

Hameedia Hardware Stores, Represented by Its Partner S. Peer Mohammed

Vs

B. Mohan Lal Sowcar

Civil Appeal No. 1014 of 1988

(E.S. Venkataramiah, N.D. Ojha JJ)

29.03.1988

JUDGMENT

VENKATARAMIAH, J. –

1. The question which arises for consideration in this case is whether a landlord who seeks eviction of a tenant from a non-residential building (other than a non-residential building which is used for keeping a vehicle or adapted for such use) under Section 10(3)(a)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (hereinafter referred to as 'the Act') is required to prove that he requires the said building for his own use or for the use of any member of his family bona fide in the proceedings instituted before the Controller.

2. The appellant is a partnership firm represented by its partner, S. Peer Mohammed. The respondent's brother was carrying on business in hardware in the front portion of the ground floor of the premises bearing No. 157, Kutcheri Road, Mvlapore, Madras-4. The appellant purchased the said running business from the brother of the respondent on July 5, 1974. The said building, however, belonged to the father of the respondent. After purchasing the business, the appellant became a tenant under the father of the respondent by paying an advance of Rs. 1500 and agreeing to pay a rent at the rate of Rs. 450 per month for the portion in which it commenced to carry on the business. In the rear portion of the ground floor of the premises one Mrs. Janaki Ammal was residing as a tenant. Mrs. Janaki Ammal vacated the said residential portion in October 1974. With effect from October 5, 1974 the appellant took the portion vacated by Mrs. Janaki Ammal also on rent from the father of respondent by paying Rs. 525 as advance and agreeing to pay a monthly rent of Rs. 175. The rent of this portion was increased subsequently to Rs. 315 per month. On November 25, 1980 the appellant received a notice from an advocate, who was acting on behalf of the father of the respondent terminating the tenancy of the appellant in respect of both the portions with effect from December 31, 1980 and requiring the appellant to deliver possession of the two portions of the ground floor of the premises in question to the father of the respondent on the ground that he needed the premises for the occupation of his son. The appellant sent a reply denying the right of the respondent's father to evict the appellant from the premises. Thereafter it is stated that the ownership of the premises in question was transferred in favour of the respondent by his father. Thereafter the respondent asked the appellant to increase the rent payable for the premises. In order to avoid litigation, the appellant agreed to pay a consolidated amount of Rs. 1000 per month by way of rent for both the portions in the year 1981 and also paid a sum of Rs. 7500 as advance. On June 9, 1982 an agreement was entered into in respect of both the portions specifying that the lease should remain in force till May 8, 1983. After the expiry of the said period, it is stated, the respondent again demanded enhanced rent. On the appellant not complying with the said demand the respondent instituted a petition for eviction of the appellant in the court of the Controller at Madras under

Section 10(3)(a)(iii) of the Act on the ground that the premises in question were needed by his wife for carrying on pawnbroker business which she was carrying on elsewhere. The appellant resisted the petition. It was inter alia contended by the appellant that the requirement of the wife of the respondent was not bona fide and the petition was liable to be dismissed. After trial, the Controller dismissed the petition holding that the tenancy in question was in respect of both the residential and non-residential portions and that the respondent could not seek eviction of the appellant as the major portion of the demised premises was of residential character. Aggrieved by the decision of the Controller the respondent preferred an appeal before the appellate authority. The appellate authority dismissed the appeal. Thereupon the respondent preferred a revision petition before the High Court of Madras in Civil Revision Petition No. 215 of 1986. That petition was allowed by the High Court holding that it was not necessary for the respondent to establish that his requirement was bona fide as the question of bona fides of a landlord's requirement did not arise for consideration at all in a case falling under Section 10(3)(a)(iii) of the Act. It, however, held that the claim of the respondent was bona fide. Accordingly, the High Court allowed the revision petition and directed the appellant to quit and deliver vacant possession of the premises in question to the respondent. This appeal by special leave is filed against the judgment of the High Court of Madras.

