

(1976) 04 MAD CK 0054

Madras High Court

Case No: None

A. Syed Amir and Another

APPELLANT

Vs

Shanmughasundara Mudaliar

RESPONDENT

Date of Decision: April 7, 1976

Acts Referred:

- Transfer of Property Act, 1882 - Section 106

Citation: (1976) 2 MLJ 361

Hon'ble Judges: S. Suryamurthy, J

Bench: Division Bench

Judgement

S. Suryamurthy, J.

Shanmughasundara Mudaliar, the respondent in these two revision petitions, who purchased the premises in dispute for a consideration of Rs. 30,000 filed three H.R.C.O.Ps to evict therefrom the tenants, who were in occupation of different parts of the building, alleging inter alia that he required the building for his own use and occupation as well as for demolition and reconstruction. The tenants contended inter alia that the building were not required for demolition and reconstruction or for the landlord's own use and occupation and that there was no valid notice to quit. By a common order in all the three petitions, the learned Rent Controller held that valid notices to quit had been given to the tenants, that the landlord required the premises bona fide for his own use and occupation after demolition and reconstruction and that the tenants are liable to be evicted. He, therefore, allowed all the three petitions and ordered eviction of the tenants granting one month's time for each of them to vacate. Madavajee Lalji, one of the tenants, whose eviction was ordered, does not appear to have filed any appeal against the order of the learned Rent Controller A. Syed Amir and C.N. Surendran, the civil revision petitioners before this Court, preferred C.M.A. No. 117 of 1974 and C.M.A. No. 118 of 1974 before the Appellate Authority against the orders of the learned Rent Controller. The learned Appellate Authority confirmed the orders of the learned

Rent Controller and dismissed the appeals.

2. In these civil revision petitions, it is contended that there was no valid notice to quit and that the landlord does not bona fide require the premises either for his own use and occupation or for demolition and reconstruction. The landlord is now carrying on a business in cloth in the Big Bazaar Street, Tiruchirapalli, in premises which he has taken on rent. He owns no other non-residential building within the limits of Tiruchirapalli Municipality. He purchased the building in question for a consideration of Rs. 30,000. The learned Counsel for the civil revision petitioners contends that the landlord has purchased the premises in dispute only as an investment and not for his own use and occupation. This contention is preposterous. By investing a sum of Rs. 30,000 in the business which he is already conducting, the landlord would earn more profits than he would ever be able to get by way of rent from the building. The tenants have no right to tell the landlord whether he should treat the purchase as an investment or use the building for his own business. P.W. 1, the landlord, has spoken to the fact that he purchased the building for carrying on his own business therein. There is absolutely no reason to disbelieve his evidence. The very fact that he is conducting a business in cloth in a building which he has taken on rent and owns no other non residential building is sufficient to come to the conclusion that he bona fide requires the building for his own use.

3. The building in question is an old type of building without any show-room. The landlord has sufficient means to reconstruct the building after demolishing the existing building. He has applied to the Municipality for a licence to reconstruct the building. He has also furnished a blueprint to the Municipality. He has obtained sanction to rebuild. The blueprint submitted by him to the Municipality has been duly approved. Therefore, the Courts below were perfectly right in coming to the conclusion that the landlord bona fide required the building for demolition and reconstruction.

4. A notice to each of the tenants terminating the respective tenancies expiring with the end of the month of the tenancy has been given. The contention of the tenants before the Courts below was that the tenancy was not from month to month, but from the 15th of every month to the 15th of the succeeding month as the landlord purchased the building on 15th February, 1973, and that consequently a notice proceeding on the basis that the tenancy was from 15th of every month to 15th of the next month should have been given. This contention is factually incorrect, because after the landlord purchased the building, the rent for 15 days with effect from 15th February, 1973 was paid by each of the tenants and thereafter the rent was paid from month to month treating the tenancy as commencing from the 1st of every month. Hence, a valid notice to quit in accordance with the provisions of Section 106 of the Transfer of Property Act has been given to each of the tenants.

5. Even assuming that there was no valid notice in quit, the landlord is entitled to maintain the petition for eviction in view of the ratio in [Raval and Co. Vs. K.G. Ramachandran and Others](#), and [P.J. Gupta and Co. Vs. K. Venkatesan Merchant and Others](#), which have been followed by Ramaprasada Rao J., in Sukumaran Nair v. Neelakantan Nair (C.R.P. No. 3868 of 1974) etc., (1976) T.L.N.J. 110 The special procedure provided by the Tamil Nadu Buildings (Lease and Rent Control) Act has displaced the requirements of the procedure for eviction under the Transfer of Property Act. Therefore a notice terminating the tenancy in accordance with the provisions of Section 106 of the Transfer of Property Act is not necessary.

6. Hence, the orders of the Courts below are confirmed, and these revision petitions are dismissed. There will be no order as to costs. Time for eviction three months.