

## Vijaya Kumar Patangay vs Kedarnath on 16 June, 1999

**Equivalent citations: 1999(4)ALD182, 1999(4)ALT196**

**Author: B. Sudershan Reddy**

**Bench: B. Sudershan Reddy**

### ORDER

1. The subject-matter of this revision petition arises under the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short 'the Rent Control Act'). The unsuccessful landlord is the revision petitioner. The respondent is the tenant in a non-residential premises, admittedly owned by the petitioner. There is no dispute whatsoever with regard to the ownership of the petition schedule premises. There is also no dispute with regard to the jura! relationship of landlord and tenant between the parties.

2. The petitioner herein filed RC No.604 of 1988 on the file of the II Additional Rent Controller, Hyderabad, under Section 10(3)(b) and 10(2)(ii)(b) of the Rent Control Act, for the eviction of the respondent/tenant from the premises consisting of ground floor Mulgi and first floor portion bearing Municipal No.21-2-7, situated at Pathargatti, Hyderabad (herein after referred to as 'the Premises'). The eviction of the respondent/tenant herein is sought mainly on the ground that the premises is required for the own business purposes of the petitioner and he is under the bona fide need of the premises. It is also the case of the petitioner/landlord that the respondent/tenant is using the first floor of the premises for his residence after converting it into kitchen and living room. According to the petitioner/landlord the respondentAenant has converted the use of the premises without any permission whatsoever from that of non-residential to residential. Eviction is sought on both the grounds.

3. It is the case of the respondent/ tenant that the premises was obtained for non-residential and residential purposes. Ground floor is obtained for running a cloth shop and up-stair for residential purposes right from the inception of the tenancy. The allegation made in the eviction petition that the entire premises has been let out for non-residential purpose for running the cloth business by the respondent/tenant, is denied. The tenancy is for the composite lease of residential and non-residential purposes, is the case of putforth by the respondent/tenant. It is also the case of the respondent/tenant that the rental agreement dated 1-11-1982 is without stipulation of any period. He is expected to continue in the premise by enhancing the rent for every three years at 20% on the existing rent. The privity of the tenancy between the parties does not entitle the petitioner/landlord to file eviction petition. It is also the case of the respondent/tenant that the petitioner/landlord is already doing business in agricultural implements and, therefore, he cannot claim the possession of the premises for doing cloth business.

4. In the rejoinder, the petitioner/ landlord specifically stated that he is not in possession of any

non-residential portions and the Mulgi bearing No.138 (Old), Rashtrapathi Road, Secunderabad, is in the possession of the tenant and the said Mulgi is not at all suitable for doing cloth business. It is also the case of the petitioner/landlord that the premises No.138 (Old), Rashtrapathi Road, Secunderabad, is consisting Mulgies on the bank of the road and the residential portion behind the same. It is a two storied building. The Municipal Corporation has given separate door numbers to the Mulgies (Non-residential portions). In the said building, the petitioner/landlord has been allotted, in the final decree proceedings in OSNo.315 of 1982 between himself and his other members of the joint family members, two shops bearing Municipal Nos.5-2-94 and 5-2-95 and a residential portion behind it bearing Municipal D.No.5-2-64. It is his specific case that though two municipal numbers were given, it is only one shop in the occupation of the tenant. The petitioner/landlord himself is residing in the residential portion since a long time, even prior to the filing of the eviction petition and that he cannot do business in the said premises, which is being used for residential purpose. It is also the petitioner/landlord's case in the rejoinder that he is not doing any business as such in any of the portions of the premises bearing No. 138 (Old), Rashtrapathi Road, Secunderabad. It is his case that he is working as a agent in printing machines under the name and style of machines of technoprint pact as Printer's and Engineers. He gets only commission in such deals. For the sake of contact and correspondence, the petitioner/landlord has given the address of residence at 138 (Old), Rashtrapathi Road, Secunderabad, presently bearing Municipal Door No.5-2-64. It is his specific case that he is not in possession of any non-residential portions in any of the premises, including the portion which is allotted to him in the Building No.138 (Old), Rashtrapathi Road, Secunderabad.

