

(2001) 08 AP CK 0128
Andhra Pradesh High Court
Case No: SA No. 295 of 2001

B. Nagaiah and Others

APPELLANT

Vs

Tirumala Tirupati Devasthanams,
Tirupathi

RESPONDENT

Date of Decision: Aug. 17, 2001

Acts Referred:

- Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 - Section 83
- Easements Act, 1882 - Section 52

Citation: (2002) 2 ALD 777

Hon'ble Judges: B.S.A. Swamy, J

Bench: Single Bench

Advocate: M. Krishna Mohan Rao, for the Appellant; M. Adinarayana Raju, SC, for the Respondent

Final Decision: Dismissed

Judgement

B.S.A. Swamy, J.

The question that arises for consideration in the second appeal would be whether the appellants herein who were temporarily accommodated in the rooms of the newly constructed Choultries of Tirumaja Tirupati Devasthanam, Tirumala meant for providing accommodation to pilgrims, for a period of three months with rent free facility, and who subsequently refused to vacate the said rooms after the expiry of the said period, can be termed as encroachers as defined in Explanation (ii) to Section 80 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (hereinafter referred to as "the Act") and whether the procedure contemplated u/s 83 of the Act has to be followed for evicting them from the rooms under their occupation.

2. The undisputed facts of this case are that to meet, the heavy rush of pilgrims on the up-hills, the respondent-Devasthanam has drawn a Master Plan for the development of the area and for maintenance of good sanitation, so that large number of pilgrims visiting the temple may not be affected with epidemics. As per the master plan, they started construction of master drain passing through the lane where buildings bearing Nos.5/48 and 5/47 in which the appellants were residing as tenants, are located. During excavation of soil, a big landslide seemed to have occurred posing threat to the adjacent buildings. In those circumstances, the respondent devasthanam while initiating proceedings under the Land Acquisition Act to acquire the buildings on payment of compensation to the displaced persons, agreed to provide accommodation to the tenants for a period of three months on rent free basis with an understanding that these persons have to find out alternative accommodations in the meantime. To that effect the respondents issued proceedings in ROC. No. PO/1/1149/ AEO/P-TML/93, dated 18-8-1993. Though the period of three months was over, the appellants did not vacate the premises and perhaps on their request the respondents have not taken any coercive action to get the appellants vacated from the premises.

3. While things stood thus, on one fine day all the appellants joined together and filed OS No.560 of 1994 on the file of the I-Additional District Munsif, Tirupathi seeking permanent, injunction restraining the respondent-devasthanam from evicting them from the suit schedule premises. The stand taken by the appellants in the said suit was that the respondent devasthanam promised that they would allow them to stay in the said rooms by issuing separate proceedings or they would provide alternative accommodation at some convenient place for their residence and for their business purpose also, but the respondents having failed to fulfill their promise in spite of repeated requests made by them, made an attempt to evict them from the rooms at about 10 a.m., on 23-8-1994. The appellants obtained temporary injunction in the said suit against the respondents from evicting them from the premises,

4. The respondents in their written statement having given Factual background under which the appellants were inducted into the rooms, categorically denied all the other allegations including the one that they tried to dispossess the appellants forcibly on 23- 8-1994. They have also taken a plea that as the appellants are residing in separate rooms, the cause of action for each of the appellants being different and distinct one, no single suit is maintainable in law. But unfortunately the Munsif Court failed to frame an issue whether a single suit by the persons occupying different premises is maintainable in law. The Court below simply framed an issue whether the appellants are entitled for relief of permanent injunction as prayed for.

5. Before the trial Court, on behalf of the appellants two witnesses as PW1 and PW2 were examined and Exs.A1 to A8 were marked. On behalf of the respondents only

one witness as DW1 was examined and no documents were marked.

6. The trial Court by its judgment and decree dismissed the suit on 15-12-1997 holding that after expiry of the period for which the appellants were allowed to stay in the premises, they have to be considered as encroachers and they are not entitled to the relief sought for. The trial Court rejected the other contentions of the appellants that the respondents agreed to provide alternative accommodation or allow them to continue in possession of the suit rooms.

