SUPREME COURT OF INDIA

Nalakath Sainuddin

Vs.

Koorikadan Sulaiman

C.A.Nos.3648-49 of 2002

(R.C. Lahoti and B.N. Agrawal JJ.)

08.07.2002

JUDGMENT

R.C. Lahoti, J.

1. Leave to appeal granted in all the petitions.

2. The suit property is a building situated within the jurisdiction of Rent Control Court of Kozhikode. The plan of the property shows that it is a shop with opening on two sides. Though the property is one, however, it has been numbered by the local authority by assigning two Door Nos., i.e. Door No. 6/481 and 6/482. The small corner of the shop situated between the openings on the two sides has been assigned No. 6/482 while the remaining entire shop is assigned Door No. 6/481. The property was owned by Kunhilakshmi alias Leelamma and others and held on tenancy by Nalakath Sainuddin, the appellant, on a monthly rent of Rs. 65/-, the tenancy being a single tenancy for Doors No. 6/481 and 6/482. The tenancy had commenced in the year 1969. Sometime in the year 1972, Door No. 6/482 was sublet by the appellant to the respondent Koorikadan Sulaiman on a monthly rent of Rs. 100/-. On 12.9.1988, the respondent purchased the entire property (i.e. including both the Doors) from the then owners of the property. The respondent then served a notice on the appellant calling upon him to surrender possession over the property in his possession. The notice was followed by an application filed by the respondent in the Rent Control Court for an order directing the tenant to put the landlord in possession of the building on three grounds, viz., (i) that the appellant was in arrears of rent, (ii) that the building was *bona fide* needed for his own occupation, and (iii) that the respondent occupying only a part of the building required additional accommodation in occupation of the appellant for the landlord's personal use, the grounds as contemplated respectively by Sections 11(2)(b), 11(3) and 11(8) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter, `the Act', for short).

3. The Rent Control Court negated the availability of grounds under sub-sections (3) and (8) of Section 11 of the Act but ordered the eviction of the appellant on the ground of non-payment of arrears of rent under Section 11(2)(b). Both the parties preferred their respective

appeals before the Rent Control Appellate Authority. The appeal preferred by the tenant was dismissed. The appeal preferred by the landlord was allowed in part. The eviction of the appellant was ordered under Section 11(8) of the Act in addition to Section 11(2)(b), as directed by the Rent Control Court. The dismissal of claim for eviction under Section 11(3) by the Rent Control Court was upheld by the Appellate Authority. Feeling aggrieved by the decision of the Appellant Authority, the tenant preferred a revision under Section 20 of the Act before the High Court. The landlord did not prefer any revision against the order of the Appellate Authority. In the revision preferred by the tenant, the High Court has, by its impugned judgment, upheld the order of eviction under Section 11(2)(b). As to availability of ground of eviction under Section 11(8), the High Court has held that the same was not available to the landlord. However, in the opinion of the High Court, the order for eviction could be sustained under Section 11(3) of the Act. Accordingly, the High Court modified the judgment of the Appellant Authority by holding that in addition to the ground under Section 11(2)(b), the order for eviction would be sustainable under Section 11(3) of the Act. The tenant has filed two petitions seeking leave to file appeals by special leave. The landlord has also filed two petitions seeking special leave to appeal against the judgment of the High Court and praying for eviction of the tenant under Section 11(8) of the Act also. However, in the narration of facts herein we have referred to the status of the parties as they are arrayed in appeals arising out of SLP(C) Nos. 1599-1600/2001 filed by tenant.

4. In so far as the order for eviction under Section 11(2)(b) of the Act is concerned, the learned counsel for the tenant submitted that the tenant has, as contemplated by Section 11(2)(c) of the Act, deposited the amount of arrears of rent with interest and cost of proceedings within the time appointed thereunder, and, therefore, the order for eviction on that ground is liable to be vacated and that being the position of law the tenant does not wish to contest the order for eviction on the ground as in view of the subsequent act of the tenant the order has ceased to be effective and the dispute in appeal, to that extent, is rendered academic merely. The validity of the order of the High Court, in the light of the cross appeals, remains to be tested by finding out whether the order of eviction can be sustained under Section 11(3) or 11(8) of the Act.

5. Shri T.L.V. Iyer, learned senior counsel for the tenant-appellant has submitted that the Appellate Authority had negated availability of ground under Section 11(3) of the Act and in view of the landlord having not preferred any revision to the High Court under Section 20 of the Act disputing the order of the Appellate Authority to the extent to which the claim under Section 11(3) of the Act was disallowed, the same had achieved a finality and the High Court did not have jurisdiction to pass an order for eviction under Section 11(3) of the Act once the availability of ground under Section 11(8) was also negated by the High Court. The decree under Section 11(3) of the Act passed by the High Court deserves to be set aside for this short reason.

