

M.S. Ummar Sahib vs M.P. Stanes And S. Richards on 25 May, 2004

Equivalent citations: (2004)3MLJ150

ORDER

S. Sardar Zackria Hussain, J.

1. The tenant is the revision petitioner in both the Civil Revision Petitions. These Civil Revision Petitions are directed against the order of eviction passed by the Rent Control Appellate Authority in Rent Control Appeals preferred by landlords against the denial of eviction by the Rent Controller on the grounds of own use and occupation and for demolition and reconstruction as sought in the Rent Control Original Petitions and also on the ground of denial of title in respect of the superstructure, which was not sought for in the petitions. Aggrieved at the order of eviction, as a whole, passed by the Rent Control Appellate Authority, the tenant has filed these revision petitions.

2. The respondent in C.R.P. No. 1569 of 2000, who filed R.C.O.P. No. 353 of 1997, is the father of the respondent in C.R.P. No. 1570 of 2000, who filed R.C.O.P. No. 351 of 1997, and both of them claim that they are the owners of the petition non-residential building, which is the subject matter of these revision petitions, in view of the purchase as per Sale Deeds dated 05.3.1997 and 23.4.1997 from S. Rafi Ahmed and his sister Sumaiya Ijaz respectively. In the Rent control Original Petitions, it is stated that the revision petitioner became a tenant in respect of both the petition mentioned non-residential premises under the original owner Syed Abdul Subban and is carrying on business in the name and style of 'Naaz Timber and Sanitary Ware'. Both the properties were settled by Syed Abdul Subban, who is the paternal grandfather of the vendors, viz., S.Rafi Ahmed ad Sumaiya Ijaz, as per registered Settlement Deeds, the xerox copy of which were marked as Exs. A.1 and A.26 respectively dated 12.4.1975. It is the further case of the landlords that after purchase of the properties by the landlords, the revision petitioner / tenant attorned tenancy and paid rent at the rate of Rs. 725/- per month. Jacintha Mary, who is the wife of the respondent in the earlier revision petition and the mother of the respondent in the latter revision petition, is carrying on business under the name and style of 'Richard Corporation' at Mill Road, Coimbatore. The landlord of the said building has filed the eviction petition in R.C.O.P. No. 304 of 1994 and the same is pending. The properties in respect of both the petitions have been purchased only to accommodate the business carried out by Jacintha Mary, being the most suitable place for hardwares, paints and cement items and they are not in occupation of any non-residential building in the Coimbatore City. Therefore, both the premises are required for own use and occupation by the landlords to carry on business by Jacintha Mary, which is carried on from 1974. The buildings mentioned in both the petition premises are old and require demolition. The roof of the buildings is covered by Mangalore Tiles and Asbestos Sheets and they are in broken condition. Both the premises are located in a very important commercial area, where several modern buildings have come up. It is stated that they

have taken steps to obtain necessary approved plan from Corporation authority and they have obtained estimation from the Engineer and they have got sufficient funds to demolish and to put up construction in the petition premises. The petitioners undertake to carry out the demolition work within one month and complete the same within three months as contemplated under the Tamil Nadu Buildings (Lease and Rent Control) Act (hereinafter referred to as 'the Act'). The revision petitioner / tenant has got building of his own adjacent to the Eastern side of the petition mentioned premises. The lawyer's notice dated 27.10.1997 was returned unserved as 'not claimed'. After purchase of the petition mentioned premises, both the respondents / landlords intimated the same to the tenant as per letter dated 25.4.1997 to which the revision petitioner / tenant replied through counsel on 31.5.1997. The landlords sent rejoinder on 07.7.1997. On these grounds, the landlords sought for eviction of the tenant from the petition mentioned premises.

