

(1980) 08 MAD CK 0030

In the Madras High Court

Case No : Civil Revision Petition No. 924 of 1979

St. Joseph's Armoury Gunamithe

APPELLANT

Vs

Comm. Venkidu, Secretary, Communist Party of India
(Marxs) Coimbatore and Nilgiris

RESPONDENT

Date of Decision : 06-08-1980

Acts Referred:

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 10(3), 14(1)

Citation : (1981) ILR (Mad) 182

Hon'ble Judges : Nainarsundaram, J

Bench : Single Bench

Advocate : G.M. Nathan, M.B. Dominique and M.A. Abdul Rahim, for the Appellant; V. Natarajan and V. Nicholas, for the Respondent

Final Decision : Dismissed

Judgement

Nainarsundaram, J.—The tenant within the meaning of the Tamil Nadu Buildings (Lease and Rent Control) Act XVIII of 1960, hereinafter referred to as the act is the Petitioner in this revision. The Respondent is the landlord within the meaning of the Act. The landlord is the Communist Party of India (Marxist) of Coimbatore and Nilgiris and it is being represented by its Secretary, Comm. Venkidu. There is no dispute that the premises in question is a non-residential building. The landlord sought the eviction of the tenant on two grounds, namely (i) requirement of the premises for the purposes of its business, viz., running its office in the premises u/s 10(3)(a)(iii) of the Act; and (ii) requirement of the premises for the purpose of demolition and re-construction u/s 14(1)(b) of the Act.

2. Various contentions were put forth by the tenant in defence to this petition for eviction preferred by the landlord and they are not every gen(sic)an(sic) for the purpose of deciding the question, which alone is being agitated in this revision. The Rent Controller found that the requirement of the landlord on both the grounds was not tenable and as a result, the petition for eviction by the landlord

was dismissed. The landlord preferred an appeal and the Appellate Authority upheld the case of the landlord on the ground of requirement of the premises for the purpose of its business within the meaning of Section 10(3)(a)(iii) of the Act. The other ground of requirement of the premises for the purpose of demolition a large re-construction was not pressed before the Appellate Authority by the landlord.

3. In the present revision, Mr. G.M. Nathan, learned Counsel for the Petitioner, raises the point that the requirement of the landlord of the premises for running its Office cannot come within the scope of Section 10(3)(a)(iii) of the Act, in the sense that running the office of a political party will not come within the meaning of the expression for purposes of a business occurring in the Section. It must be pointed out that this contention was not raised at all in the courts below, and it is being raised for the first time in this revision only. The section deals with two clauses of buildings namely, residential and non-residential while purporting to grant relief to the landlord to obtain possession thereof from the tenant. While the Act has defined building as such we do not find a definition of either residential building or non-residential buildings set out in the Act. We can take it that a building other than a residential building will fall within the category of a non-residential building. There is no difficulty with reference to a residential building. Section 10(3)(a)(iii) of the Act specifically refers to non-residential building which is used for the purpose of keeping a vehicle or adapted for such use. Section 10(3)(a)(iii) speaks about other non-residential building. If a building other than a residential building and other than the category of a non-residential building mentioned in Section 10(3)(a)(ii), is required by the landlord for the purpose of its business as per Section 10(3)(a)(iii), the requirement had got to be assessed by not giving a technical interpretation to the expression for purposes of a business.

4. According to Shorter Oxford English Dictionary, the following meaning are also attached to the word business;

the state of being busily engaged in anything; "activity"; "what about which one is busy", "function"; "occupation"; "that with which one is concerned at the time".

If a building other than a residential buildings is required by the landlord for any legitimate activity, occupation or avocation of his that must come in with the expression for purpose of a business occurring in Section 10(3)(a)(iii) of the Act. To give a restricted meaning will defeat the very object of the provision. The activity, occupation or avocation need not necessarily have the colour of a pecuniary transaction added to it. Equally so, it need not strictly be a commercial activity. If the activity or occupation involves the care and attention of the landlord, or his labour that will satisfy the expression for purposes of a business.