6. Shri P. Krishnamurthy, the learned senior counsel for the landlord has disputed the correctness of the submission made by Shri T.L.V. Iyer and urged that a landlord in his capacity as respondent, in a revision before the High Court preferred by the tenant under Section 20 of the Act, can support the decree by urging availability of a ground for eviction

though decided against him by the order impugned before the High Court. He also submitted that even otherwise, the High Court was not justified in holding non-availability of ground under Section 11(8) of the Act to the landlord and the High Court ought to have sustained the decree for eviction under Section 11(8) itself for which purpose the landlord has filed appeal by special leave before this Court. In his reply Shri T.L.V. Iyer, the learned senior counsel for the tenant submitted that ground under Section 11(8) of the Act was not available to the landlord as the part of the building which he was occupying was in his capacity as sub-tenant and not as a landlord. He submitted that in as much as the landlord was holding shop No. 6/482 as sub-tenant while shop No. 6/481 and 6/482 were both held by the tenant under a single tenancy, in spite of purchase by the landlord from the previous owner the tenant remains a tenant in shop No. 6/481 and sub-tenancy of the landlord over shop No. 6/482 did not come to an end by applying the doctrine of merger. Shri P. Krishnamurthy, Senior Advocate, appearing for the landlord, has disputed the correctness of the submissions made by Shri Iyer.

7. In these cross-appeals two questions arise for decision:- (i) when an order for eviction is passed on one of the several grounds urged by the landlord, can the landlord-respondent in a revision filed by tenant under Section 20 of the Act, support the order for eviction by disputing correctness of finding, adverse to him, on another ground for eviction and urging before the revisional court to uphold the availability of such ground so as to sustain the order for eviction ? (ii) whether on the facts and in the circumstance of the case, the High Court was justified in holding non-availability of ground for eviction under Section 11(8) of the Act ?

8. The relevant provisions of the Act are sub-Sections (3) and (8) of Section 11 and Section 20. The same are reproduced hereunder:-

> "*11.(3)* A landlord may apply to the Rent Control Court for an order directing the tenant to put the landlord in possession of the building if he *bona fide* needs the building for his own occupation or for the occupation by any member of his family dependent on him :
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> Provided that the Rent Control Court shall not give any such direction if the landlord has another building of his own in his possession in the same city, town or village except where the Rent Control Court is satisfied that for special reasons, in any particular case it will be just and proper to do so :
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> Provided further that the Rent Control Court shall not give any direction to a tenant to put the landlord in possession, if such tenant is depending for his livelihood mainly on the income derived from any trade or business carried on in such building and there is no other suitable building available in the locality for such person to carry of such trade or business:
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> xxx xxx xxx

11.(8) A landlord who is occupying only a part of a building, may apply to the Rent Control Court for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the landlord in possession thereof, if he requires additional accommodation for his personal use.

20.(1) In cases where the appellate authority empowered under section 18 is a Subordinate judge, the District Court, and in other cases the High Court, may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceedings taken under this Act by such authority for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceedings, and may pass such order in reference thereto as it thinks fit.

(2) The costs of and incident to all proceedings before the High Court or District Court under sub-section (1) shall be in its discretion."

9. As to the first question, Shri Iyer, the learned senior counsel for the tenant submitted that the revisional jurisdiction can be invoked by an aggrieved party by putting in issue `any order' and the jurisdiction conferred on the revisional Court is to test the legality, regularity or propriety of `such order' and then to pass a just order `in reference thereto'. Emphasizing the words ` such order' and `in reference thereto', Shri Iyer submitted that the revisional jurisdiction in invoked by the person aggrieved by such order putting in issue that part of the order with which he feels aggrieved and, therefore, the revisional Court can exercise jurisdiction by making a just order touching only that part of the impugned order which has been put in issue by the revision-petitioner and that is determinative of the scope of hearing in revision as also of the subject matter with reference to which the revisional jurisdiction can be exercised. He further submitted that it was open for the landlord-respondent to file a revision against that part of the order with which he felt aggrieved and in the absence of the respondent having not done so the High Court could not have, in a revision preferred by the tenant-appellant, interfered with and reversed that part of the order which was adverse to the respondent. We do not find ourselves persuaded to agree with the learned senior counsel for the tenant-appellant.