3. The crucial question which arises for consideration in this case is whether it is necessary for a landlord, who institutes a petition under Section 10(3)(a)(iii) of the Act, to establish that his requirement is bona fide or not. As can be seen from the long title of the Act it was enacted by the State legislature to amend and consolidate the law relating to the regulation of the letting of residential and non-residential buildings and the control of rents of such buildings and the prevention of unreasonable eviction of tenants therefrom in the State of Tamil Nadu. Section 10 of the Act provides that a tenant shall not be evicted whether in execution of a decree or otherwise except in accordance with the provisions of Section 10 or Sections 14 to 16 of the Act. The material portion of sub-section (3)(a) of Section 10 of the Act, which is relevant for purposes of this case reads thus :

10(3)(a) 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) in case it is a residential building, if the landlord requires it for his own occupation or for the occupation of any member of his family and if he or any member of his family is not occupying a residential building of his own in the city, town or village concerned;

(ii) in case it is a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use, if the landlord requires it for his own use or for the use of any member of his family and if he or any member of his family is not occupying any such building in the city, town or village concerned which is his own;

(iii) in case it is any other non-residential building, if the landlord or any member of his family is not occupying for purposes of a business which he or any member of his family is carrying on, a non-residential building in the city, town or village concerned which is his own;

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(e) The Controller shall, if he is satisfied that the claim of the landlord is bona fide, make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Controller and if the Controller is not so satisfied he shall make an order rejecting the application.

4. For purposes of sub-section (3) of Section 10 of the Act the buildings are classified into two categories by the Act, namely, residential buildings and non-residential buildings. Sub-clause (i) of clause (a) of sub-section (3) of Section 10 of the Act provides that 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 a residential building, if the landlord required it for his own occupation or for the occupation of any member of his family and if he or any member of his family is not occupying a residential building of his own in the city, town or village concerned. Sub-clause (ii) of clause (a) of sub-section (3) of Section 10 of the Act relates to eviction from a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use. If the landlord required such a building for his own use or for the use of any member of his family and if he or any member of his family is not occupying any such building in the city, town or village concerned which is his own he can apply for the eviction of the tenant therefrom. Sub-clause (iii) of clause (a) of sub-section (3) of Section 10 of the Act deals with other kinds of non-residential buildings. If the landlord or any member of his family is not occupying for purposes of a business which he or any member of his family is carrying on, a non-residential building in the city, town or village concerned which is his own, 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 such a building. It may be stated here that the words 'if the landlord required it for his own use or for the use of any member of his family' are not to be found in sub-clause (iii) of Section 10(3)(a) of the Act. Clause (e) of Section 10(3) of the Act, however, provides that the Controller shall, if he is satisfied that the claim of the landlord is bona fide make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Controller and if the Controller is not so satisfied he shall make an order rejecting the application. Clause (e) of Section 10(3) applies to all cases of eviction falling under Section 10(3) of the Act. The decision in this case depends upon the effect of the omission of the words 'if the landlord required it for his own use or for the use of any member of his family' in sub-clause (iii) of Section 10(3)(a) of the Act. It is argued on behalf of the appellant that reading sub-clauses (ii) and (iii) of Section 10(3)(a) of the Act together, which relate to the eviction from non-residential buildings, the words 'if the landlord required it for his own use or for the use of any member of his family' which are found in sub-clause (ii) of Section 10(3)(a) should be read into sub-clause (iii) of Section 10(3)(a) also and that a landlord should establish in order to succeed in a petition for eviction filed under Section 10(3)(a)(iii) of the Act that his requirement or the requirement of a member of his family is bona fide. It is also argued in the alternative that the word 'claim' in the words 'that the claim of the landlord is bona fide' in clause (e) of Section 10(3) of the Act refers only to the requirement of the landlord and to nothing else. On the other hand it is urged on behalf of the respondent relying upon three decisions of the High Court of Madras in (i) *Mahalakshmi Metal Industries v. K. Suseela Devi* ((1982) 2 Mad LJ 333), (ii) *M. Abdul Rahman v. S. Sadasivam* ((1984) 1 Mad LJ 410) and (iii) *A. Khan Mohammed v. P. Narayanan Nambiar* (99 Law Weekly 966) that there was no need for a landlord to establish the bona fides of his requirement or the requirement of a member of his family when a petition is filed under Section 10(3)(a)(iii) of the Act and it is enough if his claim is proved to be bona fide. The High Court has upheld the said plea of the respondent relying upon the said three decisions. The correctness of these three decisions is questioned before us by the appellant.

5. We have already noticed that the object of the Act was to prevent unreasonable evictions of

tenants from buildings. The Act is an ameliorating piece of legislation. Similarly acts are in force in almost all the States in India. The provision in question has to be construed against this background. The Act has been in force from 1960.