3. Both the Rent Control Original Petitions were resisted in the counter filed separately stating that he is a tenant only in respect of the land of the petition mentioned premises for non-residential purposes under the original owner one Syed Abdul Subban, who is the senior paternal grandfather of the vendors, S.Rafi Ahmed and Sumaiya, for starting timber business in 1962. The revision petitioner put up tiled shed and an office room at his expenses for starting timber business in the year 1963 and from 1963, he is doing sanitary business and timber business under the name and style of 'Naaz Timber and Sanitary Ware'. It is stated that the revision petitioner has spent huge amount in putting up structures, sheds, floorings, compound walls, bridge and for repairing. As such, only a vacant land without any super-structure was let out and super-structure has been put up by the revision petitioner. He purchased an extent of 2 cents and 163 Sq.ft. of vacant land, which was the portion of the land leased out by the said Syed Abdul Subban as per registered Sale Deed dated 08.10.1980. The said Syed Abdul Subban settled a portion in favour of Rafi Ahamed and Sumaiya. The revision petitioner attorned tenancy to them and is paying rent to them for vacant land and the present rent payable to the vendors is Rs.725/- per month. Both Rafi Ahamed and Sumaiya received a sum of Rs.5000/- on 25.12.1996 from the revision petitioner / tenant as advance agreeing to sell both the portions, which is the subject matter of these revisions, for Rs.5 lakhs. But, however, they sold the same to the landlords / respondents herein without disclosing the nature of the tenancy of the revision petitioner. The requirement of the petition premises sought by the landlords for own use and occupation for the purpose of carrying on business in the name and style of 'Richard corporation' by Jacintha Mary and the requirement of the petition premises sought for on the ground of demolition and reconstruction is without bona fide.

4. Both the Rent Control Original Petitions were tried together. Before the Rent Controller, the landlords examined themselves as P.W.1 and P.W.2 respectively besides examining one M.Sathyanarayanan, Rabya Mohammed and Anandan as P.Ws. 3 to 5 respectively while the tenant examined himself as R.W.1 besides examining one Sheikh Abdul Khader as R.W.2. Exhibits A.1 to A.44 were marked on the side of the landlords while Exs. B.1 to B.11 were marked on the side of the tenant and the report and plan filed by the Commissioner were marked as Court documents, Exs. C.1 to C.6. The Rent Controller, after considering the evidence adduced on either side and the Exhibits marked, recorded finding that the revision petitioner is a tenant only in respect of site and it is he, who put up the superstructure and as such, the respondents in both the revision petitions have no title for the building in the petition premises and accordingly, denied eviction sought for by

the landlords. The landlords filed appeal and the Rent Control Appellate Authority reversed the finding of the Rent controller with regard to the title and recorded finding that the landlords are the owners of the superstructure of both the petition mentioned premises and also that requirement sought for the purpose of own use and occupation for demolition and reconstruction is bona fide and allowed both the appeals and ordered eviction on the grounds of own use and occupation and demolition and reconstruction and also on the ground of denial of title, though eviction was not sought on that ground in the Rent Control Original Petitions, relying on the judgment of this Court in JULKABI (DIED) AND 2 OTHERS vs. VAIRAVAN in which it has been held that eviction can be ordered on plea raised in course of proceedings and also when denial of title has taken place earlier to filing of eviction proceedings and where the tenant has replied denying title of landlords. Such eviction order passed by the learned Rent Control Appellate Authority is challenged in these revisions by the tenant.

5. Heard the learned counsel for the revision petitioner / tenant and the learned counsel for the respondents / landlords.

6. The learned counsel for the revision petitioner in both the Civil Revision Petitions, while challenging the order of eviction passed by the learned Rent Control Appellate Authority argued that eviction ordered on the ground of denial of title is not proper when eviction was not sought on that ground in the Rent Control Original Petitions and as such, an opportunity was lost to put-forth his case with regard to denial of title by the tenant. It is submitted by the learned counsel that the reliance placed on by the learned Rent Control Appellate Authority on Exs. A.41 and A.42, which are said to be the rental agreements, dated 15.10.1980 and 01.01.1976 respectively said to have been executed between Syed Abdul Subban and the revision petitioner is incorrect. The revision petitioner denied signature in the said documents and that both are unregistered documents. The existence of both documents Exs. A.41 and A.42 have been denied by the tenant. The learned counsel submitted that no reliance can be placed on the said documents to the effect that the tenant has been in possession in respect of the building in the petition premises. The learned counsel further submitted that since eviction was not sought on the ground of denial of title, the learned Rent Control Appellate Authority, who found that such denial is without bona fide, ought to have remanded the matter back to the learned Rent Controller for affording opportunity to the tenant to contest the case on that ground. In support of his contention and with regard to the admissibility of the documents, Exs. A.41 and A.42, the learned counsel relied on the following decisions:-