10. In *Shankar Ramchandra Abhyankar v. Krishnaji Dattatraya Bapat*[1] it has been held that revisional jurisdiction partakes the appellate jurisdiction of a superior Court. The right of appeal is one of entering a superior Court and invoking its aid and interposition to redress the error of the Court below. Two things which are require to constitute appellate jurisdiction are : the existence of the relation of superior and inferior Court and the power on the part of the former to review decisions of the latter. When the aid of the High Court is invoked on the revisional side it is done because it is a superior Court and it can interfere for purpose of rectifying the error of the Court below. Subject to limitations placed on the exercise of revisional jurisdiction, it remains a part of the general appellate jurisdiction of a superior Court in a wider and larger sense.

11. In *Major S.S. Khanna v. Brig. F.J. Dhillon*[2] this Court held that when revisional jurisdiction is exercised in relation to a `case' it can also be exercised in relation to a part of a

case. Hidayatullah, J. (as His Lordship then was), in his separate concurring opinion, compared the revisional jurisdiction of the High Court with the jurisdiction to issue a writ of Certioraris and held that the revisional jurisdiction is clearly in the nature of a proceeding on a writ of Certiorari though His Lordship also pointed out the essential differences between the two powers. However, His Lordship clearly opined that the revisional jurisdiction is conferred to keep the subordinate Courts within the bounds of their jurisdiction and once a flaw of jurisdiction is found the High Court exercising revisional jurisdiction need not quash and remit as is the practice in English Law under the writ of Certiorari but can itself pass such order as it thinks fit.

12. In *Babulal Nagar & Ors. v. Shree Synthetics Ltd. & Ors.*[3], it was held that once a jurisdiction is conferred to examine the propriety or impropriety of the order, the jurisdiction is wide. One meaning assigned to the expression `propriety' is `justice'. A jurisdiction to examine the propriety of the order or decision carries with it the same jurisdiction as the original authority to come to a different conclusion on the said set of facts. If any other view is taken the expression `propriety' would lose its significance.

13. In *Hukumchand Mills Ltd. v. The Commissioner of Income Tax, Central Bombay*[4] Section 33(4) of the Income Tax Act, 1922 came up for the consideration of this Court. The provision conferred the Appellate Tribunal with power to `pass such orders thereon as it think fit.' It was urged that the word `thereon' restricts the jurisdiction of the Tribunal to the subject matter of the appeal. This Court held that the Tribunal was conferred with power to pass such orders as could be passed by the Appellate Assistant Commissioner whose order was impugned before the Tribunal. It was further held that in an appeal preferred by the assesse it was certainly open to the Department to support the finding of the Appellate Assistant Commissioner on any of the grounds decided against it.

14. It was also held in *Smt. Gangabai v. Vijay Kumar & Ors.*[5] `no appeal can lie against a mere finding' and, if filed, shall be liable to be dismissed as not maintainable. In *Seetaram & Ors. v. Smt. Ramabai & Anr.*[6] the Division Bench consisting of M. Hidayatullah, C.J. and P.K. Tare, J. (as their Lordships were then), considered Clause 21 of the C.P. and Berar Letting of Houses and Rent Control Order, 1949 which provides for an appeal being preferred by `any person aggrieved by an order' of the Controller to the Deputy Commissioner who shall decide the appeal. Eviction was sought for on three grounds but was allowed by the Controller only on one ground. In an appeal preferred by the tenant the landlord was not permitted by the Deputy Commissioner to establish that the other two grounds on which permission was asked for were wrongly decided. The Deputy Commissioner formed an opinion that the order of Controller could not be allowed to be supported by the landlord-respondent before him on any ground which had been decided against him by the Controller unless an appeal was filed by the landlord-respondent. The Division Bench held that `a person aggrieved' must be a man against whom a decision has been pronounced which has wrongfully refused him something which he had a right to demand. In spite of a ground for an order having been decided against the landlord, if the operative part of the order is in his favour, the landlord though a `person aggrieved' is not a `person aggrieved by an order of the Controller'. The landlord could have felt satisfied

therewith and there is no reason why he should have appealed. Even if a person has a grievance against the finding he cannot come by way of appeal unless he challenges the order itself and wants to get it interfered with. Such an interpretation of the provision is warranted otherwise even if the order is in favour of a party he would be required to file an appeal against a finding. The Division Bench held that, in an appeal, the party who has an order in its favour is entitled to show that the order is justified on some ground which was decided against it in the Court below and this position of law is supportable on general principles without having recourse to Order 41 Rule 22 of the Code of Civil Procedure.

