**SUPREME COURT OF INDIA**

E. Palanisamy

Vs.

Palanisamy

C.A.Nos.501-502 of 2001

(S. N. Variava and Arun Kumar JJ.)

31.10.2002

**JUDGEMENT**

**Arun Kumar, J.**

1. These appeals are directed against a common judgment dated 24-12-1999 of the High Court disposing of two Revision Petitions. Briefly the facts giving rise to the present appeals are that the appellant was a tenant in the suit premises since before its purchase by the respondent-landlords. In May 1990, by mutual consent of the parties rent of the suit premises was enhanced to Rs. 500/- per month. Admittedly, rent up to October, 1990 was received by the landlords, thereafter as per the case of the respondents, tenant defaulted in payment of rent. The appellant filed suit for injunction in the Civil Court praying that the landlords be restrained from threatening to dispossess the appellant from suit premises. In the said suit, an interim injunction was granted in favour of the appellant. On 1st November, 1993, the landlords issued a default notice alleging that the tenant had committed default in payment of rent and was, therefore, liable to eviction. The tenant replied to the said notice on 20th November, 1993 denying any default on his part in payment of rent. Ultimately, on 7th February, 1994, an eviction petition was filed before the Rent Controller by the landlords on two grounds viz., (i) default in payment of rent and (ii) personal need of the landlords for occupying the premises.

2. On 15th March, 1994, the tenant made an application under Section 8(5) of the *Tamil Nadu Buildings (Lease and Rent Control Act), 1960* (hereinafter referred to as the "Act"), for permission to deposit the amount of rent in Court. The Rent Controller allowed the said application vide order dated 25th April, 1995. The Eviction Petition filed by the landlords was dismissed on the same date. The Rent Controller held that it could not be said that tenant had committed default in payment of rent. The Rent Controller further observed that even assuming there was default on the part of the tenant, it could not be said to be willful default, therefore, the eviction petition was dismissed. No finding was given on the second ground for eviction regarding personal need of the landlords for occupying the premises. The landlords filed appeals before the Rent Control Appellate Authority against both the orders of the Rent Controller. Both the appeals were allowed by the Appellate Authority. The

Appellate Authority held that the tenant had committed default in payment of rent. It relied on admission on the part of the tenant himself as available in the evidence of the tenant that at least from May, 1993, no rent had been paid. The tenant is said to have deposited the rent in Court during the pendency of the proceedings. However, the question for consideration before the Appellate Authority was whether the tenant had committed default in payment of rent? The Appellate Authority held that the tenant had committed default, and therefore, the eviction petition was allowed. It was observed by the Appellate Authority that even after the petition had been filed by the landlords, the tenant did not think of offering the rent to the landlords. Further the tenant did not issue notice as required under S. 8(2) of the Act calling upon the landlords to notify the Bank where the tenant could make the deposit of rent. On the basis of the evidence on record, the Appellate Authority held that the tenant had committed default in payment of rent, and therefore, the eviction petition was allowed. No finding was however recorded on the second ground of eviction. Based on the failure of the tenant to follow procedure and deposit rent of suit property under S. 8(2) of the Act it was held that the tenant having failed to comply with the procedure prescribed in that behalf under the Act the decree for eviction had to follow. The tenant filed Civil Revision Petitions against both the orders of the Rent Control Appellate Authority in the High Court. Both the revision petitions were dismissed by the High Court vide the impugned judgment dated 24-12-1999. Hence the present appeals by the tenant.

3. The sole question for consideration in these appeals is whether the provisions of Section 8 of the Tamil Nadu Buildings (Lease and Rent Control Act), 1960 are to be strictly complied with by the tenant before he can seek benefit under the said provisions regarding deposit of rent in the Court. In this connection, relevant provisions of Section 8 of the Act need to be quoted:

> "Section 8 : [Landlord liable to give receipt for rent or advance] :
> Sub-section
>
> (1) . . . . . .
>
> (2) Where a landlord refuses to accept, or evades the receipt of, any rent lawfully payable to him by a tenant in respect of any building, the tenant may, by notice in writing, require the landlord to specify within ten days from the date of receipt of the notice by him, a bank into which the rent may be deposited by the tenant, to the credit of the landlord.
>
> Provided that such bank shall be one situated in the city, town or village in which the building is situated or if there is no such bank in such city, town or village, within (five kilometers) of the limits thereof.
>
> Explanation. It shall be open to the landlord to specify from time to time by a written notice to the tenant and subject to the proviso aforesaid, a bank different from the one already specified by him under this sub-section.

(3) If the landlord specifies a bank as aforesaid, the tenant shall deposit the rent in the bank and shall continue to deposit in it any rent which may subsequently become due in respect of the building.

(4) If the landlord does not specify a bank as aforesaid, the tenant shall remit the rent to the landlord by Money Order, after deducting the money order commission.

(5) If the landlord refuses to receive the rent remitted by Money Order under sub-section (4), the tenant may deposit the rent before the Controller and continue to deposit with him any rent which may subsequently become due in respect of the building."