6. In *Moti Ram v. Suraj Bhan* ((1960) 2 SCR 896 : AIR 1960 SC 655) this Court was required to construe Section 13(3)(a)(iii) of the East Punjab Urban Rent Restriction Act, 1949 which at the relevant time provided that a landlord might apply to the Controller for directing a tenant to put the landlord in possession of the building in question if he required it for the reconstruction of that building or for its replacement by another building or for the erection of other buildings. In that case the Rent Controller and the appellate authority had rejected the claim of the landlord on the ground that the landlord had not established that the premises in question were required by him bona fide. The High Court while accepting that the requirement in question must be shown to be bona fide held that on the evidence the findings of the courts below that the landlord's requirement was not bona fide were not correct. The High Court accordingly directed the eviction of the tenant in question. This Court while affirming the decision of the High Court held that the landlord had, in fact, made out that he required the premises bona fide for purposes of reconstruction. Thus it is seen that in the context of a law enacted for preventing unreasonable evictions this Court read into a ground on which a landlord could seek the eviction of his tenant that the landlord should establish that his requirement was bona fide. A mere desire on the part of the landlord to reconstruct a building was not sufficient to evict a tenant from the premises. He had to establish that he needed the premises bona fide for reconstructing it. In a later case, i.e., *Neta Ram v. Jiwan Lal* (1962 Supp 2 SCR 623 : AIR 1963 SC 499), which arose under the provisions of the Patiala and East Punjab States Union Urban Rent Restriction Ordinance, one of the grounds on which the landlord sought the eviction of the tenants in occupation of the premises involved in that case was that the premises were in a state of disrepair and were dilapidated and, therefore, the landlord wished to rebuild on the premises after dismantling the structure. On the said issue the Rent Controller held that in deciding whether the tenant should be ordered to hand over the possession to the landlord the courts must have regard to the bona fide requirement of the landlord which meant that the desire to rebuild the premises should be honestly held by the landlord but that the conditions of the building also played an important part in determining whether the landlord had the intention genuinely and the landlord was not using the said excuse as a device to get rid of the tenants. In that connection the Rent Controller observed that the state of the building, the means of the landlord and the possibility of the better yield by way of rent should be kept in mind. The Controller, holding that the claim of the landlord was not bona fide, decided the said issue against him. On appeal the appellate authority held that the shops and chobaras were in good condition and that the landlord was not, in good faith, wanting to replace the building, when he had no means to build it. The High Court, however, allowed the revision petition filed before it holding that upon the evidence on record it had been established beyond doubt that the landlord genuinely and bona fide required the premises for rebuilding. On appeal by special leave to this Court, this Court observed that the very purpose of the Rent Restriction Act would be defeated if the landlords were to come forward and to get tenants turned out, on the bare plea that they wanted to reconstruct the house without first establishing, that the plea was bona fide with regard to all circumstances, viz. that the houses needed reconstruction or that they had means to reconstruct them. Accordingly, the judgment of the High Court was reversed and the petitions for eviction were dismissed. Following the observations made in the above decisions in *Nathella Sampathu Chetty v. Sha Vajingjee Bapulal* ((1967) 1 Mad LJ 289) a Division Bench of the High Court of Madras construed Section 10(3)(a)(iii) of the Act thus :

Section 10 of the Madras Buildings (Lease and Rent Control) Act, 1960, provides for eviction of tenants in certain circumstances. Sub-section (3)(a)(iii) of the section

allows a landlord to apply to the Controller for an order directing a tenant to put him in possession of the building if the landlord is not occupying for purposes of business which he is carrying on, a non-residential building in the city, town or village concerned which is his own. The Second proviso to this clause is to the effect that where a landlord has already obtained possession of a building under this provision, he shall not be entitled to apply again for possession of another non-residential building of his own. If the conditions of these provisions are satisfied, the Controller may make an order as asked for by the landlord provided he is further satisfied that the claim of the landlord is bona fide.

7. In the Madras District Central Co-operative Bank Limited v. A. Venkatesh (99 Law Weekly 714) a Single Judge of the High Court disagreed with the views expressed by another Single Judge in Abdul Rahman case ((1984) 1 Mad LJ 410) and observed thus :

