

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 07.02.2017****CORAM :****THE HONOURABLE MS.JUSTICE R.MALA****C.R.P(NPD).No.4836 of 2014
and M.P.Nos.1 of 2014 and 1 of 2015**

Orders reserved on 01.02.2017	Orders pronounced on 07.02.2017
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Thooku Parambath Ravindran

.. Petitioner

Vs.

Kandoth Poyil Pradeep

.. Respondent

Prayer:- Civil Revision Petition is filed under Section 25 of the Pondicherry building (Lease and Rent) Control Act, 1969, against the fair and decreetal order dated 14.07.2014 made in R.C.A.No.5 of 2013 on the file of the Rent Control Appellate Authority (II Additional District Court), Puducherry, confirming the order of eviction dated 11.09.2013 made in H.R.C.O.P.No.2 of 2012 on the file of the Rent Controller, (Sub-Court), Mahe.

For Petitioner : Mr.Manisundergopal

For Respondent : Ms.P.T.Asha for
M/S.Sarvabhauman Associates

ORDER

This civil revision petition is filed against the fair and decreetal order dated 14.07.2014 made in R.C.A.No.5 of 2013 on the file of the Rent Control Appellate Authority, (II Additional District Court), Puducherry, confirming the order of eviction dated 11.09.2013 made in H.R.C.O.P.No.2 of 2012 on the file of the Rent Controller, (Sub-Court), Mahe.

2.The respondent/landlord has filed H.R.C.O.P.No.2 of 2012 for eviction on the ground of personal occupation. The demise building is required for his personal occupation stating that he has returned from Gulf after he lost his job and hence, he wants to start a stationary business in the demise building. He is also having experience in that business, as he was working as a sales man in that field in Gulf and he can arrange sufficient funds to start the proposed stationary in the petition schedule building.

3.The petitioner/tenant has raised a defence stating that the respondent/landlord is having permanent job and he is getting a descent income from his job as a sales man and from his lottery agency. So there is no necessity for him to start a business in the petition schedule building. Further, the petitioner/tenant is conducting an agency business of "Oushadhi" Ayurvedic medicines business in the petition schedule building. The tenant is having a branch of this agency at Irattpilakool. If the petition schedule building is to be vacated, the petitioner/tenant will lose the agency and his branch will have also to be closed. In the month of January 2011, when the tenant offered the rent, the landlord refused to receive the same and demanded higher rate of rent. The admitted rent is Rs.2,000/-. Therefore, the tenant was constrained to file a petition in H.R.C.O.P.No.5 of 2011 seeking permission of the Court to deposit the rent in the Court. That petition was allowed. The landlord to consummate the same, has filed H.R.C.O.P.No.2 of 2012 for eviction.

4.The Rent Controller after considering P.W.1, R.W.1 to R.W.3, Exs.P1 to P4 and R1 to R5, ordered eviction, against which, the petitioner/tenant has preferred R.C.A.No.5 of 2013. The Rent

Control Appellate Authority confirmed the fair and decreetal order passed by the Rent Controller. Challenging the same, the petitioner/tenant has preferred this revision.

5. Learned counsel for the petitioner has submitted the following points for consideration:

(i) The respondent/landlord has not complied with the condition imposed under Section 10(3)(iii) of the Pondicherry Buildings (Lease and Rent Control) Act, 1969, (hereinafter called as "the Act") wherein it is stated as "in case it is any other non-residential building, if the landlord or any member of his family is not occupying for purposes of a business which he or any member of his family is carrying on, a non-residential building of his own in the commune concerned". The respondent/landlord has to prove that he has not possessed any other property to run his business except this property. But the landlord in his cross-examination, stated that he has succeeded the property from his father and thereafter from his mother, brother and sister. So it amounts to suppression of material facts.

(ii) The petitioner/tenant is conducting Ayurvedic medical shop in the respondent's property and he also obtained agency in

above address. The respondent/landlord in his petition stated that he returned from Gulf in the year 2003, if he really wants to start a business, he would not rent out the building in the year 2004. But in the year 2011, he demanded higher rent and also refused to receive the contractual rent from the tenant. It clearly shows that the respondent/landlord with a malafide intention to evict the petitioner has given the notice. That factum was not considered by both the Courts below.

(iii) The respondent/landlord must prove his case and he has to come to the Court with clean hands. To substantiate the same, he has relied upon the decision of the Hon'ble Apex Court reported in (1994) 1 SCC 1 (S.P.Chengalvaraya Naidu (dead) by legal heirs v. Jagannath (Dead) by legal heirs and others). He has also relied upon the following decisions, wherein it is held that the landlord has not proved the requirement of demise building for personal occupation and it is bonafide requirement and thus, he prays for allowing the revision.