5. In *P. Vedramani Ammal v. K.R.K.R.M. Kannappa* (1970) 2 M.L.J 689 Kailasam J. (as he then was), had occasion to consider the question also whether carrying on of the thanneerapandal activity is a business, as required u/s 10(3)(a)(iii) of

the Act. The learned Judge, after considering the question elaborately and succinctly, held that the carrying on of the thanneerpandal activity would be for purposes of business as required u/s 10(3)(a)(iii) of the Act. The following passages in the judgment of the learned Judge are very elucidative and helpful to assess the question:

The Oxford Dictionary gives the meaning of the word "Business" a being busy, task, duty.... habitual occupation, profession, trade, serious work". It is, therefore, to be seen that the word has a very wide import and would cover every activity where men keep themselves busy. In Halsbury's Law England, third, edition, Volume 38, the word "business" is stated as a wider term than and not synonymous with, trade and means practically anything which is an occupation as distinguished from a pleasure. Examining the scheme of the act it will be seen that the purpose of the enactment is to consolidate the law relating to the regulations of the letting of residential and non-residential buildings and the control of rent of such buildings. In this context of meaning of the word "business" as will have to be determined. The main object of the enactment being to regulate the letting of residential and non-residential buildings, the Act provides under what circumstance landlord is entitled to get possession of the premises for his own occupation. It may be stated that the Act does not define "residential" or "non-residential" building. "Building" is defined in the Act. While the tenants are granted certain rights of occupancy the landlord also is entitled to get possession under certain circumstances. As already stated Section 10 is a provision which enables the landlord to get an order directing the tenant to put him in possession. It provides that in case of a residential building he is entitled to such an order if he or his son requires it for his own occupation and, if he or his son is not occupying a residential building. Apart from the clause relating to residential buildings, there are two clauses regulating the right of the landlord to get possession of non-residential buildings. There is no prohibition in the Act to the landlord carrying on any kind of activity in his own building. But, if he wants possession of his own building in the occupation of others he must fulfill the conditions that are set out in Section 10(3). In this context the term "for purposes of a business" will have to be construed. There can be no objection to the landlord carrying on a business which is not strictly commercial as for instance using, the building as a place of worship or Bajana Mandapam or thanneerpandal. These are absolutely legitimate objects to which the landlord can put to use his building. The object of the enactment being one to regulate the occupation of residential and non-residential buildings, I can see no prohibition against the landlord putting the buildings to any legitimate use and also requiring the building bona fide for any legitimate use. So long as the object is a legitimate one and so long as the requirements of the Sub-section are fulfilled, I see no reason for restricting the meaning of the term "for purposes of a business". If the legitimate activity by the landlord will be his business the ordinary meaning of the word "business" applies, and there is no warrant for constructing the word "business" in the very restricted way and to confine it to

commercial activities or activities of trade alone. Support for this view is also derived from the English decisions. In *Rolls v. Miller* (1884) 27 Ch. D. 71 where it was held that the carrying on of a charitable home for working girls, boarded without payment was not a trade, but it was the business of lodging, house-keeper. It was held that the word "business" meant almost anything which was an occupation as distinguished from a pleasure, anything which was an occupation or duty which required attention was a business. This view was affirmed in *South-West Suburban Water Co. v. St. Marylebone Union* [1904] 2 K.B. 174. In *Kesavan Nair v. BabuNaidu* (1954) 2 M.L.J. 149, this Court held that the term "business" had no technical meaning, but is to be read with reference to the object and instant of the act in which it occurs.

6. In *S. Mohanlal Vs. R. Kondaiah*, a Division Bench of the Andhra Pradesh High Court consisting of Gopal Rao ekbate and Ramachandra Rao J., considered the question as to whether the profession of an advocate will fall within the meaning of the expression carrying on business occurring under the relevant provision of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act XV of 1960. It must be pointed out that the language of the relevant provisions of the Andhra Pradesh Act is similar to the language used in the Tamil Nadu Act XVIII of 1960. The learned Judges of the Division Bench of the Andhra Pradesh High Court in that decision, quoting the various dictionary meanings for the expression business have also adverted to the meaning found in Bouvier's Law Dictionary and it runs as follows:

that which occupies the time, attention and labour of men for the purpose of livelihood or profit, but it is not necessary that it should be the sole occupation or employment. It embraces everything about which a person can be employed. It is a word of large and indefinite import, the legislature could not well have used a larger word.

