
(2001) 11 MAD CK 0047
In the Madras High Court
Case No : C.R.P. No. 3393 of 1999

S.T. Nehru

APPELLANT

Vs

Krishnamurthy

RESPONDENT

Date of Decision : 15-11-2001

Acts Referred:

Pondicherry Buildings (Lease and Rent Control) Act, 1969 — Section 10(3), 25

Citation : (2002) 1 LW 780

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : T. Susindran, for the Appellant; K. Yamunan, for the Respondent

Final Decision : Allowed

Judgement

1. The revision petitioner is the landlord, who had preferred a petition in R.C.O.P. No.1 of 1994 before the learned Rent Controller, Karaikal,

seeking eviction of the respondent-tenant from the premises, namely, a non-residential building bearing Municipal Door No. 51/1, Vayaikarai

Street, Karaikal, u/s 10(3)(a)(iii) of the Pondicherry Buildings (Lease and Rent Control) Act, 1969, (hereinafter referred to as ""the Act""), for the

purpose of running a finance company under the name and style of ""Thangasamy Finance"" in the same place.

1.2 The above said eviction proceedings were resisted by the respondent-tenant on the ground that the petitioner-landlord is owning, four shops

and therefore, he is not entitled to evict the respondent-tenant u/s 10 (3) (a) (iii) of the Act, which reads as follows:

Section 10(3)(a) of the Act:-

A landlord may, subject to the provisions of Clause (d), apply to the Controller for an order directing the tenant to put the landlord in possession of

the building :-

(i).....

(ii)

(iii) in case it is any other non-residential building, if the landlord or his son is not occupying for purposes of a business which he or his son is

carrying on, a non-residential building of his own in the Commune concerned.

1.3 The learned Rent Controller, without appreciating the contention of the revision petitioner-landlord that even though he is owning four non-

residential buildings, among which he is in occupation of only one building, the other three including the petition premises are rented out to the third

patties and hence, he seeks to evict the respondent-tenant, who is a tenant of one of the said three premises and holding that the requirement of the

petition premises is not bona fide, dismissed the petition filed by the revision petitioner-landlord u/s 10(3)(a)(iii) of the Act, by an order dated

6.10.1994 and on appeal, the same was confirmed by the learned Appellate Authority, by an order dated 14.2.1997 in R.C.A. No. 3. of 1995,

on the ground that the revision petitioner-landlord is owning four shops. Hence, the above revision.

2. Mr.T.Susindran, the learned counsel appearing for the petitioner, questioning the legality and propriety of the order of the learned Rent

Controller dated 6.10.1994, made in R.C.O.P. No.1 of 1994, as confirmed by the learned Appellate Authority, by order dated 14.2.1997, made

in R.C.A.No.3 of 1995, contends that the revision petitioner's requirement of the petition premises is bona fide, as he is not in occupation of all the

non-residential premises.

2.2. The learned counsel for the revision petitioner-landlord brought to my notice that even though the petitioner-landlord is owning four shops

(non-residential premises), he is in occupation of only one premises, where he is running an electrical shop and he is requiring the petition premises

to run a finance company under the name and style of ""Thangasamy Finance"" for which he had already obtained licence from the Tahsildar.

2.3. The learned Counsel for the revision petitioner-landlord also contends that the learned Rent Controller and the learned Appellate Authority

have not gone into the relative hardship caused to the petitioner-landlord by refusing the eviction of the respondent/tenant.

3. Per contra, Mr. K. Yamunan, the learned Counsel appearing for the respondent, reiterating the findings of the learned Rent controller as well as the Appellate Authority, contends that no revision would lie against such findings u/s 25 of the Act.

4. I have given careful consideration to the submissions of both sides.

5. Section 10(3) (a) (iii) of the Act makes it clear that mere owning of other non-residential premises itself is not a bar to seek eviction, unless he is

in occupation of the other non-residential premises. As per Section 10(3)(a)(iii) of the Act, not only the ownership of the three non-residential

premises, but also the occupation of the same, for the purpose of business is a relative criteria to decide as to the bar to seek eviction.

6. In the instant case, admittedly, out of four non-residential premises, the petitioner-landlord is in occupation of only one non-residential premises,

where he is running an electrical shop while the other three including the petition premises are rented out to third parties and therefore, they are not

occupied by the petitioner-landlord.

7. If that be so, I am of the considered opinion that both the authorities below have erred in dismissing the application filed by the petitioner-

landlord to evict the respondent-tenant merely on the ground that the petitioner-landlord is owning three, other non-residential premises, while the

fact remains that he is not in occupation of all the premises except the one where he is running an electrical shop, and without appreciating the

relative hardship to which the petitioner-landlord is subjected to by the refusal of eviction of the respondent-tenant, in spite of the fact that the

petitioner-landlord had already obtained licence from the Tahsildar for running a finance company for which he requires the petition premises.

8. For all the reasons, I am obliged to set aside the orders of the authorities below and allow the petition for eviction. Consequently, the civil

revision petition is allowed as prayed for. No costs.

9. However, taking note of the fact that the respondent-tenant is running a jewellery shop in the petition premises for quite some time and as the

learned counsel for the respondent-tenant has given an undertaking that the respondent-tenant would vacate the petition premises and handover the

vacant possession within a period of six months, the respondent-tenant is permitted to vacate the petition premises bearing Municipal Door

No.51/1, Vayalkarai Street, Karaikal, on or before 31st May, 2002, provided; (i) the respondent/tenant pays the entire arrears of rent, if any,

within a period of two weeks from today, (ii) the respondent/tenant continues to pay the rent regularly on or before 5th of every month and (iii) the

respondent/tenant files an affidavit of undertaking to vacate and handover the petition premises on or before 31.5.2002 before the learned Rent

Controller, Karaikal, within two weeks from today.