

# SUPREME COURT OF INDIA

Amaiyappa Transport

Vs.

N.S. Rajulu

(R Lahoti and P V Reddi JJ.)

30.01.2002

## ORDER

1. Two applications, seeking eviction of the tenant for the purpose of demolition and re-construction, as contemplated by Clause -(b) of Sub-section (1) of Section 14 of the *Tamil Nadu Building (Lease & Rent Control) Act, 1960* (hereinafter 'the Act' for short) were disposed of by a common order by the controller, directing the tenants to be evicted. The tenants preferred appeals before the appellate authority which were allowed and the order of the controller was set aside. The landlord preferred revision petitions before the High Court which have been allowed and in supersession of the order of the appellate authority, the High Court has restored the order of eviction passed by the rent controller.

2. Feeling aggrieved by the judgment of the High Court, the tenants have filed these two appeals by special leave.

3. The suit premises are a part of a larger property situated in the city of Madurai. It appears that the property of the landlord admeasures around 2688 sq. ft., out of which the two appellants before us are occupying approximately 380 sq. ft. area each as tenant. There was a third tenant, namely, Raja Ram, also in possession of a similar area who was also ordered to be evicted by an order of the controller passed on the same day but he has surrendered possession to the landlord in compliance with the order passed by the controller and has not pursued the matter further. The case of the landlord is that the building in occupation of the appellants is a very old one, almost eighty years on the date of initiation of the proceedings and the landlord bona fide required the premises for the immediate purpose of demolition and instead constructing a marriage hall in an area of about 1710 sq. ft. so as to put the property to a better use and augment the earnings of the landlord. The case of the landlord, as already stated, has been accepted by the controller as also by the High Court.

4. A perusal of the judgment of the appellate authority shows that the reasons which prevailed with it to reverse the order of eviction passed by the controller were that though the building was an old one, yet, it was not dilapidated or in a dangerous condition so as to require an immediate demolition; that though the proceedings for eviction were initiated by the landlord in the year 1981, more than 12 years had elapsed by the time, the appellate authority came to decide the appeals and, yet, the condition of the building was the same and

if the building was maintained carefully, it would last long and, therefore, the building could not be said to have been required for the purpose of being demolished immediately and necessary repairs would suffice. The appellate authority also held that reconstruction in the city of Madurai requires, as per the local laws, the building plans being sanctioned and periodically renewed by the municipal corporation of Madurai as also by the director, town and country planning. However, the director, town and country planning had rejected the building plans and, therefore, the Madurai Municipal Corporation had also rejected the same. The appellate authority also noted incidentally that in the part of the property vacated by Raja Ram, the landlord had commenced construction. As the case pleaded by the landlord was of proposed construction of marriage hall in an area of 1700 sq. ft and over the area now remaining in the occupation of the two appellants which is approximately 760 sq. ft. only, it was not possible to construct the marriage hall of the dimensions, as proposed. The High Court held the order of the appellate authority to be illegal and perverse and hence entered into an independent appreciation of the respective cases of the parties, as emerging from the pleadings, oral and documentary evidence and other material brought before it for its consideration. The High Court found that the landlord had, in the year 1985 itself, submitted revised plans in view of the construction already undertaken by him on the portion vacated by Raja Ram, the third tenant, which plans were also subsequently renewed and these facts go to support testimony of the landlord to the effect that he bonafidely required the building for demolition and reconstruction. The High Court further opined that dilapidated condition of the building or an immediate danger of the building falling down, were not pre-requisites for attracting applicability of Section 14(1)(b) of the Act and it was sufficient that the building was old enough which the landlord genuinely wanted to demolish and reconstruct at the site.

5. Having heard the learned counsel for the parties, we are satisfied that no case is made out for interfering with the judgment of the High Court. To make out a case under Section 14(1)(b) of the Act, the landlord has to satisfy the controller that the building is bonafidely required by the landlord for the immediate purpose of demolishing it and the purpose of such demolition is to erect a new building on the site of the building sought to be demolished. On being so satisfied, the controller shall direct the tenant to deliver possession of the building to the landlord before a specific date.