7. Aggrieved by the said judgment and decree, the appellants filed AS No. 13 of 1998 before the lower Appellate Court. During arguments, the appellants raised a plea that u/s 83 of the Act, the respondent-devasthanam cannot evict them from the said rooms without following the procedure contemplated u/s 83 of the Act. However, the learned Judge without going into that aspect by relying on Section 84(3) of the Act which is to the effect that no injunction can be granted by any Court in respect of any proceedings taken or about to be taken by the Deputy Commissioner u/s 83 of the Act, dismissed the appeal and confirmed the finding of the trial Court. The first Appellate Court, while dismissing the appeal clearly observed as follows:

"more over it is not their prayer in the suit that they cannot be evicted without following due process of law."

8. Hence the present Second Appeal.

9. With regard to the relief of permanent injunction restraining the respondent-devasthanam from interfering with the possession of the appellants, the law is well settled that a person who is in unlawful possession of premises due to expiration of licence, is not entitled for grant of injunction either temporary or mandatory against the real owner. On this ground alone the second appeal is liable to be dismissed.

10. Now the question remains for consideration is what is the procedure to be followed by the respondent-devasthanam for ejection of the appellants from the suit schedule premises.

11. This Court considered this issue twice on previous occasions. In [N. Rama Raju Vs. Tirumala Tirupathi Devasthanams and others](#), wherein his Lordship Justice C. V.N. Sastry as he then was, rejected the contention of the appellants therein observing at para 5 of the judgment as follows:-

"Sri M. Chandramouli, the learned Counsel for the appellants however, contended that even assuming that the possession of the appellants after the expiry of the licence period is wrongful and they are to be treated as encroachers, for evicting them, the Devasthanam has to follow the procedure prescribed u/s 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 and until such time they are evicted by following the due procedure prescribed by law, the appellants are entitled to continue in possession and such possession has to be

protected by the grant of injunction in their favour. In view of the long line of authorities mentioned above which are binding on me, it is not possible to agree with this submission of the learned Counsel for the appellants."

12. On another occasion, in similar circumstances, my Brother Justice Eswaraiah in an unreported judgment in Smt. R.S. Kannemma v. Tirumala Tirupati Devasthanam (Second Appeal No. 133/95, dated 19-4-2001) held that a person who is in permissive possession cannot lie granted in junction against the true owner.

13. But Mr. Ramachandra Rao, learned Counsel appearing for the appellants contends that as there was no discussion on Section 83 of the Act in that judgment, the principles laid down in the said judgments cannot be said to be the correct proposition of law. He cited a catena of decisions to prove that even a trespasser cannot be evicted from the property without following the due process of law. The sheetanchor of the arguments of the learned Counsel is the judgment rendered by the apex Court in [Krishna Ram Mahale \(Dead\), by his Lrs. Vs. Mrs. Shobha Venkat Rao](#), wherein the Supreme Court held "that in India, persons to take forcible possession even if the person under occupation is in unlawful possession of the property and the owner must obtain such possession through a Court of law." To the same effect the learned Counsel also relied on the following judgment in [Prataprai N. Kothari Vs. John Braganza](#), , and [Ram Rattan and Others Vs. State of Uttar Pradesh](#), . He also cited many more decisions to show that even if the person in possession is a licensee, after termination of license he cannot be evicted without, following the due process of law.

14. There is no dispute that the respondent-devasthanam is governed by the provisions of the Act as enjoined in Section 118 of the Act. In reply to the contentions of the appellants Sri Adinarayana Raju, learned Counsel appearing for the respondent-devasthanam contended that the appellants are only in permissive possession and as such the procedure contemplated u/s 83 of the Act need not be followed for evicting the appellants. Secondly Sri Raju contended that at worse the permission given by the respondent can be treated only as a bare licence but not the licence coupled with grant. Hence the respondent need not follow the said procedure envisaged u/s 83 of the Act. Thirdly, Mr. Raju contended that the relief sought for by the appellants being a bare injunction restraining the respondent from evicting them from the suit schedule premises, the TTD need not follow the procedure contemplated u/s 83 of the Act. Hence, the appellants cannot be permitted to raise all these contentions at the stage of second appeal.

15. As stated supra, this issue is troubling the Court very often and it being a legal question it can be raised even at the stage of second appeal also. Hence I permitted both the Counsel to argue the matter. It is true that the appellants sought for a bare injunction but not an injunction restraining the respondent from evicting them from the suit schedule premises without following the procedure prescribed u/s 83 of the Act. On that ground also the second appeal fails. Next, had the trial Court framed

the issue whether a single suit filed by the occupants of several rooms in the choultry of the respondent can maintain as each cause of action is different from the other, I am sure the Court, below would have held that the suit is maintainable in law.