5. The Rent Controller held in categorical terms that the evidence on record shows that the petitioner/landlord is not in occupation of any non-residential premises and hence he is entitled for the personal requirement to commence his cloth business in the said premises. It is also held that there are no mala fides on the part of the petitioner/landlord in requiring the premises for his business purposes. The requirement is held to be a bonafide one. However, the learned Rent Controller held that the respondent/tenant has been using first floor of the premises for his residential purposes even from 1982 on wards or may be even prior thereto; but no action was taken by the petitioner/landlord. The learned Rent Controller also held that the petitioner/ landlord did not choose to take any action against the respondent/tenant and the same amounts to waiver. The learned Rent Controller accordingly held that the petitioner/landlord is not entitled to evict the respondent/tenant on the said ground. However, the learned Rent Controller allowed the petition ordering eviction of the respondent/tenant by granting two months time for his eviction.

6. The respondent/tenant, promptly, preferred the appeal - RA No.535/93 on the file of the Chief Judge, City Small Causes Court, Hyderabad, challenging the order of eviction passed by the learned Rent Controller. The appellate Court held that the petitioner/landlord is in possession of three mulgies bearing Nos.5-2-93, 5-2-94 and 5-2-95 situated at Rashtrapathi Road, Secunderabad and there is no absolute requirement for the petitioner/landlord to seek eviction of the respondent/tenant from the premises. The appellate Court also held that the structural position of the premises, itself, would show that on the ground floor, it is only, one Mulgi and in the upstairs portion, there is one room, kitchen, latrine and barn-room, which would clearly establish that the premises is both residential, as well as non-residential. It is also held that such premises may not be

required by the petitioner/landlord for his personal requirement of doing cloth business. The appellate Court further held that the eviction petition filed by the petitioner/landlord is not maintainable as the premises is being used both for residential and non-residential purposes. The appellate Court accordingly reversed the order passed by the learned Rent Controller and dismissed the eviction petition.

7. In this civil revision petition, Sri Vilas V. Afzulpurkar, learned Counsel appearing on behalf of the petitioner/landlord made unleashed scathing criticism of the appellate Court judgment. The learned Counsel contends that the petitioner/landlord has established his case for personal requirement of the premises for doing cloth business. He submits that the decision of the learned Rent Controller in this regard does not suffer from any infirmity and there is no justification whatsoever on the part of the appellate Court in reversing the order in this regard. It is also urged that the use of the first floor of the premises by the respondent/tenant for residential purpose is without prior consent and without any authority of law. The evidence on record would show that the respondent/tenant has put a portion of the premises for unauthorised use. The decision of the learned Rent Controller, as well as the appellate Court in this regard is totally unsustainable. The decision of the learned Rent Controller in rejecting the contention of the petitioner/ landlord on the grounds of waiver is totally unsustainable in law.

8. Sri S. Venkat Reddy, learned senior Counsel appearing on behalf of the respondent/tenant would contend that the lease in question is a composite lease and as such the respondent/tenant is entitled to use the premises for both residential and non-residential purposes and he has been using the same as such even prior to 1982, when the petitioner became the landlord. Since the petitioner/landlord requires the premises only for his business purposes, no eviction can be ordered as against the respondent/tenant, as he is using the premises for both residential and non-residential purposes. In nutshell, learned Counsel would contend that the eviction petition is totally mis-conceived and not maintainable in law. It is alternatively contended that the requirement of the premises by the petitioner/landlord is not bona fide one. Relevant facts have been suppressed by the petitioner/landlord and invoked the jurisdiction of the Rent Controller. The petitioner/landlord approached the learned Rent Controller with un-clean hands and that, itself, would establish mala fide intention on the part of the petitioner/landlord. It is also argued that the tenancy in question is a permanent one in its nature. A permanent tenant cannot be evicted by way of an order under the provisions of the Rent Control Act.

