

**Vincent Vs. T. Raman**

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**Court :** Chennai

**Decided On :** Jul-06-1979

**Reported in :** AIR1980Mad100

**Judge :** Ramaprasada Rao, J.

**Acts :** Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 - Sections 10(3)

**Appeal No. :** C.R.P. No. 2950 of 1976

**Appellant :** Vincent

**Respondent :** T. Raman

**Advocate for Def. :** T.R. Srinivasan and ;Ramamurthy, Advs.

**Advocate for Pet/Ap. :** E.S. Venkatesan and ;S.J. Jayadeo, Advs.

**Judgement :**

ORDER

1. The petitioner is the land lord. He filed an application under Section 10(3)(a)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960, to evict the respondent tenant, on the ground that the petitioner required the premises for his own occupation and that such requirement was bona fide. Incidentally the question was raised in the course of the trial whether the petitioner had the status of a land lord and whether there was a valid termination of tenancy. Both the Rent

Controller and the Appellate Authority found that the petitioner was a landlord within the meaning of the Act and that there had been a valid notice of determination of tenancy. But on the question whether the requirement by the petitioner of the premises for his own occupation was bona fide or not, the Rent Controller held in favour of the land lord-petitioner, but the Appellate Authority held against him. The only ground on which the Appellate Authority held against the landlord-petitioner was that he had failed to prove that he was living as a tenant paying rent to the relative of the landlord and that, in the absence of proof of payment of rent to another landlord, the fact that the petitioner was residing with his aunt would not suffice to satisfy the requirement of Section 10(3)(a)(i) of the Act. In this sense, though the Appellate Authority held that the petition was otherwise bona fide, it was not satisfied that the petition was maintainable, because there was no evidence of payment of rent by the petitioner to a third party for his occupation of premises elsewhere. It is as against this, the present civil revision petition has been filed.

2. Section 10(3)(a)(i) of the Act to very clear, that a landlord may apply to the Controller for an order directing the tenant to put the landlord in possession of the building, in case it is a residential building, if the landlord requires it for his own occupation and if he is not occupying a residential building of his own in the city. Therefore the primary requirement is that the landlord should not occupy a residential building of his own. Every person should have a shelter and if he secures such a shelter with a close relation of his, it is not an equation for saying that he is occupying a residential building of his own. The accent should not be on the payment of rent or non-payment of rent to the landlord for the premises which he is occupying, but the accent should be on the fact whether the building in which he is residing or which he is occupying is his own or not. Indisputably the other property in question belongs to the aunt of the petitioner and it is in evidence that the petitioner was residing with his aunt from his childhood and that he required his own premises, now in the occupation of the tenant, for the purpose of his own independent living. The finding of the Rent Controller that the requirement of the petitioner is bona fide is based on acceptable material and the conclusion of the Appellate Authority is, not supportable. This is because of two reasons. Firstly, the Appellate Authority thought that, if the landlord wanted to get possession of his

own building he must prove that he is residing in a rented premises paying rent to the owner of that building which he is occupying. The Appellate Authority was of the view that, even though the petitioner was residing with a close relation of his, since he was not paying rent for such occupation, he would not be entitled to seek for possession of his own building. The language of Section 10(3)(a)(1) does not lend support to such a conclusion.

3. The second ground on which the Appellate Authority rejected the evidence of P. W. I (petitioner) was that he was bent upon evicting the respondent in order to sell the property for a higher price, after getting vacant possession. There is not sufficient material for the Appellate Authority to come to such a conclusion. I agree with the Rent Controller that the requirement of the petitioner is bona fide. The civil revision petition is therefore allowed and the order of the Appellate Authority is set aside. There will be no order as to costs.

4. Learned counsel for the respondent seeks for time to surrender possession. The respondent is given three months' time to vacate.

5. Revision allowed.

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