(i) (1988) 2 SCC 513 (Hameedia Hardware Stores, represented by its partner S.Peer Mohammed v. B.Mohan Lal Sowcar);

(ii) (2005) 9 SCC 225 (Indrasen Jain v. Rameshwardas);

(iii) (2004) (1) CTC 668 (Kathan v. Scaw Manak Chand Shohaji);

(iv)(2007) 1 CTC 477 (T.K.Kameswaran v. R.Santhanakrishnan);

6.Resisting the same, learned counsel for the respondent/landlord would submit that 'family' defined under Section 2(7)(a) of the Act is spouse, dependent and children. In the petition, the landlord stated that the property belonged to his father and he died leaving behind his wife, son/landlord and daughters as his legal heirs. That property was released in favour of his sister on 07.07.2003. It is further submitted that the tenant cannot dictate terms to the landlord to which property the landlord would select for his personal occupation. To substantiate his arguments, he relied upon the following decisions:

(i) (1999) 6 SCC 222 (Shiv Sarup Gupta v. Dr.Mahesh Chand Gupta);

(ii) (2001) 8 SCC 561 (Siddalingamma and another v. Mamtha Shenoy);

(iii) (2014) 15 SCC 610 (Anil Bajaj and another v. Vinod Ahuja);

7. Heard both sides and perused the materials available on record.

8. The landlord-tenant relationship, quantum of rent and nature of the building are not disputed. Admittedly, H.R.C.O.P.No.2 of 2012 is filed under Section 10(3) of the Act, for eviction on the ground of personal occupation of non-residential building. It is appropriate to extract 10(3) of the Act, which is as follows:

“10(3)(a). A landlord may, subject to the provisions of clause (d), apply to the Controller for an order directing the tenant to put the landlord in possession of the building --

(i) in case it is a residential building, if the landlord requires it for his own occupation or for the occupation of any member of his family if he or any member of his family is not at date occupying any such building of his own in the Commune concerned:

(ii) in case it is a non-residential building which is used for the purpose of keeping a vehicle or adapted for such use, if the landlord requires it for his own use or for the use of any member of his

family and if he or any member of his family not occupying any such building of his own in the Commune concerned;

(iii) in case it is any other non-residential building, if the landlord or any member of his family is not occupying for purposes of a business which he or any member of his family is carrying on, a non-residential building of his own in the commune concerned;

Provided that a person who becomes a landlord after the commencement of the tenancy by an instrument inter vivos shall not be entitled to apply under this clause before the expiry of three months from the date on which the instrument was duly executed;

Provided further that where a landlord has obtained possession of a building under this clause, he shall not be entitled to apply again under this clause -

(i) in case he has obtained possession of a residential building, for possession of another residential building of his own;

(ii) in case he has obtained possession of a non-residential building, for possession of another non-residential building of his own.

(b) Where the landlord of a building, whether

residential or non-residential, is a Religious, charitable, educational or other public institution, it may, if the building is required for the purposes of the institution, apply to the Controller subject to the provisions of clause (d), for an order directing the tenant to put the institution in possession of the building.

(c) A landlord who is occupying only a part of a building, whether residential or non-residential may, notwithstanding anything contained in clause (a), apply to the Controller for an order directing any tenant occupying the whole or any portion of the remaining the part of the building to put the landlord in possession thereof, if he requires additional accommodation for residential purposes or for purposes of a business which he is carrying on, as the case may be.

(d) Where the tenancy is for a specified period agreed upon between the landlord and tenant, the landlord shall not be entitled to apply under this sub-section before the expiry of such period.

(e) The Controller shall, if he is satisfied that the claim of the landlord is bona fide, make an order directing the tenant to put the landlord in possession of the building on such date as may be

specified by the Controller and if the Controller is not so satisfied he shall make an order rejecting the application;

Provided that, in the case of an application under clause (c), the Controller shall reject the application if he is satisfied that the hardship which may be caused to the tenant by granting it will outweigh the advantage to the landlord;

Provided further that the Controller may give the tenant a reasonable time for putting the landlord in possession of the building and may extend such time so as not to exceed three months in the aggregate. "

9.Learned counsel for the petitioner has drawn attention of this Court through para-3 of the petition in H.R.C.O.P.No.2 of 2012, in which, it is stated that the landlord or other members of their family are not in possession of any vacant buildings in the locality to run the proposed business.

