In Re: A.M. Hussain

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SooperKanoon Citation : sooperkanoon.com/803261

Court : Chennai

Decided On : Mar-04-1966

Reported in : (1966)2MLJ97

Appellant : In Re: A.M. Hussain

Judgement :
ORDER

M. Anantanarayanan, O.C.J.

1. Upon the evidence, it appears to me that the learned Chief Presidency Magistrate was perfectly justified in convicting the revision petitioner (A.M. Hussain) under Section 3(5) of the Madras Buildings (Lease and Rent Control) Act, 1960, read with Section 33.

2. The facts, as they appear in the record, do not seem to be capable of being controverted at all. They are so clear and definite. It has to be conceded that this landlord (revision petitioner) duly notified the vacancy of this residential house, and an Inspector has inspected the house on 28th March, 1964, and made a report ' about the state of the building and the fixtures. The new tenant, to whom the premises had been allotted by the Accommodation Controller, paid the advance, and made an inspection of the building as a preliminary measure, before entering into occupation. He went to the house on 5th April, 1964, established contact with the landlord (revision petitioner) and gave Rs. 100 as advance, which was accepted. On the same day, according to P.W. 1, the revision petitioner told him

that the building was not in good condition and that he (the tenant) should decline to occupy it, as it was unfit for occupation. On the evening of 5th April, 1964, the tenant again came to the building, and saw that the building had been altered into a state of considerable disrepair. Electrical fittings, domes, etc., had been removed, the doors were dismounted and kept aside, and the tap had been removed. The tenant made a complaint, upon which this prosecution followed under Section 3(5), which is to the effect that the landlord is bound to deliver possession of the building and the fixtures ' in good tenantable repair and condition to the authorised officer or to the allottee '. The conviction is for this offence, and a fine of Rs. 200 was imposed.

3. The main argument of learned Counsel for the revision petitioner is that his client is a Senior Development Officer of the Life Insurance Corporation, a person of respectability and responsibility, who is hardly likely to cause damage to his own building, in order to render it uninhabitable by the allottee. Unfortunately, it is not possible to proceed into this aspect in any depth, for the simple reason that this would be sheer speculation. The logic of the facts, as established by the evidence, leads only to one conclusion. The fixtures and doors were there a few days earlier and, the Inspector found, everything intact. The key was with the landlord, and he was in control of the building, and that is not in dispute. It is not alleged, for instance, that anyone else broke into the building, or that there were signs of unauthorised entry by third parties. When the tenant went in on the evening of the 5th April, as I have earlier stated, he found the building uninhabitable, and the fixtures and fittings had been removed to such an extent, as to render it uninhabitable. Normally, I would be reluctant to draw an inference against the landlord, merely because of these facts. But, certainly, one would expect the landlord, who had possession and control of the building, to give some explanation for the disappearance of the fixtures, and for the removed doors. If that state of considerable disrepair had come into existence on or before the 5th April, without the knowledge of the landlord, or his connivance, there should be at least some explanation of how such a state of affairs came into existence. As the section stands, it is impossible to expect direct evidence of the alteration of the state of the building by the landlord. There can only be evidence as in this case, based on the actual disrepair found, compared to an earlier stage when the fittings and fixtures

were intact, and during a time when the building was in the entire control and possession of the landlord. That is precisely the evidence that has been adduced here. The landlord has not given any explanation whatever for the altered state of affairs. He denied that the fixtures were there, and that the building was in any different state under the previous tenant; here, he is totally contradicted by the evidence.

4. Under the circumstances, I must confirm the conviction, as the evidence on record amply justifies it. It is indeed difficult to believe that a responsible officer has wilfully worsened the state of the building, which might involve considerable expenditure for himself subsequently, just in order to prevent a tenancy, and so that he might obtain some higher rent. But it is not without significance that the landlord was disputing the quantum of rental, and that he was also attempting to obtain a release of the building from the operation of the Act, according to the very admissions of his learned Counsel. However, I think that the landlord would have learnt a lesson by this prosecution, and will hereafter enforce his rights and carry out his obligations within the ambit of the law, and not by disregarding or contravening the law. For this reason, I reduce the fine imposed in this case to one of Rs. 75, or, in default, to the same period of simple imprisonment. The excess amount of fine, if paid, will be refunded.