
(1984) 10 MAD CK 0004

In the Madras High Court

Case No : Civil Rev. Petition No"s. 313, 314 and 1285 of 1984

Shelat Brothers and etc.

APPELLANT

Vs

Lodd Narendradas and Others

RESPONDENT

Date of Decision : 11-10-1984

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 22

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 10, 10(3), 23

Citation : AIR 1985 Mad 95

Hon'ble Judges : V. Ratnam, J

Bench : Single Bench

Advocate : M. Srinivasan, for the Appellant; A.G. for A. Venkatesan and S.S. Trivedi, for the Respondent

Judgement

1. These civil revision petitions arise out of proceedings in eviction instituted by the respondents in C.R.P. Nos. 313 of 1984 and 314 of 1984 and

the petitioner in Civil Revision Petition No. 1285 of 1984 under S. 10(3)(a)(iii) and S. 10(3)(a) of the Tamil Nadu Buildings (Lease and Rent

Control) Act.(XVIII of 1960) (as amended by Act XXIII of 1973) (hereinafter referred to as the Act). In R. C. O. P. No. 2534 of 1981, 2533 of

1981 and 3202 of 1981 before the Rent Controller (Viii Judge, Court of Small Causes), Madras, the subject-matter of R.C.O.P. No. 2533 of

.1981 filed by the respondent in C.R.P. No. 314 of 1984 is the eastern half portion of the ground floor of premises bearing door No. 5,

Luckmudoss Street, Madras-3. Similarly, the western portion of the same premises formed the subject-matter of R. C. O. P. No. 2534 of 1981

filed by the respondent in C. R. P. No. 313 of 1984. Another portion in the ground floor of the western half of the premises bearing door No. 5,

Luckmudoss Street, Madras-3 was the subject-matter of the application for eviction in R. C. O. P. No. 3209 of 1981 filed by the respondent in

C. R. P. No. 1285 of 1984. The respondent in C. R. P. No. 314 of 1984 is a lawyer, while, the respondent in C. R. P. No. 313 of 1984 who is

also the petitioner in C. R. P. No. 1285 of 1984 is an Engineer by profession. .

The case of the respondent in C. R. P. No. 314 of 1984 in his application for eviction is that the eastern half of the premises bearing old door No.

8, and new No. 5, Luckmudoss Street, Madras-3 fell to his share in a partition and that he is the landlord thereof, that the upstairs portion of that

building is a residential premises in which, besides living, he has been carrying on his profession as an advocate in a small room, that in this portion,

though intended for residence, he is running his office in a small portion being subjected to great inconvenience and that for the purpose of running

his office, he bona fide requires the eastern half of the ground floor under the occupation of the petitioner in C. R. P. No. 314 of 1984 (R. C. O. P.

No. 2533 of 1981), that he is not in possession of any other non-residential premises and that even assuming that he was carrying on his profession

as a lawyer in a small room, he would nevertheless be entitled to additional accommodation under S. 10(3)(c) of the Act. The respondent in C. R.

P. No. 313 of 1984 and the petitioner in C. R. P. No. 1285 of 1984 stated that he is the owner and landlord of the western half of the house

bearing old door No. 8 and new door No. 5, Luckmudoss Street, Madras-3 that he is a qualified Civil Engineer carrying on his profession as such

for over 23 years not possessed of any other non-residential premises for being used as his office and to carry on his profession, that he has been

living it No. 17, Mandapam Road, Kilpauk, Madras-10., but running his office in a small portion in the upstairs of the premises, which is a

residential one belonging to him, where his aged mother and other members of his family have been living, that he bona fide requires the ground

floor portion of the premises under the tenancy occupation of the petitioner in C. R. P. No. 313 of 1984 and the respondent in C. R. P. No. 1285

of 1984 for his own use and occupation for non-residential purpose under S. 10(3)(a)(iii) of the Act, that even assuming that he is in occupation of

a portion of the first floor for his profession i.e., non-residential purpose, he would be entitled to an order for eviction on the ground of additional

accommodation under S. 10(3)(c) of the Act.