(1) KIRPAL KUAR vs. BACHAN SINGH AND OTHERS ;

(2) BABU MUDALIAR vs. CHAKTAVATSALU CHETTY (1963 (I) M.L.J. 89);

(3) KOUSALYA AMMAL vs. VALLIAMMAI AMMAL AND ANOTHER (1998 - 1 - L.W. 208);

(4) THANIKACHALA NAICKER vs. VINAITHEERTHA VINAYAGAR KOIL BY ITS MANAGING TRUSTEE (1974 T.N.L.J. 492);

(5) N.SAMBANDAM AND ANOTHER vs. SARASWATHI AMMAL (97 L.W. 212); and
(6) E.VENKATA NAICKER TRUST, A PRIVATE TRUST REPRESENTED BY ITS
MANAGER, E.V.K.SELVARAJ vs. MUTHUSAMY CHETTIAR (1994 (II) M.L.J. 447)

7. The learned counsel for the revision petitioner further argued that inasmuch as the Rent Control Original Petition has not been filed seeking eviction under Section 10(2)(vii) of the Act on the ground of denial of title of the landlords by the tenant, the learned Rent Control Appellate Authority is not competent for ordering eviction on that ground and the course open to the landlords is in the Civil Court by proving title. In support of the said contention, the learned counsel has placed reliance on the decision on this Court in PANDIAN vs. A.ABITHA BEGUM ((2001) 1 M.L.J. 402). In C.CHANDRAMOHAN vs. SENGOTTAIYAN (DEAD) BY LRS. AND OTHERS , the Apex Court has ruled that in order to invoke Clause (vii) of Section 10(2), the landlord must establish twin requirements (i) denial of title of landlord or claim by tenant of a right of permanent tenancy; and (ii) that such denial or claim was not bona fide.

8. The other decision relied on by the learned counsel for the revision petitioner is J.J. LAL PVT. LTD. AND OTHERS vs. M.R.MURALI AND ANOTHER (2002 (1) CTC 487) wherein the Apex Court has held in paragraph 18 as follows:

"To operate against the tenant as providing a ground for eviction under Section 10 of the Act a mere denial of the title of the landlord is not enough; such denial has to be 'not bona fide'. 'Not bona fide' would mean absence of good faith or non-genuineness of the tenant's plea. If denial of title by the tenant is an outcome of good faith or honesty or sincerity, and is intended only to project the facts without any intention of causing any harm to the landlord it may not be 'not bona fide'. Therefore, to answer the question whether an assertion of denial of landlord's title by the tenant was bona fide or not, all the surrounding circumstances under which the assertion was made shall have to be seen".

9. Further, in paragraph 19, it has been held as follows:

"For several reasons, we are of the opinion that a decree on the ground of denial of landlord's title by tenant and such denial being not bona fide could not have been a ground for directing eviction of tenant in the present case. Firstly, the application for eviction filed by the landlord does not plead such a cause of action, setting out material facts and as providing a ground for relief of eviction. The plea taken by the defendant-tenant in their additional counter does not by itself amount to denial of title so as to render them vulnerable to eviction by attracting applicability of Section 10(2)(vii) of the Act. The basic question was whether the landlords themselves treated the plea taken by the tenants in their additional counter as denial of their title and if that be so, the landlords should have amended their application for eviction incorporating the averment that the said additional counter amounted to denial of title of the landlords and such denial was not bona fide. Thereupon, the tenants would have had an opportunity of explaining the facts and circumstances in which

