

Madras High Court

A. Narasimhan vs N. Janardhanan on 13 August, 1982

Equivalent citations: (1983) 2 MLJ 164

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ORDER S. Nainar Sundaram, J.

1. The tenant within the meaning of the Tamil Nadu Buildings (Lease and Rent Control) Act XVIII of 1960, hereinafter referred to as the Act is petitioner. The respondent herein is the landlord. The landlord sought the eviction of the tenant on two grounds: (1) requirement of the building for demolition and reconstruction; and (2) wilful default in the payment of rents for 15 months.

2. The tenant contested the petition for eviction. The Rent Controller countenanced only the second ground viz., wilful default in the payment of rents and ordered eviction of the tenant. The tenant appealed and the Appellate Authority has also chosen to confirm the order of eviction.

3. Mr. S. Srinivasan, learned Counsel appearing for the tenant would submit that there are significant features brought out in evidence, which would demonstrate that the tenant could not be characterised as a wilful defaulter in the payment of rent. First the learned Counsel refers to the previous proceedings between the parties under the Act and submits that on the termination of the previous proceedings the tenant issued a notice as per Exhibit B-2 dated 16th October, 1975 asking the landlord as to whether he is prepared to receive the rent and the landlord received the rent as per Exhibit B-1, the endorsement-cum-receipt on Exhibit B-2 bearing the date 17th October, 1975. This is of no consequence at all, because the default commenced only thereafter and continued upto January, 1971. Then, the learned Counsel for the petitioner would submit that in reply to the notice issued by the landlord on 13th January, 1977 under the original of Exhibit A-4, the tenant had sent a reply on 29th November, 1977 as per Exhibit A-5 forwarding a deaft covering the arrears of rent. This also could not be taken as a factor ameliorative of wilful default, which has already occurred continuously for a long period. The learned Counsel would further submits that the Rent Controller was not correct in stating that the tenant put forth a case that he tendered the rents through one Ramaswami Chettiers. Even assuming that this reasoning of the Rent Controller is not correct, the tenant has no convincing Explanation for withholding the rents from November, 1975 to January, 1977. The question of wilful default has been gone into in detail by the two forums constituted under the Act and sitting in revision, it is not possible for this Court to disturb this concurrent finding of fact. As held by the Supreme Court in Sri Raja Lakshmi Dyeing Works and Ors. Rangaswamy Chettier a concurrent finding based on evidence is not a finding, which can be touched by the High Court exercising jurisdiction under Section 25 of the Act. The Supreme Court has already laid down that despite the wide language employed in Section 25 of the Act, the High Court should not interfere with findings of fact merely because it does not agree with the findings of the subordinate authority. If this ratio is applied to the facts of the instant case, I could not persuade myself to interfere in revision.

The Civil Revision Petition is dismissed. No costs.