9. I have heard the learned Advocates appearing on behalf of the parties elaborately. Perused the entire material available on record and the orders passed by both, the learned Rent Controller and the appellate Court.

10. Let me first deal with the contention relating to the plea of permanent tenancy. The execution of the rental agreement in the year 1982 is not disputed. The said document is marked s Ex.P1. Ex.P1 dated 1-11-1982 executed by the respondent/tenant in favour of the petitioner/landlord is styled as "non-residential rental agreement." The recitals in Ex.P1, itself, would show that the respondent/tenant requested the petitioner/ landlord to let out the premises for carrying on cloth business on a monthly rent of Rs.350.00 and the landlord agreed to let out the same subject to the

terms and conditions mentioned therein. The respondent/tenant is required to deposit six months rent amounting to Rs.2,100.00 as an advance rent to be refunded or adjusted in rent at the time of vacating the premises. It was also agreed upon to enhance the rent by 20% of monthly rent commencing from every third year of the date of the execution of the rental agreement. The other conditions contained in Ex.P1 need not be adverted to at this stage.

11. The respondent/tenant in the counter to the eviction petition did not setup the plea of permanent tenancy in specific and forth right manner. The respondent/ tenant, however, took a plea that the rental agreement dated: 1-11-1982 is without stipulation of any period "is expected to continue in the premises by enhancing rent for every third year at 20% on the existing rent As such the privity between the parties does not entitle the petitioner to file the present eviction petition against the respondent." A bare reading of Ex.Pl would show that it does not confer any right as such in respect of the schedule premises. It merely talks about the terms and conditions as to the payment of rent and the mode and method agreed upon. It does not recognise the respondent/tenant as a permanent tenant. On the other hand, one of the conditions referred to herein above would indicate that the petitioner/landlord has to refund or adjust the advance rent paid by the respondent/ tenant at the time of vacating the said premises. It comprehends vacation of the schedule premises by the respondent/tenant. It is true, as contended by Sri S. Venkat Reddy, learned senior Counsel that no period as such is specified in Ex.Pl. But, as observed, Ex.Pl, itself, does not convey any lease-hold rights in the schedule premises to the respondent/tenant. The label given to a document by the parties on their violation at the time of its execution is of some significance as to their intention although such label or title itself may not be conclusive as to the nature of the document. Obviously, the 'plea regarding permanent tenancy is sought to be high-lighted for the first time in this revision petition by the learned senior Counsel for the respondent/ tenant. There is no point framed in this regard for consideration by the learned Rent Controller. This point was not at all urged before the learned appellate authority. For all the aforesaid reasons, I do not find any substance in this contention. The eviction petition filed by the petitioner/landlord cannot be dismissed on this ground.

Question relating to the plea of Composite Lease :

12. According to the learned senior Counsel appearing for the respondent/tenant, the eviction petition is not maintainable in law for the reason that the lease in question is a composite one. Splitting of the contract in eviction proceedings under the Rent Control Act is not permissible. There is no provision under the Rent Control Act for ordering eviction when the lease is a composite one. The learned senior Counsel would place reliance upon the following decisions :

- (a) Firm Panjuma Daulatram v. Sakhi Gopal,
- (b) T. Dakshina Moorlhy v. Thulja Bai,
- (c) Dr. Madhusudan Mahuli v. Lambu Indira Bai, 1987 (2) ALT 504
- (d) Amlul Hafeez v. D. Mohammed Ibrahim, 1996 (3) ALD 582