2. The petitioner in C. R. P. Nos. 313 of 1984 and 314 of 1984 is a firm and it resisted these applications for eviction on the ground that the claim

of the landlords is not bona fide as the landlords had no intention of occupying the ground floor premises, that, on two prior occasions, portions

were surrendered for the purpose of use and occupation by the landlords which were not so occupied but let out to other tenants and that

therefore, the claim cannot be bona fide. It was in further plea of the tenant that the landlord in R. C. O. P. No. 253A of 1981 was not carrying on

any business in the upstairs portion of the tenanted building as he was carrying on his profession only at No. 17, Mandaparn street, Kilauk.

Madras. 10 and his claim was also not bona- fide. According to the tenant, the la lords were only interested in letting out the premises for higher

rents and therefore, their requirement was not bonafide at all.

3. The respondent in C. R. P. No. 1285 of 1984, who was a tenant in occupation of a small pial portion of 4" x 14"" in the western part of the

building, contended that he had been carrying on business in the manufacture of rubber stamps and having regard to the very small extent under his

occupation that could not be required for the use of the landlord in R. C. O. P. No. 3209/1981 and that therefore, the requirement was not bona

fide.

4. Since the premises concerned in all the applications for eviction was the ground floor of the building bearing door No. 5, Luckmudoss Street.

Madras. 3 and the basis for seeking an order for eviction against the tenants in occupation was also the same, the applications for eviction viz., R.

C. O. P. Nos. 2533 of 1981, 2534 of 1981 and 3201 of 1981 were heard together and the evidence recorded in R. C. O. P. No. 2533 of 1981

was treated as evidence in R. C. O. P. Nos. 2534 of 1981 and 3209 of 1981.

5. Before the Rent Controller (VIII Judge, Court of Small Causes), Madras, on behalf of the respondent in C. R. P. Nos. 314 of 1984 and 313 of

1984 and the petitioner in C. R. P. No. 1285 of 1984, Exts. P. 1 to P. 33 were marked and the respondents in C. R. P. Nos. 314 of 1984 and

313 of 1984 were examined as P. W. 1 and P. W. 2, while, on behalf of the petitioners in C. R. P. Nos. 314 of 1984 and 313 of 1984, Exts. R.1

and R.2 were marked and one of its partners was examined as R. W. 2 and the

respondent in C. R. P. No, 1285 of 1984 gave evidence as R. W.

1 and another witness was also examined as R.W.3. On a consideration of the oral as well as the documentary evidence, the learned Rent

Controller (VIII Judge, Court of Small Causes), Madras, found that the respondents in C. R. P. Nos. 314 of 1984 and 313 of 1984 were already

in occupation of a portion of the same building for non-residential purposes and cannot therefore require another portion in the same building under

S. 10(3)(a)(iii) of the Act and that their requirement as and by way of additional accommodation was quite in order and bona fide as well.

Proceeding to consider the relative hardship, the learned Rent Controller was of the view that the tenant had not established the non-availability of

similar accommodation in that locality and therefore, its plea, that other suitable accommodation is unavailable and the request for an order of

eviction should be thrown out should not be countenanced. Regarding the portion in the occupation of the respondent in C. R. P. No. 128.5 of

1984, the learned Rent Controller found that the portion in the occupation of the tenant in that case was only a pial and the requirement of such a

pial for the purpose of enabling a Civil Engineer to have his consultation and practice was not reasonable or justifiable. The hardship that would

result to the tenant by the granting of an order for eviction was found to outweigh the advantage to the landlord and it was therefore held that the

petitioner in C. R. P. No. 1285 of 1984 was not entitled to have the pial portion as and by way of additional accommodation. On those

conclusions, R.C.O.P. Nos. 2533 and 2534 of 1981 were allowed and eviction of the petitioners in C. R. P. Nos. 314 of 1984 and 313 of 1984

was ordered however, R. C. O. P. No. 3209 of 1981, in view of the conclusions arrived at therein was dismissed.

6. Aggrieved by the order of eviction passed in R. C. O. P. Nos. 2533 of 1981 and 2534 of 1981, the tenant preferred appeals in R. C. A. Nos.

