

**SUPREME COURT OF INDIA**

S. Venugopal

Vs

A. Karruppusami and Another

C.A. Nos. 5151-5152 of 1999

(B. P. Singh and Altamas Kabir, JJ)

28.03.2006

**JUDGMENT**

**B. P. SINGH, J.**

1. The appellant before us is the landlord who filed two suits for eviction of two tenants from the premises owned by him in the city of Coimbatore, State of Tamil Nadu. His case was that he was conducting business in jewellery from a rented premises belonging to the municipality.

The premises in question was located in the business centre of the city of Coimbatore surrounded on all sides by multi-storied buildings. He wanted to shift his business from the rented premises to his own premises. He also pleaded that the tenants were in default in payment of rent and, therefore, they were liable to be evicted on that ground alone. He further contended that he also wanted to demolish the premises in question and reconstruct it having regard to its utility, it being located in the business centre of the city of Coimbatore.

2. The Rent Controller as well as the appellate tribunal concurrently held that the appellant-landlord had been able to prove all the three grounds on which the eviction was claimed, namely, (i) the default in payment of rent; (ii) bona fide personal need for doing jewellery business; and (iii) for demolition and reconstruction of the building. The matter ultimately came up before the High Court of Judicature at Madras in C.R.P. Nos. 2196 of 1992 and 2197 of 1992.

3. The High Court, by its impugned judgment and order of 21st October, 1997, set aside the concurrent findings recorded by the Appellate Tribunal and the Rent Controller and dismissed the suits for eviction. On the question of default in payment of rent, the High Court held that the rent of the premises was Rs.25 per month only and that after filing of the suits, the rent for the period from 15th July, 1982 to 15th March, 1983 was deposited in Court by the tenants on the first date of hearing, namely, 27th April, 1983. The learned counsel for the appellant-landlord submitted before us that the rent was not deposited on the first date of hearing, but we do not wish to consider this question because we find that the other two grounds for eviction have been made out by the appellant-landlord.

4. The appellant-landlord claimed that he was conducting jewellery business from rented premises and he had no other non-residential premises in the city of Coimbatore. He, therefore, needed the premises in question for carrying on his own jewellery business. The respondents-tenants contended that his (the appellant's) need was not bona fide. The High Court found that the landlord was conducting jewellery business from rented premises. It was also held that the landlord did not have any other non-residential premises of his own from where he could conduct his jewellery business. However, the High Court laid great emphasis on one sentence appearing in the deposition of the landlord, who was examined as PW-1, which reads as follows:

"I cannot do business if I got possession of the existing shops."

5. Solely on the basis of this so-called admission, the High Court held that the requirement of the landlord was not bona fide.

6. We have read the deposition of PW 1. We notice that the recording of evidence is rather unsatisfactory, and most of the sentences are not even complete. The evidence has been recorded in a rather abbreviated manner.

However, the landlord has clearly stated that he needed one shop for carrying on his own jewellery business and the premises in question were located in a commercial area in the city of Coimbatore. In very categorical terms, he stated that he required the premises for the purpose of carrying on his own occupation from where he wanted to conduct his gold jewellery shop. He again reiterated the same by saying that he required the premises for his own occupation. Only thereafter the so-called admission appears on which great emphasis had been laid by the High Court. In fact, later in the same paragraph, he has stated that most important reason for claiming eviction was his need of the premises for his own occupation. Reading the deposition as a whole, it would appear that the landlord, in categorical terms, has repeatedly asserted that he needed the premises in question for running his own business in jewellery. He has emphasised the fact that the premises is located in a commercial locality and he, more than once, stated that he needed the premises for his own occupation. We are, therefore, inclined to take the view that the recording of evidence of PW-1 was not accurate, wherein it has been recorded that he could not do business if he got possession of the

existing shops. Perhaps what he must have stated is that he cannot do business "unless" he got possession of the existing shops. The admission clearly goes against the general tenor of the landlord's deposition, which strengthens our apprehension that the same is the result of faulty recording of evidence. We, therefore, have no doubt that the High Court was in error in rejecting the claim of bona fide personal need of the landlord merely on the basis of the so-called admission made by the landlord in his deposition, which appears to be a result of faulty recording of his evidence.