(e) Kurminayaka Mothilal v. Mohd. Jahiruddin, 1997 (1) ALD 770

(f) Yashpal Roy v. Gessulal Dinesh Kumar, 1993 (2) APLJ240

(g) Muruga Mudaliar v. Subba Reddiar,

13. In Firm Panjumul Daulatram's case (supra) the Apex Court observed that "the landlord is entitled to eviction of the residential portion if he makes out a bona fide residential requirement. Likewise he is entitled to eviction of the non-residential portion which is an accommodation if he makes out a non-residential requirement." So it is clear that on establishing the bona fide requirement of both residential and non-residential premises, the tenant is liable to be evicted from the premises which is both residential and non-residential. The case of bona fide requirement is to be made out with regard to each purpose. In such a situation, the landlord has to put forward and prove the dual requirement. It may be noticed that in the said case, the premises had been let out for residential and non-residential purposes.

14. T. Dakshina Moorthy's case (supra) upon which reliance is placed by the learned senior Counsel, not only does not support the case of the respondent/tenant, but, fully supports the case of the petitioner/ landlord. It is observed by the Full Bench of Madras High Court that the Court has to bear in mind few salient considerations for the purpose of deciding whether a building is residential or non-residential one. There, the matter, itself, has arisen under the Madras Building (Lease and Rent Control) Act, which is in para materia to the provisions of the Andhra Pradesh Rent Control Act. Those salient considerations were indicated as :

(a) Where there is an instrument of tenancy specifically & explicitly declaring the purpose of the letting as residential or non-residential no difficulty generally arises;

(b) Where there is no such instrument of tenancy the question will have to be considered on the basis of direct evidence 'aliunde' concerning the purpose of letting, which may be adduced in a case;

(c) If no such evidence too is forthcoming, the Court can only look at the evidence concerning the user of the premises by the tenant down to the date of the application for eviction as acquiesced in by the landlord. For such user and such acquiescence afford a safe basis for an inference of agreement between the parties as to the purpose of letting.

(d) Where there is evidence of such user, but there is no evidence of such acquiescence, the structural design, the antecedent user of the building by the landlord as known to the tenant and other surrounding circumstances if any will also have to enter into the determination of the question whether the building is or is not residential;

(e) Difficulty may sometimes still remain i.e., evidently after applying the tests above indicated, if the building is found let for both kinds of purposes, residential and non-residential, no distinction being made between one part as let for one purpose and the other for the other purpose. In such a case it seems to us that what has to be determined as a question of fact is, what was the real main and substantial purpose of the letting?

15. It is clear from the analysis of this judgment that where there is an instrument of tenancy specifically and explicitly declaring the purpose of the letting as residential or non-residential, no difficulty should arise and the covenants in the instrument will determine the purpose of letting. The other salient considerations may have to be applied for where there is no such instrument as such. Even in cases, where there may be an indication that the building is found let of for both kinds of purposes, residential and non-residential, without any distinction being made between one part as let for one purpose and the other for the other purpose, what has to be determined as a question of fact is what was the real, main and substantial purpose of the letting.

16. In Dr. Madhusudan Mahuli's case (supra), a learned single Judge of this Court held that there is no provision under the Rent Control Act for eviction based upon bona fide personal requirement in respect of the premises let out for mixed purposes of residential and non-residential. In the event of composite lease, the landlord is deprived of the remedy under the Rent Control Act.

17. However, in Amlul Hafeez's case (supra), another learned single Judge of this Court explained the decision in Dr. Madhusudan Mahuli's case (supra) and observed that "residential building need not be let out for residential purpose only, but can be let out for non-residential purpose if the structure of building permits of such use and continues to be residential building as long as it is not converted into non-residential building under Section 18 of the Act." It is further held that "a non-residential building premises can be let out only for non-residential purposes and will always remain as non-residential premises and can never be treated as residential premises, unless its structure is altered. Eviction from such premises can be sought only for requirement of business."

18. The same learned single Judge in Kurminayaka Mothilal's case (supra), after elaborate consideration of the matter observed that: "in case of composite lease, the landlord can seek eviction from the residential portion and non-residential portion on the ground permitted under the Act, in respect of each portion. But he cannot seek eviction of any one of the portions only as it will amount to splitting of contract into two."