6. The abovesaid provision has come up for the consideration of this Court at least on three occasions, in the cases of *Metal ware and Co. etc.etc. v. Bansilal Sarma and Co. etc. etc.*, *P. Orr and Sons (P) Limited v. Associated Publishers (Madras) Limited* and later by a Constitution Bench of this Court in *Vijay Singh and Ors. v. Vijayalakshmi Ammal* wherein the earlier two decisions have been considered and dealt with. Earlier, the view taken by this Court was that if a building was sound and safe, then, it did not qualify for demolition in terms of Section 14(1)(b) and any such building would fall totally outside the ambit of this provision. The constitution bench held that for recording a finding that requirement for demolition was bona fide, the controller has to take into account : (1) bona fide intention of the landlord far from the sole object only to get rid of the tenants; (2) the age and condition of the building; (3) the financial position of the landlord to demolish and erect a new building according to the statutory requirements of the Act. However, the constitution bench hastened

to add that these were only some of the illustrative factors which have to be taken into consideration before passing an order under Section 14(1)(b) but, no court can fix any limit in respect of the age and condition of the building which is the factor to be taken into consideration along with other factors and then a conclusion, one way or the other, has to be arrived at by the controller. The constitution bench also held that permission under Section 14(1)(b) of the Act cannot be granted by the rent controller on mere asking of the landlord that he proposes to immediately demolish the building in question to erect a new building and at the same time it is difficult to accept the contention to the contrary that the building must be dilapidated and dangerous, unfit for human habitation, for granting the permission under Section 14(1)(b) by the controller. The term 'immediate' as qualifying demolition suggests the proximity of purpose and not the proximity of time or the urgency of demolition.

7. In the present case, the High Court has found that the building was 80 years old when the proceedings for eviction were commenced. Almost 20 years have been lost in these proceedings and now the building is about a 100 years old. The appellants are paying a monthly rent of a little over Rs 200/- per month. Madurai is a fast developing and progressing city. There is nothing wrong if the landlord proposes to demolish such an old building and instead construct a modern and spacious marriage hall so as to make better use of the property and augment his earnings. The additional factors that the landlord has already commenced construction over that part of the property which was vacated by the third tenant-Raja Ram, and has taken steps for revising and securing renewal of the building plans from the municipal corporation, support the bona fides of the landlord. The reasonings adopted by the appellate authority were irrelevant and unsustainable in law. The appellate authority was also under a factual mis-apprehension that the marriage hall was proposed to be constructed only on the portion to be vacated by the third tenant and the two appellants. In fact, as pointed out by the learned counsel for the respondents-landlord, and rightly so, that the marriage hall proposed to be constructed would cover partly the space to be vacated by the appellants and partly which is already in possession of the landlord. We have no reason to assume that the need for demolition and reconstruction deposed to by the landlord is unnatural or lacking in sincerity. There is no material on record to hold that the landlord was merely attempting to find out a pretext or ruse to get rid of the tenants. We are, rather, satisfied that the requirement is bona fide.

8. The appellate authority was also much impressed by the fact that the building plans were not approved by the municipal corporation and by the director, town and country planning. The High Court has noticed that in 1985 itself, the landlord had revised the plans and subsequently, got the same renewed. During the course of hearing, the learned counsel for the landlord-respondents brought to our notice the building plans which have been renewed by the municipal corporation on 20th June, 1997. This fact is stated in the counter affidavit filed by the landlord-respondent on 27th September, 2000 and has not been controverted on behalf of the appellants and, therefore, we have no reason to disbelieve the statement that the plans have been revised and renewed.

9. For the foregoing reasons, we do not find any case having been made out for interference with the impugned judgment of the High Court and the same is upheld. The appeals are dismissed.

10. In view of the fact that the tenants have been in possession of the premises for a long time and are making commercial use thereof, we grant the tenants six months' time from today for vacating the premises subject to clearing all the arrears of rent and filing the usual undertaking, to vacate before the rent controller, both within a period of one month from today.