

(1988) 04 MAD CK 0038
In the Madras High Court

S.V. Chidambara Pillai

APPELLANT

Vs

S.N.V.R.N. Subramaniam Chettiar and Others

RESPONDENT

Date of Decision : 06-04-1988

Acts Referred:

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

Citation : (1989) 2 LW 412 : (1989) 2 MLJ 254

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Judgement

Srinivasan, J.—The revision petition arises out of an application filed by the first respondent herein for impleading respondents 2 to 4 as petitioners in R.C.O.P. No. 134 of 1982 which is an application for eviction filed by the first respondent on the ground of requirement for demolition and reconstruction. It is stated in the affidavit filed in support of the application by the first respondent that since the R.C.O.P. had been pending for more than three years, he had sold the property to third parties and that they were entitled to continue the petition for eviction. This application was opposed by the petitioner herein and the Rent Controller overruled the objections raised by the petitioner and ordered the application. That order was affirmed on appeal by the appellate authority in C.M.A. No. 46 of 1987.

2. In this revision petition, learned Counsel for the petitioner contends vehemently that it is not open to the original land lord to implead the purchasers as parties to the petition as u/s 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, the bonafide of the purchasers has to be established if the purchasers want to get an order of eviction. It is also contended by him that it was only for the purchasers to apply to the Court to permit them to come on record and there cannot be an application by the original landlord who has ceased to be a landlord. Neither of the contentions is acceptable as they are hypertechnical.

3. The original petition is filed u/s 14(1)(b) of the Tamil Nadu Buildings (Lease

and Rent Control) Act. The bonafide requirement of the building as contemplated u/s 14(1)(b) of the Act has to be established by letting in evidence at the time of hearing of the R.C.O.P. If before the matter is taken up for trial the landlord thinks that he cannot fight with the tenant as the matter was being prolonged for years and sells the property to third parties, it is open to the third parties who have become the owners of the property to continue the proceedings. It may be for the purchasers to establish their bona fide requirement of the premises for the purposes of demolition and reconstruction as contemplated u/s 14(1)(b) of the Act. That is a matter which has to be considered at the time when evidence is let in by both the parties in the R.C.O.P. It is open to the tenant to contend and comment during the trial that the purchasers have not proved their, bona fides as required by Section 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act if the purchasers fail to let in evidence to that effect.

4. Learned Counsel for the petitioner also contended that no undertaking as required u/s 14(1)(b) of the Act has been given by the purchasers. After the purchasers come on record, they will have to give the undertaking as required u/s 14(1)(b) of the Act. The landlord has come forward with this application at the initial stage of the proceedings that the purchasers should be impleaded as parties to the petition. Further proceedings will have to be taken only after the purchasers come on record.

5. Learned Counsel for the petitioner relies upon a decision of Alagiriswamy, J., in MA. Abdul Rahiman Abdul Rahim v. A.P. Abdulla 80 L.W. 54 (S.N.). In that case, the application for eviction on the ground that the landlord wanted to demolish the building and reconstruct the same was dismissed by the lower Court and the matter was pending in revision in this Court. During the pendency of the revision petition the landlord sold the premises. The tenant raised an objection that the landlord having lost his interest in the building could not continue the revision. His Lordship Alagiriswamy, J. accepted the contention of the tenant that the landlord was not entitled to maintain the revision petition. In that case, evidence had been let in the trial Court and at the time when the revision petition was pending in this Court, the landlord sold the property. That is not the case here. This case is still at the threshold and the evidence has to be let in only hereafter.

6. There is a decision of V. Ratnam J. in N. Devarajan v. D.V. Muniratnam (1981) 2 M.L.J. 97. In that case, the Landlord filed a petition for eviction on the ground of wilful default in the payment of rent. The Rent Controller allowed the petition and the tenant appealed before the Appellate Authority. Pending appeal, the landlord sold the house. The purchaser filed an application before the Appellate Authority to be brought on record as a respondent. The petition was allowed by the Appellate Authority. The tenant filed a revision challenging the correctness of the order of the Appellate Authority. In the revision, the tenant raised a contention that it was not open to the purchaser to continue the proceedings on the ground that when once the landlord had sold the property, he had ceased to be the owner of the property and the petition for eviction also ceased to be

maintainable. The Learned Judge rejected that contention of the tenant and held that it was open to the purchaser to come on record and continue the proceedings. It is not necessary for me to rely upon that decision in this case. In this case, as pointed out already, evidence has not been let in. The questions whether there is an undertaking as contemplated u/s 14(1)(b) of the Act by the purchasers when they are brought on record and whether the purchasers prove their bona fide requirement of the building for the purposes of demolition and reconstruction have to be gone into in the main R.C.O.P. after evidence is let in. There is no merit in the C.R.P. and it is dismissed with costs.