

K. Ramachandra Rao Vs. Krishnaswami Iyengar and ors.

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Court : Chennai

Decided On : Jul-04-1975

Reported in : (1976)1MLJ267

Appellant : K. Ramachandra Rao

Respondent : Krishnaswami Iyengar and ors.

Judgement :

ORDER

A Varadarajan, J.

1. This petition is to revise the judgment of the learned District Judge, West Thanjavur (Revisional Authority) made in C.R.P. No. 2 of 1973 in which the learned Judge has ordered eviction of the petitioner on the ground that the building occupied by him for the purpose of his business is required bona fide by the respondent for the purpose of demolition and re-construction.

2. The respondent filed the eviction petition R.C.O.P. No. 137 of 1969 before the Rent Controller, Kumbakonam under Section 14(1)(b) alleging that the building is in very bad state of repairs and requires to be immediately pulled down and re-constructed and that he therefore requires the building for the purpose of demolition and re-construction. The learned Rent Controller did not give any specific finding regarding the condition of the building but allowed the petition observing that there is nothing uncommon in the petitioner before him requiring the building for demolition and reconstruction and that under these circumstances he has no reason to doubt the honesty and bona fides of the petitioner before him. But on appeal, the Appellate Authority (Subordinate Judge of Kumbakonam) in C.M.A. No. 49 of 1971 came to a different conclusion and allowed the appeal and dismissed the petition. He has taken note of the case of the respective parties by observing that while it is the case of the petitioner before the Rent Controller that the building was in a dilapidated condition and required immediate demolition and reconstruction, the respondent before the Controller contended that the building is in a good condition and that he had also improved it by spending about Rs. 2,000. The witness examined on behalf of the landlord had not gone inside the building and did not know anything about its actual condition. But he has admitted that the building is fit for the tenant's furniture business and that the tenant had also put up a terrace to the building. No doubt, the tenant had admitted that originally the building was constructed about 50 years ago. However, in the opinion of the learned Appellate Authority the testimony of the tenant proved that the building is in a good condition and that he had also improved it by spending some amounts. He has drawn the inference that since the tenant is running a furniture mart in the building it can also be safely inferred that the building is in

fact, in good condition and that otherwise the furniture mart cannot be run in the building. In these circumstances the learned Appellate Authority has expressed the view that the landlord has not satisfactorily proved that the building is really in need of immediate demolition and reconstruction. In that view he allowed the appeal and dismissed the petition as stated above. But the Revisional Authority appears to have not taken into consideration the evidence of R.W. 1 that he had terraced the building; and has observed in his judgment that the building itself is a tiled one. He has not given any finding regarding the condition of the building but has observed that he does not see any oblique motive in the petition for eviction. In that view he held that the requirement of the landlord was bona fide and ordered eviction.

3. The learned District Judge has not got any satisfactory reason for differing from the learned Appellate Authority on the question that the building is not in such condition as to require immediate demolition and reconstruction and for taking a different view that the landlord requires the petition-mentioned building bona fide for the purpose of immediate demolition and reconstruction. It is not possible to agree with the learned Counsel for the respondent that the bona fides should be inferred from the other circumstances proved by the landlord, namely, his means and the fact that he has obtained the necessary licence from the Municipality for demolition and reconstruction. But he has not cited any authority in which it was the case of the landlord that the building was in a dilapidated condition and that it has been found by the trial Court and the Appellate Authority to be not so but to be in a good condition and still it has been held that the requirement of the landlord is bona fide. He however, relies on the decisions in *David v. Daniel* (1967) 1 M.L.J. 110, and *Appavu, Gramani and Anr. v. Jayalakshmi Amma* : (1971)2MLJ296 , but they do not help the case of the landlord. In my view, it is not possible to hold that the requirement of a landlord who has no doubt the means and has obtained the necessary licence from the concerned authorities is bona fide where his case in the petition for eviction is that the building is old and in a dilapidated condition and that he therefore requires it for purposes of immediate demolition and reconstruction and that allegation has not been substantiated but has been found to be otherwise in that the building has been found to be in a sound condition although it is about 50 years old. In these circumstances it is not possible to uphold the Judgment of the learned District Judge.

4. The petition is allowed with costs throughout.

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