7. On the question of demolition and reconstruction of the premises in question, much was sought to be made out of the fact that the condition of the building had not been ascertained and, while according to the tenants it was not in a dilapidated condition, according to the landlord it was in a dilapidated condition. We do not attach much importance to the question as to whether the building was or was not in a dilapidated condition because Section 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (for short 'the Act') contemplates a building which 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. Therefore, Section 14(1)(b) does not contemplate that the building sought to be demolished must necessarily be in a dilapidated condition. Even if a building is not in a dilapidated condition, it may be demolished for the purpose of erecting a new building on the same site.

8. In the instant case, it is obvious that the locality in which the premises in question is located has developed into a commercial locality. The building needed by the landlord is a single storey building, whereas a large number of multi-storied buildings have come up in that locality. The landlord realises that if he demolishes the old structure and erects a new multi-storied building, he will get a much better return of his investment. He, of course, asserts that in the newly constructed building also he requires space for conducting his own business.

9. There is also evidence on record to establish that the landlord had applied to the competent authorities and got the plans approved for construction of a new building after demolishing the old structure. The landlord also asserted that he wanted to invest a sum of Rs. One and a half lakh on the construction. The High Court, however, after recording a finding of fact that the building was in a dilapidated condition, rejected the claim of the landlord on the ground that he had not satisfactorily established before the Court that he had the means to reconstruct the building and that he had not given details relating to his means to construct a new building. Moreover, he had not disclosed, how he was going to raise funds for reconstruction.

10. It is true that in granting permission under Section 14(1)(b) of the Act, all relevant materials for recording a finding about the requirement of the landlord for demolishing the building and reconstruction of a new building, have to be taken into account. The Rent Controller reached the conclusion that the landlord bona fide requires the premises for demolition and reconstruction of a new building. This Court has observed in *Vijay Singh and Others v. Vijayalakshmi Ammal*, 1996 (2) CTC 586 : 3, that the Court must take into account the bona fide intention of the landlord, the age and condition of the building, and the financial position of the landlord to demolish and erect a new building. These are some of the illustrative factors which have to be taken into account and, they are by no means conclusive.

11. In the instant case, we find that the property owned by the landlord, whatever may have been its value in the past, has acquired commercial value and, therefore, the landlord wishes to demolish the old single storey structure and to construct a multi-storied building which may fetch him higher rent, apart from serving his own needs. The landlord had already applied to the competent authorities and got the plans approved. Taking into consideration all these reasons, we are convinced that the landlord bona fide intends to demolish the old building and to construct a new one. Raising funds for erecting a structure in a commercial centre is not at all difficult when a large number of builders, financiers as well as banks are willing to advance funds to erect new structures in commercial areas. This is apart from the fact that the landlord has himself indicated that he was willing to invest a sum of Rs. One and a half lakh of his own, and he owns properties and jewellery worth a few lakhs.

12. In these circumstances, we are satisfied that the landlord established his case that he required the premises for its demolition and erection of a new building on the same site.

13. The learned counsel for the respondents submitted that the plea of bonafide personal need for own occupation was not made out in the instant case since the landlord really wanted to evict the respondents from the premises in question with a view to demolish the premises and construct a new building. It is not necessary for us to consider this submission because in any event a case for eviction under Section 14(1)(b) of the Act has been made out.

14. We hold that the High Court was in error in setting aside the concurrent findings recorded by the Rent Controller and the Appellate Tribunal. We, therefore, allow these Appeals, set aside the judgment and order of the High Court and restore that of the Rent Controller as affirmed by the Appellate Tribunal.

15. Having regard to the facts and circumstances of the case and, in particular having regard to the fact that the respondents have been carrying on business in the premises in question for many years, we grant them time till 31st December, 2006 to vacate the premises, subject to their filing the usual undertaking before this Court within a period of four weeks from today. Needless to say, all arrears of rent must be deposited as is required by the undertaking which the respondents must file as directed.

16. The Appeals are allowed accordingly with no order as to costs.

J