the additional counter, along with the plea raised therein, came to be filed and if that amounted to denial of landlord's title then how did they propose to justify such denial as bona fide. Such pleas could have been subject matter of trial and evidence adduced by the parties followed by expression of opinion by the Controller as to whether a ground for eviction was made out or not. Before the Controller, none of the parties were alive to the fact that alleged denial of title by tenants could possibly be clicked by the landlords as a ground for eviction. The Appellate Authority for the first time formulated a point at issue touching this ground during the course of its decision and yet held in favour of the tenants holding that such denial was bona fide. If at all the Appellate Authority was inclined to frame an issue then it ought to have been tried on the lines laid down in order 41, Rule 25 of the Code of Civil Procedure. The High Court, as already stated, shifted the emphasis and treated the denial of title by tenant as primary ground for eviction and proceeded to decide the same. Thus, what was not in issue before the trial Court at all became the core issue on which the High Court has founded its decision. This is not only violative of the established procedure for civil trials but also violative of principles of justice and fair play. The tenants have been certainly prejudiced in their defence and, therefore, availability of that ground for eviction of tenants in the present proceedings cannot be sustained."

In paragraph 20, the Apex Court has held thus:

"Secondly, what has been done by the Appellate Authority and the High Court does not also fit in the scheme of the Act in so far as this ground is concerned. An application for eviction of tenant has to be filed before the Controller for a direction in that behalf. Eviction may be sought by the landlord on the singular ground of the tenant having denied the title of the landlord or coupled with other grounds. In such an application, it is the Controller, who will decide whether such denial or claim was bona fide or not. If the finding of the Controller is that the denial or claim by the tenant was not bona fide, the Controller shall make an order directing the tenant to put the landlord in possession of the building. However, if the Controller does not find the denial or claim to be not bona fide he shall deny the landlord's claim for eviction by making an order rejecting the application. Such finding and rejection of landlord's application would not debar the landlord from approaching the Civil Court for establishing his title. By having regard to second proviso to sub-section (1) of Section 10 of the Act, the bar on the jurisdiction of Civil Court stands lifted and the landlord becomes entitled to sue for eviction of the tenant in a Civil Court enabling such Civil Court to pass a decree for eviction on any of the grounds on which the Controller could have directed eviction under Sections 10, 14 or 16, notwithstanding the opinion formed by the Civil Court whether the denial of title by the tenant had entailed forfeiture of the lease and notwithstanding the finding of the Civil Court that the claim of permanent tenancy was unfounded. This is how any conflict of jurisdiction between Civil Court and Controller can be avoided by construing Section 10(2)(vii) and Section 10(1) second proviso homogenously and as part of one scheme. The legislative intent appears to be that denial of title can be decided by the

Controller for the limited purpose of finding out whether a ground of eviction made out but the questions of title should be left to be determined by the Civil Court. Once a question of title has arisen between a landlord and a tenant and such dispute is bona fide, the doors of Civil Court are let open to the landlord and therein adjudication, on grounds of eviction otherwise within the domain of Controller, is also permitted so as to avoid multiplicity of suits and proceedings. All the disputes between landlord and tenant would be settled in one forum and the need for prosecuting two separate proceedings before two fora would be eliminated".

10. The learned counsel for the revision petitioner also contended that inasmuch as during the pendency of these revision petitions, the tenant has entered into agreement of sale dated 15.7.2002 under Ex.B.12 and also purchased as per Sale Deed dated 01.10.2003, registration copy, which is marked as Ex.B.13, from the Power of Attorney Agent of the respondent in these revisions and which documents have been received as per orders in C.M.P. Nos. 2688 and 2689 of 2004, there has been no landlord - tenant relationship between the parties and as such, the Rent Control Original Petitions filed by the landlords, which is the subject matter of these revisions, have to be dismissed.