967 of 1983 and 968 of 1983 to the appellate authority (111 Judge, Court of Small Causes), Madras. Against the dismissal of the application for

eviction in R. C. O. P. No. 3209 of 1981, the landlord preferred R. C. A. No. 179 of 1983 to the appellate authority. During the pendency of the

appeals, the petitioner in C. R. P. No. 313 of 1984 sought permission in M. P. No. 1379 of 1983 to file a counter to the effect that the application

for eviction under S. 10(3)(c) of the Act is not maintainable and that the application even as one filed under S. 10(3)(a)(iii) of the Act was also not maintainable. The appellate authority was of the view that the learned Rent Controller had considered these objections even in the course of the order and that in any event, being a legal plea could be raised at any time and in that view, he was inclined to permit the tenant to file the additional counter. M. P. Nos. 1393 of 1983 and 1394 of 1983 were also filed by the tenants for reception of certain documents as additional evidence and for inspection of the premises by an Engineer. Those applications were dismissed by the appellate authority as in its view the documents were unnecessary and the inspection by an Engineer was also not called for. All the appeals were disposed of by a common judgment by the appellate authority. The appellate authority found that there was no dispute with reference to the residential character of the first floor portion, that the landlords were carrying on their business in a portion of the residential portion, that a mere user of a room by the landlords for carrying on their respective profession will not render the building a non-, residential one there precluding the applicability of S. 10(3)(a)(iii) of the Act and therefore, the landlords would be in order in praying for an order of eviction against the tenant under that section. The objection raised by the petitioners in the civil revision petitions that in the absence of an appeal filed by the landlords against the finding that S. 10(3)(c) of the Act applied, it was not open to the appellate authority to hold that S. 10(3)(a)(iii) of the Act would be applicable, was negated by the appellate authority on the strength of the decision in K. Venkataramani Vs. S. Aravamuthan and Others, .

In that view, the appellate authority did not consider it necessary to go into the question of the entitlement of the landlords to an order for eviction under S. 10(3)(c) of the Act, which provision was found to have been invoked by way of caution and with a view to avoid other contentions.

Concurring with the findings of the learned Rent Controller the appellate authority held that the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 have established their bona fide requirement of the premises in the occupation of the petitioner for their non-residential and business purposes. However, regarding the portion in the occupation of the respondent in

C. R. P. No. 1285 of 1984, the appellate authority found that the claim in respect of that portion for carrying on the profession of the landlord as a Civil Engineer was not bona fide as the landlord may not use that portion for his office purposes especially when he was to establish his office inside the ground floor and the portion in the verandah outside may not be required. On that conclusion, the dismissal of the application for eviction in R.C. O. P. No. 3209 of 1981 was maintained and R. C. A. No. 179 of 1983 was dismissed. In view of the findings arrived at in the other two appeals, the order for eviction passed by the Rent Controller was upheld and those appeals were also dismissed. It is the correctness of this order that is challenged by the tenant in C. R. P. Nos. 314 of 1984 and 313 of 1984 and by one of the landlords in C. R. P. No. 1285 of 1984.

7. The first contention of the learned counsel for the, petitioner is that the appellate authority has not considered the case of the tenant that certain portions in its occupation had been surrendered earlier and a finding on the evidence in relation to such a plea, will have a vital bearing upon the bona fides of the requirement. The order for eviction passed against the petitioners cannot be sustained according to counsel. On the other hand, the learned Advocate General appearing on behalf of the respondents in C. R. P. Nos. 314 of 1984 and 313 of 1984 submitted that though the petitioners in C. R. P. Nos. 314 of 1984 and 313 of 1984 put forth the plea of surrender of a portion of the building, it had not in any manner substantiated the same by evidence and therefore, that plea has not been made good so as to detract from the bona fides of the requirement.

8. It is seen from para 5 and 6 of the counters filed in R. C. O. P. Nos. 2533 of 1981 and 2534 of 1981 that the petitioner in C. R. P. Nos. 314 of 1984 and 313 of 1984 has stated that in 1973, the landlord, his father and brother requested surrender of a portion so that the respondent in C.

R. P. No. 314 of 1984 can have his office and in accordance with that, a portion was surrendered, which was not occupied, but let out to M/s.

Mangilal. Again, according to the petitioner, in 1975, the landlord, his father and brother are stated to have requested the petitioner in C. R. P.