19. Similar is the view taken by another learned single of this Court in Yashpal Roy's case (supra). In this case it is held that "when the lease for composite purpose, that is, for residential, as well as non-residential purposes, it is always open to the landlord to seek eviction for the purpose of additional accommodation, as well as for non-residential purpose, such as to start business or for any avocation."

20. Thus, it is clear that the subsequent decisions of this Court distinguish the judgment rendered by a learned single Judge in Dr. Madhusudhan Mohuli's case (supra) and held that even in case of

composite lease, eviction petition under the Act is maintainable at the instance of the landlord, provided the landlord seeks the eviction of the tenant on the ground of requirement for both purposes. Even in the event of composite lease, the landlord is not deprived of remedies under the Rent Control Act. The Eviction petition by the landlord in such cases is perfectly maintainable.

21. The learned Rent Controller, in the instant case held that the petitioner-landlord has got full knowledge about the use of the first floor of the schedule premises for residential purpose from 1982 onwards and even prior to that. The petitioner-landlord did not choose to take any action against the respondent/tenant and the same amounts to waiver and, therefore, the petitioner/ landlord is not entitled to evict the respondent/tenant on the ground that the respondent/tenant has changed the use of the premises.

22. The appellate Court held that there is no lease-deed prohibiting the use of the up-stairs portion by the tenant for residential purpose. The structural position of the premises clearly establishes that the schedule premises is both residential one, as well as non-residential one. The learned appellate Judge accordingly held that the petitioner/landlord is not entitled to seek eviction of the respondent/tenant on the ground that he has converted and used the premises for the purpose other than for which it was let out. It is observed by the learned appellate Judge that Ex.P1, the Rental Agreement specifies that the schedule premises should be used for the purpose of cloth business, but the said Rental Agreement has no legal effect, since it was operative only for one year /e.e., MI-1982 to 1-11-1983.

23. As observed, Ex.P1, the Non-Residential Rental Agreement, is the crucial document and relevant even for the purpose of deciding as to whether it is a case of any composite lease as urged by the learned senior Counsel. The finding in this regard by the learned Rent Controller and the learned appellate Judge is concurrent. Neither authority has held that it is a case of composite lease. The primary authority nonsuits the petitioner/landlord on the ground of waiver. The learned appellate Judge holds that the premises in question is being used for both residential and non-residential purpose by the respondent/ tenant and, therefore, the respondent/tenant cannot be evicted on the ground of personal requirement of the petitioner/landlord for business purpose.

24. In this revision petition, this Court cannot record a finding as if the schedule premises was let out for composite purpose, Be that as it may, Ex.P1 executed by the respondent/tenant in categorical terms says that the schedule premises is let out on rent to the respondent/tenant for doing 'cloth business'. It does not even say that the schedule premises is let out for non-residential purpose. It even specifies the name of the business. It is an admitted fact that the respondent/tenant is carrying on cloth business in the ground floor. Both the authorities below held that the first floor of the schedule premises is being used by the respondent/tenant for residential purpose. I cannot interfere with that finding of fact. But the question is whether the eviction petition filed by the petitioner/landlord can be dismissed on the ground that it is a composite lease. Ex.P1, instrument is absolutely specific and clear. It does not suggest any composite lease. It clearly suggests that the schedule premises were let out only for non-residential purpose. The schedule premises is required to be used by the respondent/tenant only for non-residential purpose. The use of a portion of the schedule premises for residential purpose, itself, would not make the schedule premises both

residential and non-residential one. But putting the first floor of the premises for residential use by the respondent/tenant may not have impaired the utility of the building but he certainly used the building for a purpose, other than the one for which it was leased out and such use itself is a ground for eviction of the respondent/tenant. It is not as if the petitioner/landlord now wishes to convert the residential building into a non-residential building. It is his case that the schedule premises is required by him for setting up his own business.