15. Krishnaswami Ayyangar, J. in his opinion, in *Gaddem Chinna Venkata Rao & Ors. v. Koralla Satyanarayanamurthy & Anr.*[7] which is Full Bench decision, held, interpreting Order 41 Rule 22 of the CPC, that a party who has succeeded in the result of a decision in spite of one or more of several grounds urged by him having been negated, he cannot and need not appeal as regards the latter grounds however erroneous the decision because there is no right of appeal to a party who has succeeded. The distinction lies in supporting or sustaining the decree in one's favour and in obtaining an alteration which would give him a further advantage. The latter can be secured only by an appeal or cross objection.

16. A Single decision of Madras High Court in *K. Venkataramani v. S. Aravamuthan & Ors.*[8] is directly in point dealing with *pari materia* provision contained in Section 25 of the *Tamil Nadu Buildings (Lease and Rent Control) Act, 1960*. It was held that where an order for eviction is based on one of the several grounds, in an appeal preferred by the tenant, the ultimate decision in favour of the landlord can be supported by the landlord without filing an appeal by disputing the correctness of findings on a ground decided against him and submitting that the order of eviction should have been rested on that ground as well. What is true of the appellate jurisdiction is also true of the revisional jurisdiction under Section 25. The Division Bench decision of Madhya Pradesh High Court in Seetaram & Ors.'s case (supra) was followed.

17. We agree with the view taken by the High Courts of Madhya Pradesh and Madras. We are of the opinion that:-

> "(i) There is no reason to read and interpret Section 20 of the *Kerala Buildings (Lease and Rent Control) Act, 1965* narrowly and limit the scope of revisional jurisdiction conferred on the High Court thereby;
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> (ii) Once a revision petition is entertained by the High Court, whichever be the party invoking the revisional jurisdiction, the High Court acquires jurisdiction to call for and examine the records of the authority subordinate to it. The records relating to `any order' and/or any proceedings, are available to be examined by the High Court for the purpose of satisfying itself as to the (a) legality, (b) regularity, or (c) propriety of the impugned order, including any part of the order, or proceedings. The only limitation on the scope of High Court's jurisdiction is that the order or proceedings sought to be scrutinized must be of the subordinate authority. Any illegality, irregularity or

impropriety coming to its notice is capable of being corrected by the High Court by passing such appropriate order or direction as the law requires and justice demands;

(iii) `Any aggrieved party', the expression employed in Section 20(1), mean's a person feeling aggrieved by the ultimate decision, that is, the operative part of the order. A party to the proceedings, who has succeeded in securing the relief prayed for, is not a party aggrieved though the order contains a finding or two adverse to him. The respondent can support the order any pray for the ultimate decision being sustained, without filing a revision of his own, and for achieving such end he may seek reversal of any findings recorded against him. However, if the non-petitioning party feels entitled to a more beneficial or larger order in his favour but was allowed a lesser or smaller relief then to the extent of claiming the more beneficial or larger relief he should have filed a revision petition of his own as he was `an aggrieved party' to that extent."

18. There is, therefore, no doubt in the present case that in a revision preferred under Section 20 of the Act by the tenant laying challenge to the propriety of the decision of the Appellate Authority under Section 11(8) of the Act, the landlord could have urged that the order for eviction could be sustained under Section 11(3) of the Act also. The High Court has not erred in permitting the landlord to urge such a plea in the revision filed by the tenant though the landlord did not file any revision of his own. A landlord who has succeeded in securing an order of eviction on one of the several grounds urged by him cannot be said to be a person aggrieved by such order. He cannot file a revision rather he can feel satisfied with the order. The person aggrieved is the tenant and in a revision preferred by the tenant it is only just and equitable that the landlord should be permitted to support the order of eviction by disputing correctness of the findings recorded in the impugned order whereby the availability of additional ground for eviction was negatived. Such a right has to be necessarily spelled out in favour of the landlord who has succeeded from the court below else there would be grave injustice.

