

**The Bhagat Estates Ltd. Vs. the Accommodation Controller, Madras**

**The Bhagat Estates Ltd. Vs. the Accommodation Controller, Madras**

**SooperKanoon Citation :** [sooperkanoon.com/791885](http://sooperkanoon.com/791885)

**Court :** Chennai

**Decided On :** Feb-15-1952

**Reported in :** AIR1953Mad390; (1952)1MLJ403

**Judge :** Subba Rao, J.

**Acts :** Madras Buildings (Lease and Rent Control) (Amendment) Act, 1951 -  
Sections 3

**Appeal No. :** Writ Petn. No. 805 of 1951

**Appellant :** The Bhagat Estates Ltd.

**Respondent :** The Accommodation Controller, Madras

**Advocate for Def. :** V.P. Sarathi, Adv. for Govt. Pleader

**Advocate for Pet/Ap. :** M.A. Ghatala, Adv.

**Disposition :** Petition allowed

**Judgement :**

ORDER

**Subba Rao, J.**

1. This is an application for issuing a writ of certiorari to quash the order of the Accommodation Controller of Madras dated 4-12-1951. The petitioners are the

owners of premises No. 79-A and B, Sembudoss Street, G. T., Madras. It fell vacant on or about 24-9-1951. The petitioners gave notice of vacancy to the Accommodation Controller by letter dated 24-9-1951. On 6-10-1951, they informed the Accommodation Controller that the notice was given under a mistaken impression that the rent was about Rs. 26-10-0. The petitioners let that room to A. A. Kapodia and he has been occupying that room with his family. On 10-12-1951, i.e., three months after the notice of vacancy was given, the petitioners received a notice by the Accommodation Controller under Section 3(8) of the Act, demanding delivery of immediate possession within seven days of the receipt of the said notice. The petitioners complain that the rent of the premises in question does not exceed Rs. 25 and, therefore, the Accommodation Controller has no jurisdiction to issue the said order.

2. The relevant provisions of the Act are as follows :

'3(1)(a). Every landlord shall, within seven days after the building becomes vacant by his ceasing to occupy it, or by the termination of a tenancy, or by release from requisition give notice of the vacancy in writing to the officer authorised in that behalf by the State Government;

Provided that this sub-section shall not apply to a building in respect of which the landlord has obtained an order for possession on any of the grounds specified in Section 7, sub-Section (3).'

3(5). If the building is required for any of the purposes, or for occupation by any of the officers, specified in Sub-section (3), the landlord shall deliver possession of the building to the authorised officer and the State Government shall be deemed to be the tenant of the landlord) with retrospective effect from the date on which the authorised officer received notice under Sub-section (1) or Sub-section (2), the terms of the tenancy being such as may be agreed upon between the landlord and the tenant and in default of an agreement, as may be determined by the City Civil Court in the City of Madras and elsewhere by the Subordinate Judge's Court having original jurisdiction over the area in which the building is situated or, if there is no such Court, by the District Court;'

Provided that the rent payable shall be the fair rent, if any, fixed for the building under the provisions of this Act; and if no fair rent has been so fixed, such fair rent as may be determined by the Court aforesaid in accordance with the provisions of this Act;'

Section 3(9). Nothing contained in this section shall apply-

(a) to a residential building the monthly rent of which does not exceed twenty-five rupees; or

(b) to a non-residential building the monthly rent of which does not exceed fifty rupees; or

(c) to any building or buildings in the same city, town or village, owned . by any company, association or firm, whether incorporated or not, and bona fide intended solely for the occupation of its officers, servants or agents.'

3. It is clear from the aforesaid provisions that the Accommodation Controller has no jurisdiction to act under this section unless the monthly rent of the building is more than Rs. 25. When the petitioners took the objection that he had no jurisdiction, the Accommodation Controller should have found, on the material furnished by the petitioners, whether the rent of the premises was more than Rs. 25. When a statute confers jurisdiction upon a tribunal, subject to a condition, the tribunal cannot exercise the jurisdiction unless the condition exists. The order of the Accommodation Controller is quashed and he is directed to decide, whether the monthly rent of the premises in question is more than Rs. 25. This petition is allowed, but as the petitioners themselves issued the notice to the Accommodation Controller under Section 3(1) of the Act, this is not a fit case for awarding costs.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**