25. For all the aforesaid reasons, I hold that the eviction petition filed by the petitioner/landlord cannot be dismissed as not maintainable. It is not a case of composite lease at all. Even otherwise, it is clear from the record that the predominant purpose for which the schedule premises were let out on rent is for non-residential purpose. The use of a portion of the said premises for residential purpose by the respondent/tenant on his own accord would not make the lease a composite one, nor the conversion of the nature of the schedule premises into a residential one from non-residential one makes the lease into a composite one. It continues to be a non-residential premises.

26. In *Rawalmal Naraindas & Sons Partnership Firm v. B. Amarnath*, the Apex Court approvingly referred to the judgment of this Court in *K. Parasuramaiah v. Pokuri Lakshamma*, wherein it was held by this Court that if a landlord satisfies the Controller that he wanted additional accommodation in the same building for his residential or non-residential requirements, then notwithstanding the use to which the tenant was putting in the leased portion, the landlord was entitled to an order of eviction so that he could re-adjust additional accommodation in the manner convenient to him and it was not necessary that the additional accommodation sought for should be used by the landlord for the same purpose for which the tenant sought to be evicted was using it.

27. Sri S. Venkat Reddy, learned senior Counsel, perhaps, aware of the formidable difficulty posed by Ex.Pl, challenges the very admission of Ex.Pl into evidence. According to him, the document, Ex.Pl is compulsorily registrable and it cannot be received into evidence as it conveys leasehold rights in favour of the respondent/tenant for an un-specified period. This is the submission, in nutshell. Learned senior Counsel would place reliance upon *Muruga Mudaliar's case* (supra). The decision does not lend any support as to the admissibility of the document, Ex.Pl. On the other hand, it is held that "Section 49(c), Registration Act, prohibits the use of an unregistered document in any legal proceeding in which such a document is sought to be relied on in support of a claim to be enforced or maintain any right, title or interest to or in immovable property. So long as the document is not sought to be relied on as evidence of any right, title or interest to or in immovable property, there is nothing to prevent the document being received in evidence for other purposes."

28. It is evident from the record that the respondent/tenant never took any objection whatsoever with regard to the admissibility of Ex.Pl into evidence. On the other hand its execution is admitted in categorical terms in the counter, itself. The learned senior Counsel, relied upon the very Ex.Pl in support of his contention that what is granted to the respondent/tenant is a permanent lease. The respondent/tenant cannot be allowed to blow hot-and-cold. He cannot be permitted to raise a contention with regard to admissibility of the document, for the first time, in this revision petition.



29. It may not be permissible and possible for this Court to record any finding as to whether any rights in immovable properties as such are conveyed under Ex.PI and as to whether the petitioner/ landlord sought to rely on Ex.PI in support of his claim to enforce or maintain any right, title or interest to or in immovable property. Of course, for a limited purpose, as to the nature of document, I have already expressed my opinion. Suffice it to observe that both the parties placed reliance upon Ex.PI in support of their respective contentions. Under those circumstances, it is not possible for this Court to declare the document, Ex.PI as inadmissible in evidence in this revision petition.

30. Now what remains for consideration is as to whether the petitioner/ landlord made out any case of bona fide requirement of schedule premises for his business purpose. That is the main question.

31. The learned Rent Controller upon appreciation of the evidence and the material available on record held that the petitioner/ landlord is entitled to recover possession of the schedule premises for his personal requirement to commence his business. The requirement of the petitioner/landlord is held to be a bona fide one. It is the case of the petitioner/landlord, who is examined as PW1 that his family used to carry on business in Ready-made garments, and, he himself, is well acquainted with the said business. It is his case that his family is carrying on business in the name and style of Patangay Brothers in the premises bearing No.22-7-221 to 224 and part of 275 and 276. The said property has been allotted to the elder brother of the petitioner/landlord in the family arrangement and the family business, itself, was already given to the elder brother, who is running the said business in the premises. The schedule premises has fell to the share of the petitioner. It is his case that he is well conversant in ready made garment business, which is their family trade since three generations. This version is believed by the learned Rent Controller. It is also his case that he is not in possession of any other non-residential premises in the Iwin cities of Hyderabad.