16. The only question that falls for consideration in this appeal is whether the appellants can be evicted from the suit schedule premises without following the procedure contemplated u/s 83 of the Act or not?

17. It is useful extract Section 83 of the Act which reads as follows:

"Section 83. Encroachments by persons on land or building belonging to charitable or religious institution or endowment and the eviction of encroachers (1) where the Assistant Commissioner having jurisdiction, either suo motu or upon a complaint made by the trustee has reason to believe that any person has encroached upon (hereinafter in this Chapter referred to as "encroacher") any land, building, tank, well, spring or watercourse or any space belonging to the institution, or endowment, wherever situated or deemed as an encroacher under any of the provisions of this Act the Assistant Commissioner shall report the fact together with relevant particulars to the Deputy Commissioner having Jurisdiction over the division in which the institution of endowment is situated.

Explanation :--For the purpose of this Chapter the expression "encroacher" shall mean any person who unauthorisedly occupy any land or building or space and deemed to include any person who is in occupation of the land or building or space without the approval of the competent authority sanctioning lease or mortgage, or licence and also a person who continues to remain in the land or building or space after the expiry or termination or cancellation of the lease, mortgage or licence in respect thereof granted to him or it."

18. From the above it is seen that the Assistant Commissioner having jurisdiction either in exercise of suo motu powers or upon a complaint made by the trustee has reason to believe that any person has encroached upon the Immovable property or is deemed to be an encroacher under any of the provisions of the Act shall report the fact to the Deputy Commissioner having territorial jurisdiction seeking eviction of the encroacher. In the explanation an encroacher is defined as a person who unauthorisedly occupies any land without sanction of lease, mortgage, licence from the competent authority and also a person who continues to remain in the premises after the expiry or termination or cancellation of the lease, mortgage or licence in respect of lease granted to him. Admittedly as the appellants were inducted by the authorities concerned they are not covered by the first limb of the explanation. Likewise the competent authority did not part with the possession of the property either by entering into a lease or mortgage. The only question to be considered is whether these appellants can be treated as licensees after expiry or termination or cancellation of the licence and whether the respondent has to approach the Deputy

Commissioner seeking eviction of the appellants.

19. The Act, 1987 came into force after the repeal of Act 1966. Section 75 of the Old Act is almost in similar terms as Section 83 of the present Act 1987 except the word "encroacher" which was amplified in the explanation to Section 83 and subsection (6) is to the effect that during the pendency of the proceedings, the Deputy Commissioner shall order the encroacher to deposit such amount as may be specified by him in consideration of the use and occupation of the properties in question in the manner prescribed. This new section was incorporated on the basis of 30th Report by State Law Commission and it is useful to extract the recommendations of the Law Commission.

"When there is prima facie case, it should be possible for the institution or endowment to get immediate possession of the property without any trouble. If a person is aggrieved by such action it should be open to him to file a suit to the property. It is not proper that these institutions and endowments should be driven to a court of law to seek redress. If he does not surrender possession when directed by an order passed in this behalf, eviction can be effected by a warrant issued by a Magistrate in the same manner as in the case of ex-trustees who do not surrender possession of the properties of the institutions to their successors. We have therefore included a suitable provision by enabling the institutions to obtain possession of properties over which there is encroachment, without delay."

20. From the above it is seen that a religious charitable institutions being public institutions with limited funds and the persons who entered upon the properties belonging to these institutions are not vacating the premises and handing over the vacant position after the expiry of lease or licence and subjecting the institutions to the prolonged litigation and heavy costs in the courts, the committee with a view to provide summary procedure for eviction of such persons, suggested the repeal Section 75 of the Act and for incorporation of Section 83 in the new Act, by including an encroacher also for summary eviction. Sub-sections (2), (3) and (4) of Section 83 deal with the procedure for evicting the encroacher which read as follows:

"(2) Where, on a perusal of the report received by him under Sub-section (1), the Deputy Commissioner finds that there is a prima facie case of encroachment, he shall cause to be served upon the encroacher a notice specifying the particulars of the encroachment and calling on him to show cause before a certain date why an order requiring him to remove the encroachment before the date specified in the notice should, not be made. A copy of the notice shall also be sent to the trustee of the institution or endowment concerned.