It is also useful to note the following observations of the Division Bench at page 388 of the Report:

Even, if we take the scheme of Section 10(3) of the Act a broad distinction is drawn between a residential and non-residential building. A landlord can seek eviction from a residential building for residential purpose and a non-residential building for non-residential purpose. The word, "business" should be construed as in the sense of a non-residential purpose, be it commercial activity or a professional activity or an official activity.

This decision of the Division Bench of the Andhra Pradesh High Court was taken in appeal to the Supreme Court and the decision of the Supreme Court is reported in *S. Mohanlal Vs. R. Kondaiah*, . While affirming the decision of the Division Bench, the Supreme Court observed:

It is needless to refer to the meanings given to that term in the various dictionaries except to say that everyone of them notices a large number of meanings of the word In a broad sense it is taken to mean, "everything that

occupies the time attention and labour of men for the purpose of livelihood or profit". In a narrow sense it is confined to commercial activity.

Mr. G.M. Nathan, learned Counsel for the Petitioner submits that the observations of the Supreme Court in the above decision form the guide-line and in the broad sense unless the business can be characterised as one occupying the time, attention and labour of men for the purpose of livelihood or profit, it cannot be a business for purposes of Section 10(3)(a)(iii) of the Act. I am not able to appreciate and accept this construction which the learned Counsel, wants to put on the observations of the Supreme Court. As pointed out earlier, in Bouvier's. Law Dictionary business has been defined as that which occupies the time, attention and labour of men for the purpose of livelihood or profit. I find that the Supreme Court has also adopted the same meaning to define the expression business in a broad sense. According to Mr. G.M. Nathan, learned Counsel for the Petitioner when a business is not for the purpose of livelihood then it must be for the purpose of monetary profit. It must be straightaway pointed out that the expression profit cannot be equated to monetary profit or pecuniary gain only. In Shorter Oxford English Dictionary the following definition amongst other are found for the expression profit:

to make progress"; "to advance"; "to improve"; "to be of advantage" "to benefit", "further promote.

It is not proper to confine the meaning of the expression profit to monetary benefit or pecuniary gain. Every legitimate activity avocation or occupation of a landlord which obviously must exclude his own residential purposes, can fit in with the expression business occurring in Section 10(3)(a)(iii) of the Act. To tie down the said expression to or only commercial activities involving pecuniary or profit making transaction will practically nullify the intendment of the legislature.

7. Mr. V. Nicholas, learned Counsel for the Respondent, draws my attention to the decision in G. Papachary v. Country Tobacco Marchants Association (1974) 2 And. W.R. 91 where Ramachandra Rao J., was concerned with a case in which an association of merchants sought the eviction of the tenant from the premises owned by it on the ground that it required the said premises for the purposes of its business. The learned Judge found that eventhough the association did not by itself carry on any business yet its objects and its several activities would amount to carrying on business activities and that would satisfy the requirements of the provision.

8. In the instant case, the landlord is a political party and its business is to carry on activities to progress, to advance and to improve its cause in the political sphere, it must have an office and it is only to serve this requirement of the landlord, the eviction was sought for u/s 10(3)(a)(iii) of the act. In view of the above position it must be held that the requirement of the landlord definitely fits within Section 10(3)(a)(iii) of the Act and there is no warrant for discountenancing the case of the landlord on the ground urged by the learned

Counsel for the Petitioner. Accordingly, this revision fails and the same is dismissed. But there will be no orders as to costs.

9. This civil revision petition having been posted this day as per the letter Mr. G.M. Nathan, Advocate, the Court made the following Orders:

10. This matter comes up to-day at the request of Mr. G.M. Nathan, learned Counsel for the Petitioner as per his letter, dated 1st August, 1980. The learned Counsel for the Petitioner mentions to me that there was an omission at the time when orders were passed on 25th July, 1980, to pray for time for the Petitioner to vacate the premises in question and he prays for six months' time and assures that possession will be delivered on expiry of this period of six months. In view of the above assurance, Mr. V. Nicholas, learned Counsel for the Respondent, has no objection for grant of time.

11. In the said circumstances, the Petitioner will have six months' time from today to vacate the premises in question and it shall continue to pay the rents regularly.