
(1986) 12 MAD CK 0028
In the Madras High Court

V.K.S. Raghavan and Others

APPELLANT

Vs

K.S. Dayavathi and Another

RESPONDENT

Date of Decision : 24-12-1986

Acts Referred:

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 12, 13, 14, 14(1), 14(1)(b)

Citation : (1987) 100 LW 303 : (1987) 1 MLJ 442

Hon'ble Judges : M.N. Chandurkar, C.J

Bench : Single Bench

Judgement

M.N. Chandurkar, C.J.—This civil revision petition is filed by the four tenants of the respondents landlords against the concurrent findings of

the Rent Controller and the Appellate Authority that the landlords are entitled to an order of eviction against the tenants as the building is required

for demolition and reconstruction.

2. All the four tenants are in occupation of the premise which are described as door No. 11 Gopalapuram Second Street, Gopalapuram, Madras-

86. The premises constitutes of the main building and an out-house. The out-house is occupied by the present petitioners 2 and 3. The northern

portion of the ground floor is occupied by petitioner No. 1. The northern portion of the first floor is occupied by petitioner No. 4. The southern

portion of the ground floor is in the possession of the Accommodation Controller and is in the occupation of a Government servant. The southern

portion of the first floors is in the occupation of the landlord themselves.

3. On the evidence let in before the Rent Controller, the Rent Controller found that the premises are in a dilapidated condition and that the

landlords have obtained sanction for the demolition and reconstruction of the building. It has also been found that the landlords are possessed of sufficient means to incur the cost of reconstructions. Thus, holding that the premises are required bona fide for demolition and reconstruction, eviction of the tenants was ordered, and three months time was given to the tenants to vacate the premises. These findings have been confirmed by the Appellate Authority by dismissing the appeal filed by the tenants. These orders are challenged in this civil revision petition.

4. The finding with regard to the bona fides of the landlords is supported by evidence. The technical evidence clearly shows that the premises are in a dilapidated condition. The landlords have already got sanctioned the necessary plan which is also on record, and the bank certificate produced before the Rent Controller shows, that the first petitioner and her husband had large amount in deposit in the bank. There can therefore be no difficulty in upholding the finding that the need for demolition and reconstruction is bona fide.

5. Mr. Sundaravaradan appearing for the petitioners, however, contended that the petition u/s 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (Tamil Nadu Act 18 of 1960) (hereinafter referred to as the Act) itself was not maintainable because one petition has been filed against all the tenants. The other contention raised by him is that having regard to the Provisions of Section 14(5) of the Act, the petition filed by the landlords is not maintainable.

6 So far as the first contention is concerned, it is difficult to see how the petitioners can raise any objection to the maintainability of the application.

The objection is one more of form than of substance; The premises bear one door number and the different floors are occupied by different tenants. The landlord is the same. The evidence to be given in support of the claim for demolition and reconstruction will in such a case be the same. Even assuming that four separate petitions were filed by the landlords, they would necessarily be consolidated for trial in which case common evidence will be recorded because obviously the evidence in such a case will be common since the demolition of the entire building is in issue. It may also be noted that in the instant case the tenants themselves have filed a common written statement. They are represented by the same

counsel and it can hardly be said that they have been in any way prejudiced by the landlords filing one common petition. The objection that one common petition is not maintainable must therefore be rejected.

7. So far as the other contention is concerned, the argument is that since part of the premises is under the control of the Accommodation

Controller, the premises cannot be demolished unless the Accommodation Controller vacates, and apart from this, having regard to the provisions

of Section 14(5) of the Act, a petition before the Rent Controller was not maintainable and the proper remedy for the landlords would be to make

an application u/s 12 of the Act or ask for an exemption in respect of the premises from the Government.

8. The substantive provision enabling the landlords to recover possession for repairs or for demolition and reconstruction of a new building on the

site of the old building in Section 14. Section 14 provides as follows:

9. Section 14(1):

Notwithstanding anything contained in this act, but subject to the provisions of Sections 12 and 13 on an application made by a landlord, the

Controller shall, if he is satisfied.