4. It would be seen from the above provisions that while the landlord is required to issue a notice of default, on refusal by landlord to accept rent, the tenant is required to call upon the landlord by way of a notice to specify the name of a Bank in which rent could be deposited by the tenant to the credit of the landlord. If the landlord specify the name of the Bank to deposit the rent, there is an obligation on the part of the tenant to make the deposit of arrears of rent in the account of the landlord. However, if the landlord does not specify the name of a Bank in spite of being called upon by the tenant through a notice, the tenant is required to send the amount of arrears through a money order to the landlord after deducting the commission payable on the money order. If the landlord still refuses to accept the rent, the tenant is entitled to file an application before the Rent Controller seeking permission to deposit the arrears of rent under sub-section (5) of Section 8 of the Act.

5. Mr. Sampath, the learned counsel for the appellant argued that since the appellant-tenant had deposited the arrears of rent in Court, it should be taken as compliance of S. 8 of the Act. This would mean there is no default on the part of tenant in payment of rent and therefore, no eviction order could have been passed against the appellant on that ground. According to the learned counsel, the Court should not take a technical view of the matter and should appreciate that it was on account of refusal of the landlords to accept the rent sent by way of money orders that the tenant was driven to move the Court for permission to deposit the arrears of rent. Since there is a substantial compliance of S. 8 in as much as the arrears of rent stand deposited in Court, a strict or technical view ought not to have been taken by the High Court. We are unable to accept this contention advanced on behalf of the appellant by the learned counsel. The rent legislation is normally intended for the benefit of the tenants. At the same time, it is well-settled that the benefits conferred on the tenants through the relevant statutes can be enjoyed only on the basis of strict compliance of the statutory provisions. Equitable consideration have no place in such matters. The statute contains express provisions. It prescribes various steps which a tenant is required to take. In Section 8 of the Act, the procedure to be followed by the tenant is given step by step. An earlier step is a pre-condition for the next step. The tenant has to observe the procedure as prescribed in the statute. A strict compliance of the procedure is necessary. The tenant cannot straightway jump to the last step i.e. to deposit rent in Court. The last step can come only after the earlier steps have been taken by the tenant. We are fortified in this view by the decisions of this

Court in *Kuldeep Singh v. Ganpat Lal and another reported in*[1] *and M. Bhaskar v. J. Venkatarama Naidu reported in*[2].

6. The counsel for appellant did not dispute that the tenant had not fulfilled the conditions prescribed in Section 8 of the Act before making deposit of rent in Court. Hence similar circumstances and while dealing with almost similar provisions contained in *the Rajasthan Premises (Control of Rent and Eviction) Act 1950*, this Court in Kuldeep Singh v. Ganpat Lal and another (supra) held:

> "8. In the present case, the appellant is seeking to avail of the benefit of the legal fiction under Section 19-A (4) of the Act. It is settled law that a legal fiction is to be limited to the purpose for which it is created and should not be extended beyond that legitimate field. (See: *Bengal Immunity Co. Ltd. v. State of Bihar*[3] at p. 646. The appellant can avail of the benefit of Section 19-A (4) if the deposit of Rs. 3600 made by him in the Court of Munsif (South), Udaipur, on 29-10-1982, by way of rent for the months of May 1982 to October 1982, can be treated as a payment under Section 19-A (3)(c) so as to enable the appellant to say that he was not in default in payment of rent. Under Section 19-A (3)(c) the tenant can deposit the rent in the Court only if the conditions laid down in the said provision are satisfied. It is the admitted case of the appellant that these conditions are not satisfied in the present case. The deposit which was made by the respondent in Court on 29-10-1982 cannot, therefore, be regarded as a deposit made in accordance with clause (c) of sub-section (3) of Section 19-A and the appellant cannot avail of the protection of sub-section (4) of Section 19-A and he must be held to have committed default in payment of rent for the months of May 1982 to October 1982. This means that the decree for eviction has been rightly passed against the appellant on account of default in payment of rent for the period of six months."

7. Again in M. Bhaskar v. J. Venkatarama Naidu, (supra) with reference to similar provisions contained in the A.P. Buildings (Lease, Rent and Eviction) Control Act, 1960, this Court observed that when the landlord is evading payment of rent, the tenant has to follow the procedure prescribed under Section 8 of the Act i.e. to issue notice to the landlord to name the Bank and if he does not name the Bank, the tenant has to file application before the Rent Controller for permission to deposit rent. The tenant did not follow that procedure. Omission to avail of the prescribed procedure disentitles the tenant to plead that there was no willful default on his part. The landlord was, therefore, entitled to seek eviction on the ground of willful default in payment of rent on the part of the tenant.

8. Admittedly the tenant did not follow the procedure prescribed under Section 8. The only submission that was advanced on behalf of the appellant was that since the deposit of rent had been made, a lenient view ought to be taken. We are unable to agree with this. The appellant failed to satisfy the conditions contained in Section 8. Mere refusal of the landlord to receive rent cannot justify the action of the tenant in straightway invoking Section 8(5) of the Act without following the procedure contained in the earlier sub-sections i.e. sub-sections (2), (3) and (4) of Section 8. Therefore, we are of the considered view that the eviction order

passed against appellant with respect to the suit premises on the ground of default in payment of arrears of rent needs no interference. The impugned judgment of the High Court, therefore, does not call for interference. These appeals are dismissed. We are informed that the landlords have already taken possession of the suit premises in pursuance of the High Court judgment.

Appeal dismissed.

[1]*1996 (1) SCC 243*
[2]*1996 (6) SCC 228*
[3]*(1955) 2 SCR 603*