19. The next question is as to the availability of ground for eviction under Section 11(8) of the Act for the landlord. Section 11(8) of the Act provides for a landlord occupying (as landlord) only a part of a building seeking ejectment of the tenant occupying the remaining part of the building subject to his proving his requirement of additional accommodation for his personal use. Obviously, if the respondent is in occupation of part of the building as sub-tenant he cannot have recourse to Section 11(8) of the Act. However, if his occupation though having originated as sub-tenant stands enlarged into that of an owner, and hence a landlord, by virtue of his purchase dated 12.9.1988 he would be entitled to entitled to eviction of the tenant under Section 11(8) of the Act. Answer would depend on the question whether the purchase of interest of the owner in the part of the premises held by the respondent as sub-tenant results in merger so as to wipe out the sub-tenancy and convert the nature of occupation of the respondent into that of an owner. Section 111 (relevant part thereof) and Section 109 of the Transfer of Property Act are relevant for the purpose and are reproduced hereunder:-

"*111. Determination of lease* - A lease of immovable property determines:-

xxx xxx xxx xxx

(d) in case the interests of the lessee and the lessor in the whole of the property become vested at the same time in one person in the same right;

xxx xxx xxx xxx

109. Rights of lessor's transferee. - If the lessor transfers the property leased, or any part thereof, or any part of his interest therein, the transferee, in the absence of a contract to the contrary, shall possess all the rights, and if the lessee so elects, be subject to all the liabilities of the lessor as to the property or part transferred so long as he is the owner of it; but the lessor shall not, by reason only of such transfer cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him :

Provided that the transferee is not entitled to arrears of rent due before the transfer, and that, if the lessee, not having reason to believe that such transfer has been made, pays rent to the lessor shall not be liable to pay such rent over again to the transferee.

The lessor, the transferee and the lessee may determine what proportion of the premium or rent reserved by the lease is payable in respect of the part so transferred, and, in case they disagree, such determination may be made by any Court having jurisdiction to entertain a suit for the possession of the property leased."

20. Merger is largely a question of intention, dependent on circumstances, and courts will presume against it when it operates to disadvantage of a party. "Merger" generally is defined as the absorption of a thing of less importance by a greater whereby the lesser ceases to exist but the greater is not increased, and rights are said to be merged when the same person who is bound to pay is also entitled to receive. Pacific States Savings & Loan Co. v. Strobeck, 33 P.2d, 1063, 1066, 139 Cal.App. 427. [See, Words and Phrases, Permanent Edition, Vol. 27, at page 124]. A merger, at law, is defined to be where a greater estate and a less coincide and meet in one and the same person, in one and the same right, without any intermediate estate. The less estate is immediately annihilated, or, in the law phrase, is said to be merged - that is, sunk or drowned - in the greater. Thus, if there be a tenant for years, and the reversion in fee simple descends to or is purchased by him, the term of years is merged in the inheritance. The rule in equity is the same as at law, with this modification : that at law it is invariable and inflexible; in equity it is controlled by the expressed or implied intention of the party in whom the interest or estate unite. (See, Words and Phrases, ibid, p. 138). Merger is founded on the principle that two estates - one larger and one smaller cannot - and need not - co-exist, if the smaller estate can in equity, and must in law, sink or merge into the larger estate.

21. The Transfer of Property Act, 1882 embodies mostly the principles of justice, equity and good conscience. In view of codification of such principles in India, the principles of equity

shall stand modified to the extent of provision otherwise in the Transfer of Property Act. The learned senior counsel for the tenant-appellant submitted that a merger would not result because out of the property purchased by the respondent, the then sub-tenant, part is held by the appellant-tenant as tenant and part is held by the respondent as sub-tenant and in view of the different nature of the two parts of the estate there is no coalescence. Secondly, the estate existing in favour of the appellant-tenant is an intervening estate which would prevent the union and fusion of estates held by the then owners and the respondent. The submission, though attractive, does not hold water on a deeper probe. As we have already stated, the doctrine of merger stands statutorily incorporated in Clause (d) of Section 111 of the Act and has to be read along with Section 109 of the Transfer of Property Act and not in isolation.

22. The common law rule that a landlord cannot split the unity and integrity of the tenancy so as to result in possession over a part of the demised premises being recovered from the tenant does not have applicability in India because of Section 109 of the T.P. Act which provides a statutory exception to the rule and enables an assignee of a part of the reversion to exercise all the rights of the landlord in respect of the portion respecting which the reversion is so assigned subject, of course, to the other covenant running with the land. This position of law stands settled with the decision of this Court in *Mohar Singh (Dead by LRs) v. Devi Charan & Ors.*[9], wherein M.N. Venkatachaliah, J. (as His Lordship then was) speaking for the Bench consisting of R.S. Pathak, Chief Justice and himself, held that Section 109 of T.P. Act does away with the need for a consensual attornment. The attornment is brought about by operation of law. The severance of the reversion and assignment of the part so severed do not need the consent of the tenant.