The question now is whether an order directing the tenant to put the landlord in possession should be made. It is pointed out by the learned counsel for the respondent landlord following a ruling of this Court in Abdul Rahman v. S. Sadasivam ((1984) 1 Mad LJ 410), that there is no jurisdiction for the Rent Controller to go into the question of bona fide requirement in a claim under Section 10(3)(a)(iii) of the Act. Ramanujam, J. took the view that a distinction has to be made between the two sections, Section 10(3)(a)(i) and Section 10(3)(a)(iii) in view of the word 'require', occurring in Section 10(3)(a)(i) and in the absence of that word, in Section 10(3)(a)(iii) in other words, what the learned Judge points out is that the Rent Controller has no jurisdiction to go into the question whether the requirement of the landlord is bona fide, as the Rent Controller has to pass an order of eviction in case the landlord is not occupying for the purpose of business which he is carrying on, any non-residential building in the city which is his own. The learned Judge further pointed out that when the provisions of Section 10(3)(a)(i) and Section 10(3)(a)(iii) use different expressions, it should be taken that the legislature intended these provisions to have different operations. With respect to the learned Judge, I may point out that the mere absence of the word 'require' in Section 10(3)(a)(iii) would not necessarily lead to the inference that the legislature did not intend that the Rent Controller should go into the question of bona fides of the requirement of the landlord in respect of the requirement of a non-residential premises under Section 10(3)(a)(iii) of the Act. My reasons for holding so are as follows : Section 10 enumerates certain grounds for the eviction of the tenant. In other words eviction under the Rent Control Act can be effected only on the grounds mentioned in Section 10. The landlord may have a right to evict the tenant under the general law. Section 10(3)(a) says that the 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 buildings. Section 10(3)(a)(i) deals with residential buildings. Section 10(3)(a)(ii) deals with non-residential buildings used for purpose of keeping vehicles. Section 10(3)(a)(iii) is in respect of non-residential buildings. Section 10(3)(b) gives a right to religious, charitable, educational or other public institutions, to institute proceedings before the Controller if the institution requires the buildings. Section 10(3)(c) is for additional accommodation. Section 10(3)(d) speaks of tenancy for specified period agreed between the landlord and the tenant and it prohibits the landlord from applying, before the expiry of such period. Now after these sections, Section 10(3)(e) runs thus :

The Controller shall, if he is satisfied that the claim of the landlord is bona fide make an order directing the tenant to put the landlord in possession of the building on such date as may be specified by the Controller and if the Controller is not so satisfied he shall make an order rejecting the application.

I find in the judgment of Ramanujam, J. this Section 10(3)(e) has not been adverted to. Section 10(3)(e) applies to Sections 10(3)(a)(i), 10(3)(a)(ii) and 10(3)(a)(iii) and also to Sections 10(3)(b) and 10(3)(c). If the legislature intended that the provisions of Section 10(3)(a)(i) and Section 10(3)(a)(iii) to have different operations, the legislature would not have stated in Section 10(3)(e) that the Controller should be satisfied that the claim of the landlord is bona fide, before he makes an order directing the tenant to put the landlord in possession, and the further words 'if the Controller is not satisfied, he shall make an order rejecting the application' very clearly show that the Controller should, before passing an order for eviction, be satisfied with the bona fides of the claim, or else he should dismiss it.

8. The main ground on which the learned Judge who decided the above case disagreed with the decision in Abdul Rahman case ((1984) 1 Mad LJ 410) is that in Abdul Rahman case ((1984) 1 Mad LJ 410) Section 10(3)(e) of the Act, which applied to all the three sub-clauses, namely (i), (ii) and (iii) in Section 10(3)(a) of the Act had not been adverted to. The learned Judge also held that the mere absence of the word 'require' in Section 10(3)(a)(iii) of the Act did not necessarily lead to the inference that the legislature did not intend that the Controller should not go into the question of bona fides of the requirement of the landlord in a petition for eviction filed under that provision. Another learned Judge of the Madras High Court has taken the same view in Thilagaraj Match Works v. C. Sundaresan ((1985) 1 Mad LJ 106). It is observed in that case thus :

In the present case, the appellate authority has not adverted to these features at all and in one place he observes that the bona fide of the claim of the landlord is extraneous and it should not be tested too severely. This exposes his wrong approach to the question of bona fide which is a relevant one. The very ingredient of Section 10(3)(e) of the Act requires that the question of bona fide has got to be tested and it has got a due place while adjudicating a petition for eviction by the landlord under the concerned provisions. It is not the desire of the landlord, but there must be an element of need for the landlord before it could be stated that he requires the premises for his own occupation. The features referred to above, cannot be eschewed as irrelevant, for after all bona fide will have to be proved in an ordinary manner like any other fact in issue, and the entire gamut of facts and circumstances has to be adverted to on this question. As already stated, I am not expressing any opinion over these features on merits, and it is for the appellate authority to advert to them and adjudicate upon the question afresh one way or the other. The discussions above oblige me to interfere in revision and accordingly the revision is allowed and the matter stands remitted to the appellate authority for him to consider it afresh taking note of all the relevant features and factors of the case on the question of bona fides, and pass appropriate orders. Both the counsel represent that for the purpose of comprehensive adjudication of the matter, further evidence has to be adduced. I take note of the request of both the counsel and I direct that the appellate authority will permit the parties to place further evidence and he will decide the matter afresh after such evidence is placed, the appellate authority will do well to dispose of the matter expeditiously and in any event within a period of three months from the date of receipt of the copy of this order.