Nos. 314 of 1984 and 313 of 1984 to surrender another portion for their personal occupation and bona fide believing the representation and with

a view to maintain cordial relationship, the petitioner in C. R. P. Nos. 314 of 1984

and 313 of 1984 claims to have surrendered another portion which was let out to one Kanthilal subsequently. The so called surrender of portions has been totally denied by the respondents in C. R. P. Nos. 314 of 1984 and 313 of 1984, examined as P. W.1 and P. W. 2.

There is no documentary evidence relating to the alleged surrender of portions of the property let out. R. W. 2 would state that a portion in the ground floor was earlier surrendered for the use and occupation of the landlord and that was on the west. He would state that a wall was raised and the premises was let out to Mangilal. He would also state that sometime later, a portion in the eastern side was surrendered and there also a wall was raised and it was let out to Kanthilal. In the course of his cross-examination, R. W.2 would admit that there was no written requisition for the surrender and that there was no abatement of rent. Besides, R. W. 2 would admit that he did not issue any notice objecting to the letting out of the premises surrendered by him to others. He would frankly confess that nothing in writing was taken from the landlords on both the occasions of surrender and that there was no abatement of rent also on both the occasions.

Thus, the only evidence in support of the surrender is the oral testimony of R. W. 2. However, his testimony in support of the surrender of portions at the request of the father of the landlords and the landlords is not acceptable. It is extremely difficult to believe that on a mere request by the father of the landlords and the landlords the tenant voluntarily and readily agreed to surrender portions in its occupation. The surrender is stated to have taken place in 1973 and 1975 when the provisions of the Act were in force. The tenant in occupation should have been fully aware of its rights, duties as well as privileges with reference to the tenancy occupation of the premises. Unless an order for eviction was obtained, there was no other method by which the tenant could be asked to vacate the premises. That the tenant did so merely at the request of the father of the landlord and the landlords is, therefore, too tall a story to be believed. Besides, the so called surrender is also highly improbable. There is nothing to show that any such request was made by the father of the landlords and landlords R. W. 2 frankly admitted that there was no written requisition.

In addition, if really there had been a surrender of portion of the property in the tenancy occupation of the petitioners. In C. R. P. Nos. 313 of

1984 and 314 of 1984, it would not have agreed to continue to pay the same rent despite a diminution in the tenanted floor space as a result of the surrender. The definite and categoric evidence of R. W. 2 is to the effect that there was no abatement of rent at all. This evidence clearly renders the theory of surrender of portions by the tenant at the request of the father of the landlords and the landlords totally unacceptable. It is indeed very difficult to believe that the tenant surrendered portions at the mere oral request of the landlord without even anything in writing and nevertheless agreed to pay the rent as before for a smaller accommodation. If the surrender of portions pleaded by the tenant is true, one would have expected it to have called upon the landlords to reduce the rent proportionately taking into account the extent surrendered which has also not been done.

On the other hand, R.W.2 is emphatic that no notice at all was given. Above all, when the tenant found that portions surrendered by it, have not been utilised by the landlords for their own purposes but have been let out to others, it would not have kept quiet. The ordinary conduct of a person, who had surrendered portions of the premises in his occupation as a tenant and who finds that the portions surrendered had not been used by the landlord for his own purposes, would be to immediately issue a notice to the landlord demanding the delivery of possession of the premises surrendered earlier. No such notice has also been given by the tenant in this case with reference to the surrender of portions stated to have taken place in 1973 and 1975 except for the unsatisfactory oral testimony of R.W.2. There is absolutely no other material on the basis of which it can be concluded that the tenant had surrendered possession of the portions of the premises in its occupation at the request of the father of the landlords and landlords. Such surrender not having been established at all, there is no question of lack of bona fides on the part of the landlords in filing the applications for an order of eviction under the provisions of the Act.