(3) The notice referred to in Sub-section (2) shall be served in such manner as may be prescribed.

(4) Where after considering the objections, if any, of the encroacher received during the period specified, in the notice referred to in Sub-section (2) and after conducting

such enquiry as may be prescribed, the Deputy Commissioner is satisfied that there has been an encroachment, he may, by order, require the encroacher to remove the encroachment and deliver possession of the land or, building or place encroached upon to the trustee before the date specified, in such order."

21. It is also useful to extract Subsections (3) and (4) of Section 82 of the Act which deal with leases:

"Section 82 (1),....(2).....

(3) The authority to sanction the lease or licence in respect of any property or any right or interest thereon belonging to or given or endowed for the purpose of any charitable or religious institution or endowment, the manner in which and the period for which such lease or licence shall be such as may be prescribed.

(4) Every lease or licence of any immovable property, other than the Agricultural and belonging to, or given or endowed for the purpose of any charitable or religious institution or endowment subsisting on the date of the commencement of this Act, shall continue to be in force subject to the rules as may be prescribed under Subsection (3)."

22. From the above, it is seen that the authority concerned has to prescribe the manner in which and the period for which a lease or licence in respect of any property or any right or interest thereon under Subsection (3). Under Sub-section (4), the lease or licence of any Immovable property subsists on the date of the commencement of the Act, shall continue to be in force subject to the rules as may be prescribed under Sub-section (3).

23. The Government in exercise of rule making powers conferred u/s 97 read with Section 153 of the Act framed rules defining the powers and functions of the Tirumala Tirupathi Devasthanam Board. Chapter XIX deals with lease of lands belonging to the respondent devasthanam. Under Rule 138 any lease of lands, buildings and other Immovable properties belonging to the respondent devasthanam shall be given by public auction held at the place in which the properties are situated or the right exists.

24. From the above it is seen that if the respondent-Devasthanam wants to induct any person into possession or create an interest in the Immovable property belonging to it in favour of any one, it may do so only by way of public auction but not otherwise. To my mind Section 83 of the Act has to be read along with Section 82(3) and (4) of the Act for giving a harmonious interpretation to the provisions of the Act. Otherwise very disastrous consequences will take place as seen in this case. Admittedly the respondent-devasthanam constructed the choultries for providing temporary accommodation for the visiting pilgrims for a limited period usually for 24 hours, and in lean seasons for a longer period either on payment of rent or free of rent depending upon the capacity of the pilgrims, under Rule 13(1)(b) of the

Rules. Allotment of accommodation in these choultries is governed by the T.T.D. Rules and the Board is competent to fix the rent to be collected from the pilgrims for occupation of the rooms in the choultries. As providing of accommodation in the choultry is governed by the policy decision taken by the respondent-devasthanam, to my mind Section 83 of the Act has no application for such accommodation, as it is a stop gap or temporary arrangement made by the respondent-devasthanam for comfortable stay of the pilgrims at the up-hills. In this case also while constructing master drain, as per the master plan for the development of the up-hills as approved by the respondent devasthanam for providing more comforts to the pilgrims, a big land slide has occurred near the houses wherein the appellants were residing and for their safety only they were asked to vacate the premises as they cannot get alternative accommodation, spontaneously as most of the buildings are owned and controlled by the T.T.D. they were temporarily accommodated in the rooms in the new choultry No.1 for a period of three months which are in fact meant for the stay of the pilgrims and as such they cannot be called as licensees to attract the provisions of Section 83 for their eviction. If any contra view is taken and if the Court holds that a person who was provided accommodation for a day or two in any of the choultry and if he refuses to vacate the room after expiry of the time, board has to take recourse to Section 83 of the provisions of the Act, very disastrous consequences will flow and every one can squat in the choultry and refuse to vacate the room meant for providing accommodation to the people that are coming to the up-hills for darshan of Lord Venkateswara who is considered to be the ruling Deity of Kaliyuga the very purpose and object in constructing choultries will be defeated. Hence the procedure contemplated u/s 83 of the Act is meant for the buildings which were given on lease or licence to the outsiders for taking up commercial activities like running hotels, shops etc., but not to the choultries whose accommodation is exclusively meant for the pilgrims and whose allotment is governed by separate rules without reference to Section 83 of the Act. Hence I am inclined to take the view that the procedure laid down in Section 83 of the Act need not be followed by the respondent-devasthanam authorities for getting the occupants of the rooms in the choultry vacated.