32. However, the respondent/tenant in his counter took a plea that the petitioner is already carrying on business in agricultural implements. The question of petitioner/ landlord having experience in cloth business does not arise, when he is already doing a different business altogether. There is no specific plea in the counter about the petitioner/landlord being in possession of other non-residential premises, However, during the course of evidence, the respondent/ tenant appears to have taken a plea that the petitioner/landlord is in possession of a non-residential premises forming part of D. No.138, Rashtrapathi Road, Secunderabad. This plea of the respondent/tenant was found favour with the appellate Court, and it is held as if the petitioner/landlord is in possession of the three mulgies bearing Nos.5-2-93, 4-2-94 and 5-2-95 at Rashtrapathi Road, Secunderabad. This observation of the appellate Court appears to be based on no evidence at all. Such a specific plea is not even put-forth by the respondent/tenant in the counter. I do not find any basis for disturbing the finding recorded by the learned Rent Controller holding that the petitioner/landlord is not in possession of any non-residential premises. However, the respondent/tenant relied upon Exs.R12, R13 and RI4, which, according to him, would show that the petitioner/landlord, himself, is doing business in the name of 'Techno Printpack', Pathangay Buildings, 138, Rashtrapathi Road, Secunderabad. It is submitted that the petitioner/landlord's plea that he is only an agent of a Company based at Bangalore is not correct and that petitioner/ landlord, himself, is doing that business. But, as rightly pointed out by the learned Rent Controller nothing prevented the respondent/tenant to prove that the petitioner is already doing his own business in non-residential

premises owned by him. No such plea has taken by the respondent/tenant. There is no doubt whatsoever that the petitioner/landlord's family was doing cloth business and even as on today, the elder brother of the petitioner/landlord is in the same business. The family acquired some reputation in that particular business is not seriously disputed.

33. It is, however, urged by the learned Counsel for the respondent/tenant that the petitioner/landlord has not approached the Court with clean hands and suppressed the fact of his doing business in printing machines in one of the non-residential premises owned by him. But, according to the petitioner/landlord he requires the premises for doing cloth business and he is not at all doing any business in printing machines as alleged by the respondent/tenant during the course of evidence. The evidence, if any, let in by the respondent/tenant in the absence of any specific plea that the petitioner/landlord is in possession of another non-residential accommodation cannot given much credence. The learned appellate Judge has not recorded any finding in this regard, but merely made some observations which are *ipsi dixit* in nature. On the other hand, the learned Rent Controller after appreciation of the evidence and with reference to the pleadings put forth by the parties came to the conclusion that the requirement of the petitioner is *bona fide* one.

34. For all the aforesaid reasons, I hold that the petitioner/landlord requires the schedule premises for doing cloth business. His requirement is *bona fide* one. The petitioner/landlord is entitled to recover the possession of the schedule premises from the respondent/tenant.

35. I also hold that the respondent/tenant has put a portion of the schedule premises to use for other than the one for which it was let out. On this ground also, the respondent/tenant is liable to be evicted from the schedule premises. The mere fact that the petitioner/landlord has not objected for such use is of no consequence. The learned senior Counsel appearing for the respondent/tenant, in fact, has given up the plea of waiver and submitted that he does not wish to support the observation made by the Courts below in this regard.

36. For all the aforesaid reasons, the Civil revision petition is allowed. There shall be no order as to costs. Six months time is granted to the respondent/tenant for vacating the schedule premises and handover the same to the petitioner/landlord, subject to the condition of the respondent/tenant paying the rents regularly.