11. The learned counsel for the respondents / landlords has argued that despite the fact that a definite stand was taken by the landlords after purchase and in the notice of exchange affirming that they are the owners of the building in the petition premises, inasmuch as the title of the superstructure have been denied by tenant in the reply notice and also in the counter and both parties entered into agreement, the landlords have taken all pains and also proved by marking the rental agreements Exs. A.41 and A.42 entered into between the previous owner Syed Abdul Subban and the revision petitioner and inasmuch as the learned Rent Controller also recorded finding that the denial of title is bona fide, the finding recorded by the learned Rent Control Appellate Authority that such denial of title is without bona fide and ordering eviction on that ground is very much sustainable. The learned counsel vehemently contended that though a case was set out by the revision petitioner before the Courts below that after he became a tenant in respect of the site in 1962, he put up superstructure in 1963 and has been paying the rent, no document has been filed to prove such case. The learned counsel also submitted that they have proved the ownership of the building by marking the Sale Deeds.

12. The learned counsel for the respondents also argued that though Exs. A.41 and A.42 are unregistered, both the documents can be looked into for collateral purposes and to find out the nature of possession. The learned counsel also submitted that inasmuch as Ex.B.12, registered copy of agreement of sale dated 15.7.2002, and Ex.B.13, registration copy of the sale Deed dated 01.10.2003 in respect of the properties, which is the subject matter of these revisions, have come into existence after filing of the revision petitions, no relief can be granted to the revision petitioner pursuant to such documents. Further, the learned counsel argued that the Power of Attorney executed in favour of one Senthil Kumar by the respondents in these petitions has been cancelled and suits in O.S. Nos. 187 of 2004 and 371 of 2004 have been filed in respect of Exs. B.12 and B.13 challenging both the said documents and, therefore, no reliance can be placed on the said documents to say that the landlord - tenant relationship between the parties does not exist.

13. The learned counsel, in support of his contention, relied on the decision in DROPADI DEVI vs. ZANNU SAHU ALIAS JAIMANGAL SAHU AND OTHERS (1970 ALJ 85). The learned counsel also relied on the decision of the Apex Court in BONDAR SINGH AND OTHERS vs. NIHAL SINGH AND OTHERS wherein the Apex Court has held that the only defence set up against the sale deed dated 09.5.1931, being the admitted document, in the sense, its execution is not in dispute, is that it is unstamped and unregistered and therefore, it cannot convey title to the land in favour of plaintiffs. Under the law, a sale deed is required to be properly stamped and registered before it can convey title to the vendee. However, legal position is clear law that a document like the sale deed in the present case, even though not admissible in evidence, can be looked into for collateral purposes. In the present case, the collateral purpose to be seen is the nature of possession of the plaintiffs over the suit land. The sale deed in question at least shows that initial possession of the plaintiffs over the suit land was not illegal or unauthorized.

14. The learned counsel relied on the decision in SHASHI KAPILA vs. R.P.ASHWIN , wherein the Apex Court has held that the tenant does not cease being a tenant just because the partnership firm, in which he subsequently becomes a partner, enters into agreement with landlord for purchase of the tenanted premises.

15. With regard to the contention of the learned counsel for the revision petitioner / tenant that inasmuch as the Power of Attorney agent of the respondent in the earlier revision entered into sale agreement Ex.B.12 for the sale of the property, which is the subject matter of the said revision, and that the Power of Attorney Agent of the respondent in the latter revision conveyed the property as per sale deed Ex.B.13 in respect of the property, which is the subject matter of the said revision, and as such, they being the subsequent events and after execution of such documents by the Power of Attorney Agent concerned, the respondents are no longer Landlords or owners having their title to the said properties and so the eviction sought for is not entertainable and that both the Rent Control Original Petitions have to be dismissed, as rightly argued by the respondent in both the petitions, the Deeds Exs.B.12 and B.13, executed by the Power of Attorney Agent of the respondents in these revisions, are challenged by them in the suit in O.S. No 187 of 2004 and 317 of 2004 in the District Munsif Court, Coimbatore. It appears that both the suits have been filed for declaration that the deed Ex. B.13 is null and void and for perpetual injunction against the Power of Attorney Agent from alienating the property, which is the subject matter of the earlier revision. Therefore, there is no force in the contention put-forth by the learned counsel for the revision petitioner that the respondents in the revisions ceased to be the owners and landlords of the premises concerned.

