

**1. Mariammal Vs. Narayanan**

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**SooperKanoon Citation :** [sooperkanoon.com/50561](http://sooperkanoon.com/50561)

**Court :** Chennai

**Decided On :** Mar-31-2015

**Judge :** The Honourable Mrs.Justice Pushpa Sathyanarayana

**Appellant :** 1. Mariammal

**Respondent :** Narayanan

**Judgement :**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

31. 3.2015 CORAM THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA C.R.P.NPD (MD) Nos.420 of 2006 and 421 of 2006 C.R.P.NPD (MD) No.420 of 2006 1. Mariammal 2. Muthusamy Asari ... Petitioners Vs Narayanan ... Respondent Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 against the fair and decreetal order passed in R.C.A.No.33 of 2004 on the file of the Rent Control Appellate Authority (Sub- Court), Tuticorin dated 2/2/2006, confirming the fair and decreetal order passed in R.C.O.P.No.3 of 2004 on the file of the Rent Controller (Principal District Munsif Court), Tuticorin dated 22/9/2004. C.R.P.NPD (MD) No.421 of 2006 1. Muthusamy Asari 2. Mariammal ... Petitioners Vs Narayanan ... Respondent Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 against the fair and decreetal order passed in R.C.A.No.34 of 2004 on the file of the Rent Control Appellate Authority (Sub- Court), Tuticorin dated 2/2/2006, confirming the fair and decreetal order passed in R.C.O.P.No.20

of 2004 on the file of the Rent Controller (Principal District Munsif Court), Tuticorin dated 22/9/2004. !For petitioners ... Mr.M.P.Senthil for Mr.Prabhu Rajadurai ^For respondent ... Mr.Parthasarathy Senior Counsel for Mr.S.Sivathilagar :COMMON

## ORDER

The tenants are the revision petitioners in both the revisions.

2. R.C.O.P.No.20 is filed by the landlord for eviction on the ground of owners occupation which was allowed by the Rent Controller and on appeal in R.C.A.No.34 of 2004, the same was confirmed.

3. R.C.O.P.No.3 of 2004 was filed by the landlord on the ground of willful default and demolition and reconstruction which was allowed by the Rent Controller and on appeal in R.C.A.No.33 of 2004, the same was confirmed.

4. Aggrieved by the order of the Appellate Authority, the tenant has preferred the above Civil Revision Petitions.

5. The rent for the premises is Rs.700/- per month which is payable on or before 10th of the following month and a sum of Rs.5,000/- was given as advance to the landlord. From January 1999, the tenants defaulted the payment of rent. Earlier, there was O.P filed by the landlord on the ground of owners occupation, which was dismissed by both the Rent Controller as well as the Appellate Authority. On the strength of the same, the tenants further defaulted in payment of the rent.

6. So far as the question of owners occupation is concerned, the building is an old one and the landlord is having sufficient funds for raising a new building. Admittedly, the landlord also does not have any other property of his own in the same town. Hence wanted the premises for demolition and reconstruction and for owners occupation.

7. The Rent Controller as well as the Appellate Authority, after considering the facts, evidence and documents, allowed the order of eviction.

8. Heard the learned counsel appearing for the petitioners and the respondent.

9. The only question that has to be decided is whether the tenant has to be evicted from the premises.

10. According to the landlord, there was a default on payment of rent. But the defendant contended that the tenant refused to receive the amount which was paid in lumpsum in four or five months. Therefore, from the conduct of the tenants, it is clear that they had not been regular in paying the rent as they had been remitting the same only in the lumpsum.

11. So far as the question of demolition and reconstruction is concerned, the landlord wanted to pull down the old structure and construct a new building. The intention of the landlord is evident from Ex.P.1 which is the sanctioned plan for putting up a new construction.

12. It is useful to refer to the decision P.S.PAREED KAKA AND OTHERS Vs. SHAFEE AHMED SAHED reported in {2004 (2) CTC ? 364}, wherein in paragraph 11, it has been held as follows:- ?Law is well settled on this aspect. Even if the building is in a good condition, if it is not suitable for the requirement of the landlord, he can always demolish even a good building and put up a new building to suit his requirements. It is not necessary for the landlord to prove that the condition of the building is such that it requires immediate demolition, particularly when the premises is required by the landlord. Therefore, it has to be held that the finding of the trial Court cannot be sustained and the High Court on re=appreciation of the evidence, rightly so, held that the landlord has established that his need for all the four petition schedule premises is bona fide and reasonable.?

13. In view of the above, even if the building is not in a very bad shape, if the landlord requires it to be demolished and reconstructed, the tenant cannot stall the same. 13 a. Apart from age and condition of the building the capacity of the landlord to demolish and reconstruct the useful utilization of the property after reconstruction and the desire of the landlord to earn economic advantage are also relevant factors to consider the bona fide requirement. In the present case, the landlord had in fact offered Ex.P.1 sanctioned plan for the construction. The means of the landlord also was not doubted and there is truthfulness in the

statement of the landlord.

14. So far as the question of owners occupation is concerned, it was contended by the learned counsel for the tenants that there is no bona fides in the claim of the landlord that he has got several other properties owned by him in the same town. However, the tenants had not established the said fact that the landlord has got several other properties in the same town and therefore, his requirement is not bona fide. The allegation of the tenants that the landlord had released the right in the property in which the landlord is staying in favour of his own brother, who in turn had demanded the vacation of the premises in the occupation of the landlord.

15. According to the tenants, the above transactions are mischievous as the landlord with an intention to evict the tenants has deliberately transferred the title in favour of his brother and staged a make believe story of eviction which is lost sight of by the authorities below.

16. The tenants further contended that they were the original owners of the demised premises and the land lord had purchased it from the first petitioner on 29/11/1995. The tenants continued to be in the premises for rent even from the date of purchase. However, when the authorities below have found that the landlord has got no other properties of his own and he also required the same for his own occupation after demolishing and reconstructing the same, the tenants cannot have any objection.

17. So far as the default is concerned also, the authorities below have correctly held that admittedly, the tenants had been paying the rent only in lumpsum and this conduct of the tenants is unacceptable. Hence they are liable to be evicted.

18. As the landlord had established his case on all the three grounds of eviction on which the authorities below are correct in ordering eviction which does not require any interference.

19. Accordingly, the Civil Revision Petitions are dismissed. As the tenants had been in the premises for several decades, the learned counsel for the tenant requested for one year time to hand over the possession. But, the learned counsel

for the landlord opposed the same and agreed for a maximum time of six months. However, considering the age of the tenants, this Court is inclined to grant eight months time, subject to the condition that the tenant files an affidavit of undertaking within two weeks from the date of receipt of the copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed. 31/3/2015 mvs. Index: Yes/No website: Yes/No To 1. The Rent Control Appellate Authority (Sub-Court), Tuticorin 2. The Rent Controller (Principal District Munsif Court), Tuticorin PUSHPA SATHYANARAYANA,J mvs. C.R.P.NPD (MD) Nos.420 and 421 of 2006 31/3/2015

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