9. The learned counsel for the petitioner next contended that in order to decide whether S. 10(3)(a)(iii) or S. 10(3)(c) of the Act applied, it was necessary to decide the character of the building as well and since that had not been done by the appellate authority its finding that S. 10(3)(a)(iii) of the Act would apply is vitiated. Reliance in this connection was placed upon the decision in *M. Thirupathi Nadar and Sons v. Dr. S. L Kantha*

Rao 1980 TL NJ 145 and Ponniah Chettiar Vs. S. Rajagopal, . On the other hand, the learned Advocate General contends that in so far as the

buildings in the occupation of the petitioner in C. R. P. Nos. 313 of 1984 and 314 of 1984 are concerned, there has never been any dispute that

they are non-residential in character and that having regard to the requirement of the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984.

for purposes of carrying on of the profession of Engineer and Lawyer, an order for eviction could be passed in respect of such a non-residential

building, if the landlords make out a case in that regard. In this connection, attention was drawn to the decision in M. Thirupathi Nadar and sons v.

Dr. S. L. Kantha Rao 1980 TL NJ 145 particularly to pages 149 and 153. The further submission of the learned Advocate General was that the

western as well as the western part of the first floor of the premises was predominantly residential in character and the incidental user of one room

in such a residential building, would not bar the landlords from maintaining an application under S. 10(3)(a)(iii) of the Act. Reference in this

connection was made to the decision R. Rangaswami Iyengar v. Postmen's Cooperative Credit Society through its President (1979) 91 MLW

403: AIR 1979 NOC 72.

10. In para 5 of the application for eviction in R. C. O. P. No. 2533 of 1981 filed by the respondent in C. R. P. No. 314 of 1984, he has clearly

stated that the upstairs portion of old door No. 8, and new door No. 5, Luckmudoss Street, Madras-3 is a residential portion. Similarly, in Para 5

of R. C. O. P. No. 2534 of 1981 filed by the respondent in C. R. P. No. 313 of 1984 he has stated that he is running his office in a small portion

in the upstairs of premises bearing old door No. 8, and new No. 5, Luckmudoss Street, Madras-3 a residential premises in the counter filed by the

petitioner in C. R. P. Nos. 314 of 1984 and 313 of 1984, no dispute has been raised regarding the residential character of the first floor portion of

the premises in question. In as much as the petitioner in C. R. P. Nos. 314 of 1984 and 313 of 1984 has not disputed the residential character of

the first floor of the building, the appellate authority was right, when it stated in para II of its order that the residential character of first floor portion

is not in dispute. Equally, it is not the case of the petitioners in C. R. P. Nos. 314 of 1984 and 313 of 1984 that the ground floor in its occupation

was let out separately as a building for purposes other than non-residential. While the ground floor had been admittedly let out to the petitioner in

C. R. P. Nos. 314 of 1984 and 313 of 1984 for purposes of its business viz., non-residential purpose, the first floor of the very same premises is admittedly and indisputably a residential one.

The respondent in C. R. P. No. 313 of 1984 has produced several documents like Exs. P. 25 to P. 29 which clearly establish that he is using the

upstairs portion for his professional purpose. Nothing had been suggested by the petitioner in C. R. P. Nos. 313 of 1984 and 314 of 1984 against

the acceptance of these documents. From the documents referred to above and the evidence of P. W. 2, it is clear that the respondent in C. R. P.

Nos. 313 of 1984 is using a portion of the residential first floor premises for carrying on his profession as an Engineer. Likewise, the respondent in

C. R. P. No. 314 of 1984, examined as P. W. 1, has stated that the upstairs portion of the building is residential portion and that he is living in this

portion besides carrying on his profession as a lawyer in a small room which is very inconvenient. The further evidence of P.W.1 and P.W.2 is that

on account of the inconvenience experienced by them, they would like to have their offices in the ground floor portion. It is seen that originally the

respondents landlords in C. R. P. Nos. 314 of 1984 and 313 of 1984 were having their office at No. 442, Mint Street, but owing to litigation

between the members of the family, they had to vacate the premises in Mint Street and were obliged to use the upstairs portion of the residential

premises in their occupation ever for their professional purposes.

In so far as the respondent in C. R. P. No. 314 of 1984 is concerned, his evidence as P.W. 1 would further disclose that he was having his office

in a property belonging to a Trust and that the trustee had taken proceedings in eviction and therefore, he was obliged to vacate that portion and

shift his office to a room in the residential portion in the first floor. The evidence of P.W.1 and P.W. 2 as well as the documents referred to earlier

clearly establish that the respondents in C. R. P. Nos. 314 of 1984 and 313 of 1984 are genuinely desirous of establishing their own offices and for

that purpose, they require a non-residential premises. Earlier, it has been seen how the ground floor in the occupation of the petitioners in C. R. P.