10.In his evidence, the respondent/landlord stated that he returned from Gulf after he lost his job. He bonafide requires the

petition schedule building to start a stationary business. He is having experience in that business, as he was working as a sales man, while he was in Gulf. Now he is temporarily working in Lulu Sarees and Textiles Pvt. Ltd., Thalasserry. In his cross-examination, he stated that he tried to get a new visa for three years. If he is having a permanent job with income, he does not have necessity to start business here.

11. According to the petitioner, in Section 2(7a), "member of his family" in relation to a landlord means his spouse, and dependent children.

12. But the landlord in the petition itself has stated that he is not having any vacant property. He has admitted in his cross-examination that there is a building belonging to his father and now his father is no more. His legal heirs are the respondent, his mother, brother and sister. So the landlord is one of the son, who has inherited the property along with other legal heirs.

13. At this juncture, learned counsel for the respondent/landlord would submit that the tenant has not filed any

scrap of papers to show that the landlord succeeded the property. The respondent/landlord once in his cross-examination, accepted the above aspect, there is no necessity for him to file any document. Further, according to the respondent/landlord, the property has been released in favour of his sister on 07.07.2003. But there is no pleading and no document regarding this issue. So it cannot be looked into.

14. At this juncture, it is appropriate to consider the following decisions relied upon by the learned counsel for the petitioner/tenant:

(i) In **(1994) 1 SCC 1 (S.P.Chengalvaraya Naidu (dead) by legal heirs v. Jagannath (Dead) by legal heirs and others)**, wherein it is held that the litigant has to come to the Court with clean hands with all the relevant documents. Para-5 and 6 are extracted hereunder:

"5. The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties.
One who comes to the court, must come with

clean-hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court - process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.

6. . . . A litigant, who approaches the Court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be guilty of playing fraud on the Court as well as on the opposite party. "

(ii) In **(1988) 2 SCC 513 (Hameedia Hardware Stores, represented by its partner S.Peer Mohammed v. B.Mohan Lal Sowcar)**, in para-13, it is held as follows:

"13.We are of the view that by merely proving that the premises in question is a non-residential building and that the landlord or any member of his family is not occupying for the

purpose of a business which he or any member of his family is carrying on any residential building in the city, town or village concerned which is his own, the landlord cannot in the context in which section 10(3)(a)(iii) appears get a tenant evicted. He must show in view of clause (e) of section 10(3) that his claim is bona fide. The word 'claim' means "a demand for something as due" or "to seek or ask or for on the ground of right" etc. In the context of Rent Control Law which is enacted for the purpose of giving protection to tenants against unreasonable evictions and for the purpose of making equitable distribution of buildings amongst persons who are in need of them in order to prove that his claim is bona fide a landlord should establish that he deserves to be put in possession of the premises which is in the occupation of a tenant. Any decision on the question whether a landlord deserves to be put in possession of a premises in the occupation of a tenant should naturally depend upon the bona fides of the landlord's requirement or need. The word 'claim' in clause (e) of section 10(3) of the Act should, therefore, be construed as 'the requirement' of the landlord or his deservedness. 'Deserve' means 'to have a rightful claim' or 'a just claim'. Since clause (e) of section 10(3) of the Act

is also applicable to a petition filed under sub-clause (iii) of section 10(3)(a) of the Act it becomes necessary to examine whether the requirement of the landlord is bona fide. Otherwise a landlord will be able to evict a tenant to satisfy his whim by merely proving the ingredients mentioned in section 10(3)(a)(iii) of the Act. Take a case where a landlord for some oblique reason wishes to get rid of his tenant from a non-residential building of the category mentioned in section 10(3)(a)(iii) and to achieve his aim fakes to start money-lending business (for which indeed no specified separate portion in a building may be needed) in a building not belonging to him and to create evidence even actually lends money to some of his friends or relatives and a week thereafter applies for eviction of the tenant on the ground that he is carrying on business and has no non-residential building of his own in his occupation in the city, town or village concerned. Apparently, the conditions prescribed in the aforesaid sub-clause (iii) are fulfilled. If the requirement of "claim" being "bona fide" as contained in section 10(3)(e) is construed to mean that genuineness of the need of the landlord for the non-residential building is not to be considered and the circumstance that the landlord on the date

of making the application is factually carrying on business and has no non-residential building of his own in his occupation in the city, town or village concerned is to be construed sufficient to make his claim bona fide, the tenancy of no non-residential building will be secure. It will be preposterous to attribute such an intention to the legislature. Such a contingency should be avoided as it would be against the very object of the Act itself. The need of the landlord should be genuine. That is the object of enacting clause (e) of section 10(3) of the Act. When once we reach the above conclusion it is not enough that the landlord should merely desire to use or occupy the premises. What is necessary is that he should bona fide need them for his own use and occupation or for occupation by any of the members of his family as held by this Court in *Phiroze Bamanji Desai v. Chandrakant M. Patel & Mattulal v. Radhe Lal*, [1975] 1 S.C.R. 127. The learned Judge who decided the case out of which this appeal arises was, therefore, in error in holding that the landlord need not prove that his requirement was bona fide but that his claim was bona fide as provided in clause (e) of section 10(3) of the Act. The learned Judge has made a distinction between 'requirement' and 'claim' in the present case without there being a difference."