16. Syed Abdul Subban, original owner of the properties, which is the subject matter of these revisions, executed Settlement Deed under Exs. A.2 and A.26 in favour of Sumaiah and S.Rafi Ahamed respectively, grand children of his brother, and the settlee under Ex.A.26, S.Rafi Ahamed, sold the property settled in his favour to the respondent in the earlier revision under Ex.A.1 and the settlee under Ex.A.2 Sumaiah conveyed the property settled in her favour to the respondent in the latter revision under Ex.A.25. The tiled building described as site on the north south - east west as 7 feet; on the east, north south 77-3/4 feet and the western measurement in respect of Ex.A.2, north south 77-3/4 feet; and under Ex.A.26 which measures as 82 feet inclusive of Mangalore tiled building in Exs. A.2 and A.26. Since the settlees, viz., vendors Rafi Ahamed and Sumaiah were

minors, their senior paternal grandfather, who executed the Settlement Deeds, entered into rental agreement under Exs. A.41 and A.42. Though the signature of the tenant in Exs. A.41 and A.42 are denied as not that of the signature of the tenant, no steps have been taken by the tenant to compare the disputed signature in the said document with the admitted signature. It is clear that what was leased to him is inclusive of the building, viz., Mangalore tiled building.

17. Though it is claimed by the tenant that he became the tenant only in respect of the site and put up construction, there is nothing to show the same and no documentary evidence is available on the side of the tenant to show the fact that after he became tenant in 1962, he put up such construction in 1963. If really, he had put up construction, he could have been assessed to Property Tax in respect of that property. The tenant has purchased the said property under Ex.B.3 dated 08.10.1980 on the west of the property settled in in favour of Rafi Ahamed by settlor Syed Abdul Subban. In the said document, it is mentioned that the property sold is inclusive of the property settled under Exs. A.2 and A.26 in favour of Sumaiah and Rafi Ahamed respectively and that the Property Tax to all the properties have been paid up to 30.9.1980. The property sold to the respondent in the earlier revision under Ex.B.1 has been dealt with under Ex.B.12 sale agreement and the property sold to the respondent in the latter revision under Ex. A.25 is dealt with under Ex. B.13. Though Exs. A.1 and A.2 differ, the measurement of Mangalore tiled building is not mentioned in both the Deeds, viz., Exs. B.12 and B.13. It is stated in Ex.B.12 that tiled house and ACC sheet building is on 250 Sq.ft and in Ex. B.13 it is mentioned as 260 and 250 Sq.ft respectively. Both the documents have been received in the revisions as additional documents as per order in C.M.P. Nos. 2688 and 2689 of 2004, which have been filed by the revision petitioner. Ex.B.13 sale deed is in favour of the revision petitioner's son Younus. If really the revision petitioner became a tenant only in respect of the vacant site in 1962 and later on in 1963, he put up construction, he should have mentioned the same in Ex.B.13. Therefore, in any way Exs. B.12 and B.13 are also in dispute in case of the tenant / revision petitioner that he became tenant only in 1962 under the original owner Abdul Subban and it is he, who had put up construction in 1963. After purchase under Exs. A.1 and A.25 and A.26, the respondent in the revisions informed such purchase under Exs. A.3 and A.27. The letter under Ex.A.27 dated 25.4.1997 was also sent and the other vendor Rafi Ahamed P.W.4 also support the case of the respondent in the earlier revision that he sold the property including superstructure. Therefore, there have been clinching evidence to show the fact that what was leased to the revision petitioner is not vacant site alone but the Mangalore tiled construction with the uppertenant land also. As such, there is no truth in the case set out by the revision petitioner that he became tenant only in respect of the vacant site.