Nos. 314 of 1984 and 313 of 1984 is admittedly a non-residential premises. It is

not the case of the petitioner in C. R. P. Nos. 314 of 1984 and 313 of 1984 that the respondents therein are in possession of any other non-residential premises of their own in the city of Madras. The, mere user of a room in a residential building for non residential purposes will not make the building as a whole a non-residential building as to bar the landlords from availing the benefits of S. 10(3)(a)(iii) of the Act. This has been laid down in R. Rangaswami Iyengar v. Postmen's Co-operative Credit Society through its President (1979) 91 MLW 403: AIR 1979 NOC 72. Under those circumstances, the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 would undoubtedly be entitled to maintain an application under S. 10(3)(a)(iii) of the Act.

11. The building in the occupation of the petitioner in C. R. P. Nos. 313 of 1984 and 314 of 1984 is admittedly non- residential. The purpose for which the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 require that building is also non-residential. They have not been established to possess any other nonresidential building of their own in the city. Indisputably, they are in possession of a residential first floor a room which is also being used by them for their professional purposes, which is admittedly non-residential, but such user, as pointed out earlier, will not deprive them of the benefits available under S. 10(3)(a)(iii) of the Act. Having regard to the undisputed character of the first floor and the ground floor buildings, there is not need to consider the character of the whole building as contended by the learned counsel for the petitioner in C. R. P. Nos. 313 of 1984 and 314 of 1984 and the decisions relied on in support thereof. Earlier, the question of surrender of portions of the property had been considered and it has been found that the surrender has not been established. Therefore, there is absolutely nothing wrong in the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 requiring their own premises in the occupation of the petitioners in C. R. P. Nos. 313 of 1984 and 314 of 1984 for the purpose of carrying on their professional activities as a lawyer and an Engineer in a more convenient and spacious premises. The respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 have thus clearly made out their case under S. 10(3)(a)(iii) of the Act.

12. Lastly, the learned counsel for the petitioner in C. R. P. Nos. 313 of 1984 and 314 of 1984 contended that the appellate authority was in error

in having reversed the conclusion of the Rent Controller holding that S. 10(3)(c) of the Act would apply in the absence of any proceedings at the instance of the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 questioning its correctness. On the other hand, the learned Advocate General pointed out that the application for eviction filed by the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 was rested on alternative grounds viz., S. 10(3)(a)(iii) of the Act or S. 10(3)(c) of the Act and therefore, in considering the correctness of the order of eviction, it would be open to the appellate authority exercising its jurisdiction in accordance with the provisions of the Act, to ascertain the precise provision of law under which the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 are entitled to relief even without any appeal having been preferred by them with reference to the adverse finding given by the learned Rent Controller. Reliance in this connection was also placed by the learned Advocate General upon the decisions in *Kuppuswami Chetty Vs. Samudra Vijia Nainar*, , *Bhagavatula Pullaya v. M. Anardam Chetti* AIR 1972 A.P. 66, *Joseph D'Sousa v. State of Mysore* AIR 1972 Mys. 261, *A. G. Kannappanadar v. V. Krishnaswamy Pilla*, (1981) 1 MLJ (S. N.) 190, *K. Venkataramani Vs. S. Aravamuthan and Others*, and *Daba Industrial and Trading Company (Pvt) Limited v. Dr. B. Chenakesavan* (1984) 1 MU 291.

13. A perusal of the applications for eviction filed in R. C. O. P. Nos. 2533 of 1981 and 2534 of 1981 clearly shows that the relief of eviction has been prayed for alternatively under S. 10(3)(a)(iii) or S. 10(3)(c) of the Act. In other words, the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 have prayed for an order of eviction against the petitioners either on the ground available under S. 10(3)(a)(iii) or that under S. 10(3)(c) of the Act. In considering those applications, the learned Rent Controller was of the view that be given on that footing (sic). Ultimately though the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 sought relief under S. 10(3)(a)(iii) of the Act alternatively, the Rent Controller gave an order for eviction in favour of the landlords resting it on S. 10(3)(c) of the Act only and therefore, it was unnecessary for the Controller to have considered the applicability of S. 10(3)(a)(iii) of the Act. By this order, the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 were

not in any manner aggrieved because they wanted the relief of eviction on one of the two alternative grounds and they secured it on one ground,

though not on the other and under those circumstances, it was unnecessary for them to have preferred any appeal objecting to the refusal of the

relief of eviction based on S. 10(3)(a)(iii) of the act.