23. In *B.P. Pathak v. Dr. Riyazuddin & Ors.*[10] a Division Bench of the High Court of Madhya Pradesh consisting of Chief Justice P.K. Tare and Justice Shiv Dayal (later, Chief Justice), took the view on an illuminating survey of judicial opinion that a transferee of a part of leased property acquires "all the rights" of the lessor in respect of that part as if it alone had comprised the lease and a new relationship is created between the transferee and the lessee. The section creates a statutory attornment substituting, but retaining the same effect of, the contractual attornment. Title of the assignee is complete on execution of the deed of assignment and is not postponed till the notice of the assignment. The Division Bench repelled the submission that since the lessor could not have terminated the tenancy of a part of the demised premises by a notice to quit, he cannot transfer the premises in part and confer such a right on the transferee. The Division Bench held that the right of ejectment is inherent in ownership. Therefore, by virtue of section 109 of T.P Act such transferee is entitled to evict the tenant from the part transferred to him not only when the lease had been determined before the transfer but also if it is determined after the transfer in any of the circumstances mentioned in Section 111. Thus he can terminate by a quit notice the lease in respect of the property transferred to him.

24. The Division Bench decision came up for consideration by a Full Bench of the same High Court in *Sardarilal v. Narayanlal*[11]. Chief Justice G.P. Singh, speaking for the Full Bench, approved the statement of law in B.P. Pathak's case and held that Section 109 of T.P.

Act confers a right on the owner to effect a severance of a lease by his unilateral act and tenancy over a part of the property leased can be determined by the transferee.

25. It is, thus, clear that in a lease governed by the provisions of the T.P. Act or the principles emerging therefrom as applicable in India, the transfer of a part of leased premises by the owner in favour of the sub-tenant, holding sub-lease from the tenant, would result in merger. It will be a strange proposition to urge or to accept that although the respondent has purchased the reversion in the entire estate consisting of Doors No. 6/482 and 6/483 and the appellant has become the respondent's tenant as to both the doors still the respondents continues to be a sub-tenant of appellant in respect of Doors No. 6/482. The respondent cannot be an owner and sub-lessee both and at the same time. The smaller estate of sub-tenancy shall sink or drown into the larger estate of ownership as the two cannot co-exist. The sub-tenant, i.e. the respondent, has not acquired only a share of the landlord-owner's estate nor an ownership in part confined to sub-tenancy premises; what he has acquired under the deed dated 12.9.1988 is the full ownership in the entire premises. The right of reversion vesting in the then owners, so far as the appellant is concerned, stands fully and entirely vested in the respondent. There is nothing to hold that the intention of the parties to the deed date 12.9.1988 was not to effect a merger and confer the estate of owner of the sub-tenant (the respondent). Undoubtedly, on 12.9.1988, the appellant's estate did intervence but that is of no consequence in view of Section 109 of the Transfer of Property Act. The sale deed is not under challenge. There is nothing to prevent the splitting up of tenancy and resulting in statutory attornment by the tenant-appellant in favour of the sub-tenant-respondent on the factum of transfer of full ownership, including reversion, under the deed dated 12.9.1988 being brought to his notice which would take effect from the date of the deed. We are, therefore, of the opinion that on 12.9.1988 the sub-tenancy of the respondent held under the appellant to the extent of sub-leased premises terminated by merger and the respondent became the owner-landlord of the entire premises consisting of two Doors. So far as the apportionment of rent is concerned, that would depend on consensus between the owner and the respondent. In the absence of consent or a dispute arising, the same would be determined by a competent forum whether the Rent Controller or the Civil Court. The applicability of Section 11(8) of the Act is squarely attracted and the respondent could have availed the benefit thereof for evicting the appellant.

26. For all the foregoing reasons we do not find the decree for eviction liable to be interfere with. The appeals filed by the tenant are dismissed. The appeals filed by the landlord are allowed. However, the appellant is granted four months' time from today for vacating the suit premises subject to his clearing all the arrears of rent and filing an usual undertaking, both within three weeks from today, in the executing court. No order as to the costs.
Appeals dismissed.

[1]1969(2) SCC 74 *[2](1964)4 SCR 409* *[3](1984) Suppl. SCC 128* *[4](1967)1 SCR 463*
[5](1974)2 SCC 393 *[6]AIR 1958 MP 221* *[7]AIR 1943 Madras 698* *[8]AIR 1982 Madras 36*
[9](1988) 3 SCC 63 *[10]AIR 1976 MP 55* *[11]AIR 1980 MP 8*