18. As regards eviction ordered by the Rent Control Appellate Authority under Section 10(2)(vii) of the Act, for denial of title for the landlords by tenant inspite of the fact that the Rent Control Original Petition was not filed seeking eviction on that ground, as rightly argued by the respondents / landlords, despite the exchange of notice between the parties about the purchase of properties inclusive of the building viz., Mangalore tiled construction, the revision petitioner took the stand right from the beginning and by issuing reply notice denying title in respect of the building and claiming that it is he, who put up the superstructure. Such a stand was also taken in the counter and both parties went on enquiry to such a case and in fact, the Rent Controller, recording finding that denial of title is bona fide, dismissed the Rent Control Petitions without even recording finding in

respect of the eviction sought on the other grounds. The Rent Control Appellate Authority in the appeals preferred by the landlords has decided that such denial of title is mala fide and rightly ordered eviction on that ground also. Such finding of the Rent Control Appellate Authority ordering eviction on the ground of denial of title also does not call for interference.

19. In the decision in V.RAMADOSS AND ANOTHER vs. UDAYAKUMAR (2002 (5) C.T.C. 541), this Court has held that even though pleadings in petition are absent as to denial of title by tenant, if the landlord establishes either by subsequent pleadings or in course of evidence as to denial of title, the same could be a ground for eviction. It follows, the respondents in these Civil Revision Petitions have sought for eviction on the ground of wilful default in payment of rent and also on the ground of denial of title and in these petitions, they have proved that the revision petitioner / tenant wilfully denied the title of the petition premises to the landlords.

20. As regards the requirement of the petition premises in both petitions sought on the ground of own use and occupation and for that purpose to demolish and put up new construction, learned counsel for the landlords submitted that both the petition premises situate at Mills Road, Coimbatore, which is a very busy area in commercial locality and that modern building will be put up after demolition. As such, if new construction is put up, it will augment the income. Admittedly the building is described in the Settlement Deeds Exs. A.2 and A.26 and both buildings are more than 30 years old. In Ex.C.3, report of P.W.3, it is mentioned that the petition premises are partly AC roofing and Mangalore Tiled roof supported by wooden rafters and the Mangalore tiles are disintegrating gradually and all very old and in a weak condition and front side is damaged. With regard to the walls, it is stated that load bearing walls are of brick walls and constructed partly with mud mortar. The plastering provided outside the building have become damaged in so many places indicating the damaged condition of the load bearing walls. The flooring is also damped in many places and the entire structure is of mud mortar. In the rental deed Ex. A.41 dated 15.10.1980, it is stated that besides a sum of Rs.1000/- paid by him as advance at the time of execution of previous rental agreement Ex.A.42 dated 01.01.1976, the amount of Rs. 1500/- spent towards repairs and to put up cement sheet shed, is also taken as advance and totally, it comes to Rs.2500/-. Therefore, it is clear from Exs. C.1 to C.3 that the building is in a dilapidated condition. If new construction is put up, certainly it will augment the income.

21. As regards the funds required for the purpose of demolition and reconstruction, it has been proved under Exs. A.34, A.37, A.43 and A.44 that the landlords herein and the wife of the respondent in the earlier revision, who is also mother of the respondent in the latter revision, have got funds and that they can also raise funds. Jesintha Mary, wife of the respondent in the earlier revision and mother of the respondent in the latter revision, is doing business in the name and style of Richard Corporation in the rental premises. The landlords have proved their requirement of the petition premises sought for the purpose of own use and occupation by demolishing and putting up new construction as bona fide.

22. Therefore, considering all these aspects, the Rent Control Appellate Authority has rightly ordered eviction on the ground of own use and occupation and demolition and reconstruction. Undertaking affidavits have been furnished in the Rent Control Original Petitions. The landlords are

directed to obtain necessary sanction and approved plan from the Corporation, which have not been filed and they are also directed to file the same in the Executing Court. The order of eviction passed by the Rent Control Appellate Authority does not call for interference in these revisions.

23. In the result, the Civil Revision Petitions are dismissed with cost and the eviction ordered by the Rent Control Appellate Authority is confirmed.