Even in a case where the relief of eviction is asked for cumulatively on several grounds and the landlord succeeds in obtaining an order for eviction on

one of several grounds it has been held by a series of decisions of this Court as well as other that it would be open to the landlord without filing an

independent appeal to support an order for eviction secured by him on grounds which have been found against him either by the Rent Controller or

by the appellate authority. In the decision in *Kuppuswami Chetty Vs. Samudra Vijia Nainar*, , the reliefs prayed for were recovery of possession of

the property or in the alternative the return of the purchase money. The trial Court gave a decree for possession, but on appeal the learned District

Judge held that though the suit for possession was barred, nevertheless the plaintiff could be given a decree for money. In the second appeal the

objection raised before the High Court was that the plaintiff did not prefer any memorandum of objections under S. 561 C.P.C. and therefore, the

appellate Court was not in order in having granted a decree for money.

Rejecting this contention, it was pointed out that the major relief asked for by the plaintiff for the delivery of possession of the, property had been

obtained by him in the first court and therefore, he had no ground for appealing and hence, no ground was made out for a memorandum of

objections under S. 561 C.P.C. Though this decision was rendered with reference to the provisions of the Code of Civil Procedure, yet, this

clearly lays down the principle that where one substantial relief is granted out of two alternative reliefs, the relief granted finally could be sustained

even without any proceeding by the person, who got the decree or relief in his favour. This would be all the more so and indeed a fortiori in this

case, where no alternative relief has been prayed for, but only the relief of eviction on alternative grounds has been sought. Applying the principles

of this decision to the instant case it is seen that the respondents in C. R. P. Nos. 313 of 1984 and 314 of 1984 had obtained the only relief which

they wanted from the Rent Controller, though under S. 10(3)(c) of the Act and

therefore, there was really no occasion for them to have filed any proceeding or raised objection to the order in their favour and therefore, even without any further proceeding, it was open to the appellate authority, while considering the appeal, to mould the relief as to make it fall either within the ground on which it had been granted or within the alternative ground on which it was neither considered nor granted by the Rent Controller.

14. Even in cases where relief is asked for on several grounds but granted on only one or some, it is open to the party, who obtains an order in his favour on one or more of several grounds, to sustain the order so obtained on grounds decided against him without filing an independent proceeding. In other words, the Court can always apply the principle embodied in O. 41 R. 22 C.P.C and pass appropriate orders. In

Bhagavatula Pullayya v. M. Anandam Chetti AIR 1972 A.P. 66 Chinnappa Reddi, J. had to consider this question with reference to the provisions

of Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act (15 of 1960). In that case several grounds were urged by the landlord to

secure an order for eviction against the tenant and despite contest by the tenant, the first authority, though it found all the grounds in favour of the

landlord, ultimately rejected the application for eviction as not maintainable, as there was no prior notice to quit. On appeal by the landlord to the

appellate authority, it held that prior notice to quit was not necessary; but however, did not permit the tenant to sustain the order of dismissal

passed by the Rent Controller on the merits on the grounds decided against the landlord as, according to the appellate authority, the tenant should

have preferred an appeal with reference to the adverse findings. Finally, the appellate authority allowed the appeal and ordered eviction.

The Andhra Pradesh High Court pointed out, after referring to a judgment of the Division Bench in (1969) 2 A. P. LJ 290, Hari Kishan Singh v. B.