(a)

(b) that the building is bona fide required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the

purpose of erecting a new building on the site of the building sought to be demolished, pass an order directing the tenant to deliver possession of

the building to the landlord before specified date.

We are not concerned with Sub-sections (2),(3) and (4) of Section 14. Sub-section (5) of Section 14 reads as follows:

Section 14(5):

Nothing in this section shall entitle any landlord of a building of in respect of which the Government shall be deemed to be the tenant to make any

application under this section.

10. The Learned Counsel for the petitioners-tenants contends that since the Government is a tenant of a part of the building is in question, the bar

created by Section 14(5) will operate in the present case and therefore the application itself was not maintainable.

11. The definition of the word "building" given in Cl.(2) of Sec2 of the Act shows that for the purpose of this act, a "building" also means a part of a building let for residential or non-residential purposes. The inclusive part of the section is not relevant for our purpose. Section 2 opens with the words "In this Act, unless the context otherwise requires". That part of the section is also not relevant because when Sub-section (5) of Section 14 of the Act refers to a landlord of a building in respect of which the Government shall be deemed to be the tenant, the word "building" here will have to be construed with reference to the premises which are occupied by the Government as a tenant, and wherever Government is deemed to be a tenant of a part of the building, the bar created by Section 14(5) will be attracted only in respect of that part of the building of which the Government is deemed to be a tenant. It cannot be the object of Section 14(5) that a landlord is prohibited from making an application for demolition and reconstruction of a building, a part of which the Government has nothing to do at all. Section 14(5) therefore will not come in the way of the landlords if apart from the Government, there are also other tenants in the same building, and a petition for eviction on the ground of requirement for demolition and reconstruction is made against the other tenants.

12. The other contention raised by the Learned Counsel for the petitioners is that as long as the Government is in occupation of a part of the premises and the landlords of the bar u/s 14(5) against the Government, the other tenants themselves cannot be evicted, and the proper course for the landlords whose premises are partly occupied by the Government and partly by other tenants, would be to either get the premises released from the Government or to get a direction from the Accommodation Controller that possession should be handed over to the landlords and then only the landlord can proceed against the other tenants. There is no warrant for such a procedure in the provisions of the Rent Control Act. If u/s 14(1) a petition can be filed against a tenant, and a part of the premises is in the possession of the Accommodation Controller thus making it either difficult or impossible for the landlord to demolish the premises unless the Accommodation Controller hands over the part of the premises to the landlords, the maximum protection that can be available to the tenant is that if the whole of the building cannot be demolished because a part of it is

occupied by the Government, then the tenant will be entitled to continue to occupy the premises until the premises in the occupation of the Government are available for demolition. This, however, does not mean that no order of eviction can be made against the other tenants till the Government agrees to vacate the premises and hands over the part of the premises to the landlord. There is nothing which prevents the authorities under the Act to make an order of eviction against the tenants of that part of the building which is in their occupation as tenants. However, that order of eviction can be kept in abeyance till the premises in the occupation of the Government are available to the landlord. This, however, will not apply to a case where some premises in the occupation of a tenant are independent of the building, a part of which is in the occupation - of the Government as a tenant, as for example, the out-house in the present "case. The demolition of the main building has nothing to do with the demolition of the out-house. The demolition of the out-house can be effected without waiting for the Government or the Accommodation Controller vacating premises which are a part of the main building. The proper course in the instant case, therefore, would be to maintain the order of eviction against all the tenants, but give & further direction that only tenants who are in occupation of the main building will be evicted after a period of one month from the date on which the Accommodation Controller releases the portion in respect of which the Government is the tenant. In the instant case, evidence shows that the Accommodation Controller himself had informed the landlords that they should first" get an order of eviction against the other tenants and then approach the Accommodation Controller for release of the building after evicting the private tenants. Accordingly, the civil revision petition is dismissed. It is directed that the tenants in occupation of the out-house will vacate the premises within a period of three months from this date. So far as the other, tenants are concerned, they will vacate the premises within a period of one month from the date on which they are intimated that the part of the premises has been released by the Accommodation Controller. In the circumstances of the case, there will be no order as to costs in this petition.