25. A Full Bench of this Court in *N. Sarada Mani v. G, Alexander* 1997 (6) ALD 740, while reconciling the extreme situations under which a husband or wife is entitled to seek divorce observed at para 7 as follows:

"We are aware that it is well settled principle of law that while resorting to interpreting some of the provisions of a statute, Courts should be loath and adopt a construction which tends to make any part of the statute otious. Courts should always strive for arriving at a balanced view by adopting the rule of liberal construction so as to ensure its full meaning to all parts of the provision and make as far as possible the whole of it effective and operative. The Courts also would not usually disperse or restructure the section unless it is essential or it is the only rational method by which the whole of it can be given its full meaning and content.

Even when there is causes omissus, it is for the Parliament than Courts to remedy the defect. But, when bad and defective draftsmanship is noticed by the Court very often, it becomes imperative for the Court to probe into the Objects and Reasons and the intention of the Legislature to give effect to the provision instead of declaring it as illegal or unconstitutional. There is a growing necessity for the attitude in changed times to cope with the aspirations and desires of the people having regard to the socio-political and economic developments taking place in the country, which were not existing at the time when the statute was enacted."

Their Lordships further observed at paragraph 11 as follows:-

"Argumentum inconvenient, principle of hardship, absurdity, have no application, while interpreting the statutes. But, however the cardinal principle is that the statute should be interpreted, in such a way as to avoid absurdity and to have harmonious effect. The Court must construe a section, unless it is impossible to do so to make it workable rather than make it meaningless. Thus, an attempt must always be made to reconcile the relevant provision as to advance the remedy by the statute. Therefore, where the literal meaning of the words in a statutory provision, would manifestly defeat its object in making a part of its meaningless and ineffective, it is legitimate and even necessary to adopt the liberal construction so as to give meaning to all parts of the provisions and to make whole of it effective and operative. Especially in cases of Pre-constitutional statutes. Courts are to find and follow the interpretation which will be in tune with the provisions of the Constitution and thereby avoid striking down the Pre-constitutional statute being in conflict with the, Part III of the Constitution. The language of Act is such as to admit of a choice between two constructions, either of which is unreasonable, one ought to unquestionably be inclined to that construction which is in consonance with the common law than to that which is dissonant from it (Rex v. Salisbury (1901) 1 K B 573). Where there is a choice between the adoption of wide and a narrower application, one has to see from the Act whether the narrower or the wider meaning was intended by the Legislature. If the words used are capable of a narrow as well as broad construction, each construction being reasonably possible and it appears that the broad construction would help the furtherance of the object then it would be necessary to prefer the broad construction".

26. The next question that falls for consideration of the Court is whether the appellants can be termed as licensees as contended by the learned Counsel for the appellants. The word "Licence" is defined in Section 52 of the Indian Easements Act, 1982 which read as follows:-

"Where one person grants to another, or to a definite number of other persons, a right to do or continue to do, in or upon the immovable property of the grantor, something which would in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a licence."

27. From the above it is seen that a person has to be granted a right to do or continue to do in or upon the properties of the grantor and in the absence of granting such a right, the activities of the persons in possession of the Immovable properties becomes unlawful. In other words, the grantor should not only permit the grantee to occupy the Immovable property but he should be allowed to do something more than mere occupation of the lands like planting trees, doing commercial activities by raising structures etc.

28. The learned Counsel for the appellants contends that the grantor has permitted the licensees to do some commercial activities or the other. Admittedly in this case except allowing the appellants to stay in the rooms of the choultry for a temporary period they were not allowed to do or continue to do any commercial activity in the said rooms. The said positions is made clear in Section 60(b) of the Easements Act which is to the following effect.

"60. Licence when revocable :--A licence may be revoked by the grantor, unless--

(a) it is coupled with a transfer of property and such transfer is in force.

(b) the licensee, acting upon the licence, has executed a work of a permanent character and incurred expenses in the execution."