9. In *P. Thanneermalai Chettiar v. S. J. Dhanraj* ((1986) 1 Mad LJ 115), another learned Judge of the High Court of Madras has construed Section 10(3)(e) of the Act thus :

It is not disputed that Section 10(3)(e) of Act 18 of 1960 is applicable to the case of residential building as well as non-residential building and it is provided therein that if the Controller is satisfied that the claim of the landlord is bona fide, he shall make an order directing the tenant to put the landlord in possession of the building; otherwise, he has to reject the application. In the instant case, considering the various circumstances and also the fact that the petitioner was residing in a house of his own at Devakottai where he has got vast extent of properties and was carrying on business along with other members of his family, the claim of the petitioner that he required the premises for his own use and occupation is not proved and in any event there is no bona fide in the same.

10. The main ground on which the learned Judge who decided *Abdul Rahman* case ((1984) 1 Mad LJ 410) held that it was not necessary to establish the bona fide requirement of the landlord when he made an application for eviction under Section 10(3)(a)(iii) of the Act was that, the word 'require' was not to be found in Section 10(3)(a)(iii) of the Act. We are of the view that having regard to the pattern in which clause (a) of sub-section (3) of Section 10 of the Act is enacted and also the context, the words 'if the landlord required it for his own use or for the use of any member of his family' which are found in sub-clause (ii) of Section 10(3)(a) of the Act have to be read also into sub-clause (iii) of Section 10(3)(a) of the Act. Sub-clauses (ii) and (iii) both deal with the non-residential buildings. They could have been enacted as one sub-clauses by adding a conjunction 'and' between the said two sub-clauses, in which event the clause would have read thus : 'in case it is a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use if the landlord required it for his own use or for the use of any member of his family and if he or any member of his family is not occupying any such building in the city, town or village concerned which is his own; and in case it is any other non-residential building, if the landlord or and member of his family is not occupying for purposes of a business which he or any member of his family is carrying on, a non-residential building in the city, town or village concerned which is his own'. If the two sub-clauses are not so read, it would lead to an absurd result. The non-residential building referred to in sub-clause (ii) is a building which is used for the purpose of keeping a vehicle or adapted for such use and all other non-residential buildings fall under sub-clause (iii). The State legislature cannot be attributed with the intention that it required a more stringent proof by insisting upon proof of bona fides of his requirement or need also when a landlord is seeking eviction of a tenant from a garage than in the case of a non-residential building which is occupied by large commercial house for carrying on business. The learned counsel for the respondent was not able to explain as to why the State legislature gave greater protection to tenants occupying premises used for keeping vehicles or adapted for such use than to tenants occupying other types of non-residential buildings. It is no doubt true that the court while construing a provision should not easily read into it words which have not been expressly enacted but having regard to the context in which a provision appears and the object of the statute in which the said provision is enacted the court should construe it in harmonious way to make it meaningful.

11. In *Seaford Court Estates Ltd. v. Asher* ((1949) 2 All ER 155, 164), Lord Denning, L.J. said :

[W]hen a defect appears a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament... and then he must supplement the written word so as to give "force and

life" to the intention of the legislature.... A judge should ask himself the question how, if the makers of the Act had themselves come across this ruck in the texture of it, they should have straightened it out ? He must then do as they would have done. A judge must not alter the material of which the Act is woven, but he can and should iron out the creases.

12. This rule of construction is quoted with approval by this Court in *M. Pentiah v. Muddala Veeramallappa* ((1961) 2 SCR 295, 314 : AIR 1961 SC 1107) and it is also referred to by Beg, C.J. in *Bangalore Water Supply & Sewerage Board v. R. Rajappa* ((1978) 3 SCR 207 : (1978) 2 SCC 213 : 1978 SCC (L&S) 215 : AIR 1978 SC 548). In the present case by insisting on the proof of the bona fides of the requirement of the landlord, the court is not doing any violence to the statute nor embarking upon any legislative action. The court is only construing the words of the statute in a reasonable way having regard to the context.

