

S. Misirilal Vs. the Accommodation Controller

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Court : Chennai

Decided On : Mar-31-1977

Reported in : (1978)1MLJ52

Appellant : S. Misirilal

Respondent : The Accommodation Controller

Judgement :

ORDER

A.D. Koshal, J.

1. In the year 1972, the petitioner made an application to the Accommodation Controller Madras, under Section 12(i)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (here in after referred to as the Act) praying for the release of a building bearing No. 5 and situated in Kollamman Koil Street, Madras. That application was rejected through an order dated the 18th of December, 1972 passed by the Accommodation Controller on the ground that a similar application had been rejected by his predecessor in office on the 19th of March, 19/2 for the reason that the building was in a good condition. It is the said order dated the 18th of December 1972 by which the petitioner feels aggrieved and in this petition under Article 226 of the Constitution of India he prays that the Accommodation Controller be directed by a writ of mandamus to release the building under the said section of the Act.

2. The relevant portion of Section 12 of the Act is reproduced below :

12. (1) Notwithstanding anything contained in this Act on an application made by a landlord of a building in respect of which the Government shall be deemed to be the tenant, the authorized officer shall, if he is satisfied:

(a)....

(b) that the building is bona fide required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the site of the building sought to be demolished, pass an order directing the allottee to deliver possession of the building to the landlord before a specified date.

Under Clause (b) above extracted all that the landlord is to prove is that his requirement of the building for demolishing, it for the purpose of erecting a new building on the site thereof is bona fide, that is genuine. In interpreting a similar provision contained in Sub-section (1) of Section 21 of the Mysore Rent Control Act, their Lordships of the Supreme Court held in Messrs P.N. Shenoy v. B.V. Shenoy : [1970]3SCR734 , that the landlord's bona fides have to be judged by the surrounding circumstances which will include his means for reconstruction of the building and other steps taken by him in that regard and that the condition of the building was not a relevant consideration for the determination of such bona fides. Their Lordships referred to Clause (t) of Sub-section (i) of Section 14 of the Act, the language of which is identical with that of Clause (b) above extracted and observed that a landlord could recover possession of his property for the purpose of reconstruction under Section 14(i)(b) in order to put the property to a more profitable use and. that there was no justification for putting a narrow interpretation thereon. Section 12(i)(b) of the Act must, therefore, be interpreted in the same manner viz., so as mean that the condition of a building is not a relevant consideration for the purpose of deciding an application thereunder.

3. For the reasons stated, the impugned order cannot be sustained and is hereby set aside. However, the relief sought by the petitioner cannot be granted to him, because it is for the Accommodation Controller to decide his application with

reference to relevant considerations. Accordingly the Accommodation Controller is directed to decide the petitioner's application over again and expeditiously in the light of the observations made above and in accordance with law. The parties are left to bear their own costs.

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