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In Re: E.B. Nagaratnammal

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Court : Chennai

Decided On : Dec-05-1949

Reported in : AIR1950Mad432

Judge : Panchapakesa Ayyar, J.

Acts : Madras Buildings Lease and Rent Control Act, 1946 - Sections 3 and 3(1)

Appeal No. : Criminal Revn. Case No. 1553 and Cri. Revn. Petn. No. 1470 of 1949

Appellant : In Re: E.B. Nagaratnammal

Advocate for Pet/Ap. : J. Seethamahalakshmi, Adv.;Crown Prosecutor

Judgement :
ORDER

Panchapakesa Ayyar, J.

1. The conviction of the petitioner was undoubtedly correct. An exchange of buildings by two persons inevitably involves the vacancies of both buildings. A vacates building A, B vacates building B then A occupies building B, and B occupies building A. The mere naming of such a double vacancy and double occupation as an exchange cannot alter the facts. So the petitioner was bound to notify the vacancy of the Rs. 35/- building to the Controller and take his permission

to occupy it instead of quietly occupying it herself.

2. I have held already in two recent cases that 'rent' under Section 3 (2) means the 'actual rent' paid or payable, and not a 'fair rent' when none has been fixed. Surely, a person receiving from another Rs. 35/- as rent in hard cash cannot be allowed to quibble and say that the actual rent will be much less. The rule that a person cannot approbate and reprobate or blow hot and cold in the same breath will apply here also.

3. So, I confirm the petitioner's conviction, but, in the peculiar circumstances, reduce the fine to Rs. 10/- or in default, simple imprisonment for a week. The excess fine, if paid, will be refunded.

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