13. We are of the view that by merely proving that the premises in question is a non-residential building and that the landlord or any member of his family is not occupying for the purpose of a business which he or any member of his family is carrying on any residential building in the city, town or village concerned which is his own, the landlord cannot in the context in which Section 10(3)(a)(iii) appears get a tenant evicted. He must show in view of clause (e) of Section 10(3) that his claim is bona fide. The word 'claim' means "a demand for something as due" or "to seek or ask for on the ground of right" etc. In the context of Rent Control law which is enacted for the purpose of giving protection to tenants against unreasonable evictions and for the purpose of making equitable distribution of buildings amongst persons who are in need of them in order to prove that his claim is bona fide a landlord should establish that he deserves to be put in possession of the premises which is in the occupation of a tenant. Any decision on the question whether a landlord deserves to be put in possession of premises in the occupation of a tenant should naturally depend upon the bona fides of the landlord's requirement or need. The word 'claim' in clause (e) of Section 10(3) of the Act should, therefore, be construed as 'the requirement' of the landlord or his deservedness. 'Deserve' means 'to have a rightful claim' or 'a just claim'. Since clause (e) of Section 10(3) of the Act is also applicable to a petition filed under sub-clause (iii) of Section 10(3)(a) of the Act it becomes necessary to examine whether the requirement of the landlord is bona fide. Otherwise a landlord will be able to evict a tenant to satisfy his whim by merely proving the ingredients mentioned in Section 10(3)(a)(iii) of the Act. Take a case where a landlord for some oblique reason wishes to get rid of his tenant from a non-residential building of the category mentioned in Section 10(3)(a)(iii) and to achieve his aim fakes to start money-lending business (for which indeed no specified separate portion in a building may be needed) in a building not belonging to him and to create evidence even actually lends money to some of his friends or relatives and a week thereafter applies for eviction of the tenant on the ground that he is carrying on business and has no non-residential building of his own in his occupation in the city, town or village concerned. Apparently, the conditions prescribed in the aforesaid sub-clause (iii) are fulfilled. If the requirement of "claim" being "bona fide" as contained in Section 10(3)(e) is construed to mean that genuineness of the need of the landlord for the non-residential building is not to be considered and the circumstance that the landlord on the date of making the application is factually carrying on business and has no non-residential building of his own in his occupation in the city, town or village concerned is to be construed sufficient to make his claim bona fide, the tenancy of no non-residential building will be secure. It will be preposterous to attribute such an intention to the legislature. Such a contingency should be avoided as it would be against the very object of the Act itself. The need of the landlord should be genuine. That is the object of enacting clause (e) of Section 10(3) of the Act. When once we reach the above conclusion it is not enough that the

landlord should merely desire to use or occupy the premises. What is necessary is that he should bona fide need them for his own use and occupation or for occupation by any of the members of his family as held by this Court in Phiroze Bamanji Desai v. Chandrakant M. Patel ((1974) 3 SCR 267 : (1974) 1 SCC 661 : AIR 1974 SC 1059) and Mattulal v. Radhe Lal ((1975) 1 SCR 127 : (1974) 2 SCC 365 : AIR 1974 SC 1596). The learned Judge who decided the case out of which this appeal arises was, therefore, in error in holding that the landlord need not prove that his requirement was bona fide but that his claim was bona fide as provided in clause (e) of Section 10(3) of the Act. The learned Judge has made a distinction between 'requirement' and 'claim' in the present case without there being a difference.

14. In the circumstances we are of the view that M/s Mahalakshmi case ((1982) 2 Mad LJ 333), M. Abdul Rahman case ((1984) 1 Mad LJ 410) and A. Khan Mohammed case (99 Law Weekly 966) have been wrongly decided. They are liable to be overruled. We accordingly overrule them. We hold that a landlord seeking eviction of a tenant from a non-residential premises under Section 10(3)(a)(iii) of the Act in order to succeed in his petition should establish that he bona fide requires the premises in addition to proving the other ingredients referred to therein. The judgment of the High Court which has proceeded on a wrong basis has, therefore, to be set aside. Since the High Court while allowing the revision petition has approached the case from a wrong angle, it is necessary to direct the High Court to decide it afresh in the light of what we have stated above. We, therefore, set aside the judgment of the High Court and remand it to the High Court again to decide it afresh. If the High Court finds that the case should be remanded to the trial court to enable any of the parties to lead evidence on the question of the bona fide requirement of the landlord it may remit the case to the trial court.

15. The appeal is accordingly allowed. There shall be no order as to costs.

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