Narayana (1971) 1 Andh LT 29 that the provisions of O. 41 R. 22 C.P.C. are not inconsistent with any of the provisions of the Act and on

general principles and on the application of O. 41 R. 22 C.P.C., the party can sustain the order of the Rent Controller before-the appellate

authority on the grounds decided against him by the Rent Controller. In Joseph D" Souza v. State of Mysore AIR 1972 Mys. 261, a similar

question arose with reference to the provisions of the Mysore Rent Control Act (27 of 1961). In that case also several grounds were cumulatively put forward to secure an order for eviction and on one ground, eviction was ordered after rejecting the other grounds urged. On appeal, the appellate authority did not permit the landlord to support the order of eviction on the grounds decided against him, as he had not preferred any cross-objection against the adverse findings. In pointing out that such an approach was erroneous, the Mysore High Court laid down that there need not be any cross-objection against an adverse finding as the party had always the liberty to support the order in his favour on any ground before the appellate authority. In *K. Venkataramani Vs. S. Aravamuthan and Others*, , I had occasion to consider a similar question and applying the decisions in *Seetaram and Others Vs. Smt. Ramabai and Another*, and *G. Jayalaksmi Ammal v. N. Pattabiramayya* (C. R. P. No. 2597 of 1965 dt. 10-1-1969) it was held that it would be open to a respondent in an appeal to sustain the order of eviction on a ground decided against him by the Rent Controller. Again in *A. G. Kannappa Nadar v. V. Krishnaswami Pillai* (1981) 1 MLJ (S. N.) 19, I had occasion to point out that a landlord can support an order of eviction on a ground decided against him even in the course of appeal filed by the tenant without preferring an independent appeal in that regard. *Daba Industrial and Trading Company (Pvt) ., Daba Industrial and Trading Company (Pvt.) Limited and Another Vs. Dr. B. Chenakesavan*, points out that it has been consistent held by this Court that even though an eviction petition was allowed on a finding on one of the several grounds having been proved and against that an appeal had been filed by the tenant, it is open to the landlord to support the order for eviction on the grounds found against him in that appeal. It is therefore clear from the decisions referred to above that even in a case where an order for eviction is sought cummulatively on several grounds and is granted on one of such grounds, it would be open to landlord to support the order for eviction on the grounds found against him in an appeal preferred against the order of eviction by the tenant without the landlord himself taking up further proceedings or filing an appeal against the adverse finding. If such is the position, in a case where the relief of eviction is asked for on several grounds and granted on one or more grounds

and not on all, it would be all the more so, when the relief of eviction is asked for alternatively on two grounds and is granted on one and not on the

other. There is, therefore, no substance in this objection raised by the learned counsel for the petitioners in C. R. P. Nos. 313 of 1984 and 314 of

1984 no other point was urged.

15. On a careful consideration of the facts, circumstances and the evidence it has to be held that the appellate authority was quite correct in having

ordered the eviction of the petitioners in C. R. P. Nos. 313 of 1984 and 314 of 1984. That conclusion is amply supported by the materials on

record and does not merit any interference in the exercise of revisional jurisdiction under S. 25 of the Act. Consequently, C. R. P. Nos. 313 of

1984 and 314 of 1984 are dismissed with costs one set.

16. In so far as C. R. P. No. 1285 of 1984 is concerned. Mr. A. Venkatesan, learned counsel for the petitioner therein, strenuously contends that

the premises in the occupation of the tenant in that case is also bona fide required by the landlord/Engineer for purposes of carrying on his

profession. The tenant in that case is occupying a small outer veranda measuring 4" x 14"" where he is making rubber stamps. The desire of the

landlord who is a Civil Engineer is to establish an office in order to enable him to carry on his professional work and from that point of view it does

not appear that his claim that he bona fide requires the verandah portion measuring 4" X 14" also is made out. It does not also appear that without

this verandah portion the landlord cannot use the western side of the ground floor portion for purposes of his office. The portion occupied by the

respondent in

C. R. P. No. 1285 of 1984 is so small it is difficult to accept the case of the petitioner in C. R. P. No. 1285 of 1984 that that portion also would

be required for purposes of his office. As pointed out earlier, it is not the case of the petitioner this without that portion, he cannot enjoy the

western portion of the building for the purpose of his office in respect of which he has already secured an order for eviction. The dismissal of the

application for eviction and the confirmation thereof by the appellate authority cannot therefore be taken exception to. Under those circumstances,

C. R. P. No. 1285 of 1984 is dismissed, but there will be no order as to costs.

17. Order accordingly.