reasonably sufficient for its requirement. The expression "reasonably sufficient for his requirement" is of relative amplitude and its application differs from case to case. When can rent control court be satisfied that the new building is sufficient for the tenant's requirements? Sufficiency of the building for a man's requirement is reasonable sufficiency, even if the word "reasonable" was not employed in the clause. Now that the statute has employed the word ""reasonable" to denote the sufficiency of the new building for accommodating the requirements of the tenant, rent control court has to decide objectively how far the new building is sufficient for the tenant's requirements.

6. The word "reasonable" is not capable of precise definition. "Reasonable" signifies "in accordance with reasons" and in the ultimate analysis it is a question of fact (*The Corporation of Calcutta Vs. Sm. Padma Debi and Others*,). Sufficiency of one's requirement cannot be tested merely on the assertion of the tenant that such and such are his requirements (*Petroleum Workers Union v. A. Mohammed & Co.*, AIR 1967 MDS 33). No straight jacket formula can be evolved for the purpose, nor could a yardstick be provided to measure reasonable sufficiency of one's requirements. The purpose of tenancy (if it can be ascertained), the nature of work expected to be carried on in the premises and the manner in which the premises are now being put to use are, of course, factors germane in determining the reasonable sufficiency of the tenant's requirements.

7. Sri. S. Radhakrishnan, learned counsel for the petitioner, relied on the decision in *PMP Rowther vs. Devassia* (1980(2) ALRCJ 759; to support his contention that the Court cannot overlook the present use of the building in deciding the question of tenant's requirement. M. P. Menon, J. has posed some questions in the said judgment, as to whether the sufficiency is to be determined with reference to the nature and size of the business the tenant had at the time of letting or is it to be determined by assessing the magnitude and the nature of the business which the tenant intended to carry on or is to be determined by taking note of the business which he was actually carrying on at the time of filing the rent control petition ? However, learned Judge did not think it necessary to give answers to such questions in the said decision since he ordered the case to be remanded to the lower court. Hence I did not find anything in the judgment which would support the stand of the tenant in this case. Learned counsel also invited my attention to a decision of the Karnataka High Court in *Gangadhara Shetty v. Thirugappa Shetty* (1987 (1) ALRCJ 406) wherein a tenant acquired a building for his residence and the same was found not suitable for his business and hence the claim of the landlord was repelled. The decision of the Supreme Court in *Dr. Gopaldas Verma v. Dr. S. K. Bhardwaj* (AIR 1983 SC 337) has been relied on in the said judgment. There can be no doubt that acquisition of a residential building would not ipso facto entitle a landlord to get eviction on the ground that the acquired building is reasonably sufficient for tenant's requirement when the tenant is using the tenanted premises for his trade or commercial activities. Those decisions are not of help in this case.

8. One of the witnesses of the tenant has deposed that some marriage functions are now being held in the tenanted premises and such functions cannot be held in the newly acquired building. But both the Appellate Authority and Revisional Authority pointed out that conducting marriage functions is not part of the office function of SNDP Union. That apart, it has been pointed out that marriage functions are being held in the nearby temple premises also. Similarly the tenant's case that general body meeting of the SNDP Union cannot be conducted in the newly acquired building did not persuade the Appellate and Revisional authorities to repel the landlord's claim. Both authorities pointed out that such

meetings are being held only once a year or so and that they can be conducted elsewhere since the purpose for which the building was taken on rent did not include conduct of marriage functions or general body meetings. The aforesaid approach is neither unreasonable nor even faulty. The view of the Appellate Authority that the acquired building is reasonably sufficient for the requirement of the tenant has resulted from the objective test adopted on the facts and circumstances of this case. Learned District Judge has not committed any jurisdictional impairment by not interfering with such a finding. Learned counsel lastly made a plea that petitioner may be given some more time to vacate from the premises. Considering all aspects, I think that the execution court can give six month's time from today, if the petitioner makes an unconditional undertaking before the execution court that the tenant would unconditionally surrender the premises to the landlord on or before the said date.

Subject to the said observation, I dismiss this original petition in limine.