

(PART-HEARD)

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 5151-5152 OF 1999

S. VENUGOPAL

Appellant (s)

VERSUS

A. KARRUPPUSAMI & ANR.

Respondent(s)

(With office report)

Date: 28/03/2006 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH

HON'BLE MR. JUSTICE ALTAMAS KABIR

For Appellant(s) Mr. B. Sridhar, Adv.

Mr. K. Ram Kumar, Adv.

For Respondent(s) Mr. V. Balachandran, Adv.

UPON hearing counsel the Court made the following

O R D E R

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, 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.

The appeals are allowed in terms of the judgment with no order as to costs

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Court Master Court Master

(non-reportable judgment is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 5151-5152 OF 1999

S. VENUGOPAL Appellant (s)

VERSUS

A. KARRUPPUSAMI & ANR. Respondent(s)

J U D G M E N T

B.P. SINGH, J.

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-storeyed buildings. He wan

ted 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.

The Rent Controller as well as the appellate tribunal currently 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.

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.

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."

Solely on the basis of this so-called admission, the High Court held that the

requirement of the landlord was not bona fide.

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

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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.

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.

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-storeyed buildings have come up in

that locality. The landlord realises that if he demolishes the old struc

ture and erects a new

multi-storeyed 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.

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.

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 vs. Vijayalakshmi Ammal, (1996) 6 SCC 475, 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.

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.

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.

The learned counsel for the respondents submitted that the plea of bona fide 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

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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.

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.

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.

The appeals are allowed accordingly with no order as to costs.

.....J.

(B.P. SINGH)

.....J.

(ALTAMAS KABIR)

NEW DELHI ;

MARCH 28 , 2006 .