29. I have gone through the case law cited by the learned counsel for the appellants so meticulously as his argument was attractive in the first instance and look considerable time to see whether any case cited by the learned Counsel for the appellants is nearer to the facts of the case. Admittedly whether it is a lease or licence, certain interest or rights to be granted to the lessee or licensee and when the owner of the property tried to take possession of the property, the Apex Court as well as other High Courts held that even after the expiry of lease or licence the, real owner cannot take possession of the property from the lessee or licensee highhandedly without following the procedure prescribed for recovery of possession. As stated supra, had Section 83 not been there and the lessee or the licensee refuses to vacate the premises after expiry of lease or licence, the respondent-Board has to approach the Court of law seeking eviction of the person from the premises which is a long drawn process. That is why Section 83 of the Act was introduced providing summary procedure for eviction of persons whose lease, mortgage or licence expired or a person who entered upon the land unauthorisedly and declared as encroacher, without recourse to common law Courts for their eviction. Hence to my mind as the grantee not parted with the possession of the Immovable property coupled with any grant the appellants cannot be treated as licensees so as to attract the procedure prescribed u/s 83 of the Act for their eviction.

30. The next question that falls for consideration is whether the casual act of possession can amount to settled possession as the possession of the inductee has to be treated as permissive.

31. The Apex Court in [Ram Rattan and Others Vs. State of Uttar Pradesh](#), while considering the issue whether a trespasser can have recourse to right of private defence while resisting the true owner from dispossessing him, laid down the following guidelines at para 4 of the judgment entitling the trespasser to exercise the right of private defence:

"(i) that the trespasser must be in actual physical possession property over a sufficiently long period;

(ii) that the possession must be to the knowledge either express or implied of the owner or without any attempt at concealment and which contains an element of animus possidendi. The nature of possession of the trespasser would however be a matter to be decided on facts and circumstances of each case;

(iii) the process of dispossession of the true owner by the trespasser must be complete and final and must be acquiesced in by the true owner, and

(iv) that one of the usual tests to determine the quality of settled possession, in the case of culturable land, would be whether or not the trespasser, after having taken possession, had grown any crop. If the crop had been grown by the trespasser, then even the true owner has no right to destroy the crop grown by the trespasser and take forcible possession, in which case the trespasser will have a right of private defence and the true owner will have no right, of private defence."

32. It is true that in this case their lordships declared that trespasser who is in possession of the property for two or three weeks before the occurrence is in settled possession and he cannot be evicted without recourse to the remedies available under law. In that case their Lordships mainly held that the persons were in settled possession of the property as they grown crop though the other conditions stipulated for holding that the person is in settled possession are not fulfilled. The facts and circumstances are altogether different. The appellants were not in possession of the property for a sufficiently long period to take a stand that they are in possession of the property as trespassers to the knowledge of the true owner nor there was a dispossession of the true owner as complete and final and the owner acquiesced his right. Hence this decision is not of much help to the appellant.

33. Justice S.S.M. Quadri as he then was in *Balineni Sivani v. Boddurla Kommaiah* 1990 (2) APLJ 516, while dealing with the scope of Sections 38 and 41 of the Specific Relief Act, held at para 11 of the judgment that: "in the light of the language of Section 41(1) of the Specific Relief Act "when the conduct of the plaintiff or his agents has been such as to disentitle him to the assistance of the Court: an injunction cannot be granted." His Lordship further held at para 13 "that when a person in possession by virtue of the permission granted by the real owner, he cannot be allowed to turn round and say that even if permission is withdrawn he will not vacate the land and is entitled to protect his possession and obtain injunction against the real owner on the ground that the owners remedy is to file a suit and

evict the licensee. As stated above, there is no legal or equitable right of licensee after the licence is withdrawn to remain in possession of the land the owner has a right to reentry". His Lordship further observed "that equitable relief of injunction is granted to protect legal right or a equitable right, but to defeat them and a relief in equity cannot be granted to bring un-equitable result equitable."

34. I am in respectable agreement with the above proposition of law. Following the above principle I hold that the appellants having entered the rooms with the permission of the real owner, after expiry of the period, cannot refuse to vacate the rooms by contending that the real owner cannot evict them without approaching the Deputy Commissioner u/s 83 of the Act, more so having dragged on the litigation for over 7 years and continued in possession of the rooms without paying any rent.

35. In the result, I do not find any merits in the second appeal and it is liable to be dismissed.

36. Accordingly, the second appeal is dismissed at the admission stage itself after bearing both the Counsel at length. No costs.