(iii) In **(2005) 9 SCC 225 (Indrasen Jain v. Rameshwardas)**, in para-10, it is held as follows:

"10. Even on the question of bonafide requirement of the suit premises, the respondent in our view has no case. In this connection, first aspect worth noting is that the respondent retired from service on 30th November, 1994. He purchased the suit property on 7th December, 1999. More than one year after the alleged purchase of the suit property, he issued a notice of eviction on 1st February, 2001 and ultimately filed an eviction petition on the ground of personal requirement for doing business in the shop on 24th May, 2001. If at all the respondent for purposes of keeping himself occupied or by way of supplementing his income after his retirement, needed to do a business, he would have felt such a need soon after his retirement in the year 1994. The suit property was purchased on 7th December, 1999, i.e. about five years after retirement. Even after 1999, if the respondent thought of starting some business of his own and purchased a shop for that purpose, he would have purchased a vacant shop rather than going in for a tenanted premises. This shows that even in 1999 he had no intention or desire to start a business. Then even after

purchase of the property he waited for more than a year and issued a notice in February, 2001 and instituted eviction petition in the end of May, 2001, that is nearly 1 1/2 years after the purchase of the property. This entire sequence of events does not show any bonafides on the part of the respondent in setting up a case of bonafide requirement of suit premises. There is nothing to show how suddenly a need for doing business arose for the respondent in the year 2001. The Rent Control Authority in view of these facts doubted the bonafides of the respondent-landlord regarding requirement of the suit property for doing business therein. The entire discussion in the judgment of the Authority on the question of bonafide need seems to suggest that the Authority was not satisfied with the case of landlord regarding bonafide need. However, in the concluding line on this issue the Authority observed that "the applicant bonafide needs the suit shop for starting the business of books and stationery". This

conclusion of the Authority does not fit in with the discussion or reasoning on the point contained in the judgment of the Authority. The Authority noted several reasons which showed that there was no bonafide requirement of respondent. The High Court simply endorsed the conclusion of the

Authority on the point without going into the question on its own. In our view, the respondent has not been able to make out a case for bonafide need of the suit premises. His claim for the suit premises is malafide. "

(iv) In **(2004) (1) CTC 668 (Kathan v. Scaw Manak Chand Shohaji)**, in para-12, 14 and 15, it is held as follows:

"12. The question of bona fide assumes great importance when considering petitions for eviction on the ground of own use. It is no doubt true that a landlord may want to get back possession of his own property for his use. But it is repeatedly held that mere desire is not equivalent to requirement. Requirement implies a greater urgency and need for the premises whereas a desire or a wish is not the same. It is also necessary for the landlord to prove that he has no other premises in his occupation in the same city or town or village as the case may be. ...

13. ...

14. The Appellate Authority has correctly found that apart from his own evidence that he is living with his father in Chokkikulam and that

Chokkikulam's house is his father's house there is no effort on the part of the petitioner to prove this fact. The petitioner has neither proved that the Chokkikulam property is not his nor has the evidence of R.W.1 that the Chokkikulam bungalow is the petitioner's been denied.

15. Paragraph No. 7 of the petition runs as follows:

"The petitioner requires the under-mentioned building for his own occupation. The petitioner's need, for his own use of the said building is a genuine, reasonable and a bonafide one. Hence the respondent is liable to be evicted from the said building according to law. He is now living with his father and since he is married he wants to live separately".

There is absolutely no pleading that he is not in occupation of a residential building of his own. Therefore, even the basic requirement of Section 10(3)(a)(i) has not been satisfied and the petitioner has not proved his bona fides."

(v) In **(2007) 1 CTC 477 (T.K.Kameswaran v. R.Santhanakrishnan)**, in para-27, it is held as follows:

"27. Considering the entire facts and circumstances of the case, namely, (1) the landlord is a private employee in a reputed company for the past 20 years, (2) this fact was not disclosed neither in Ex.P1 notice nor in RCOP No.753/1989 (3) this fact was disclosed for the first time in the oral evidence before the rent controller; (4) Ex.P3 is not helpful to the landlord to support his contention and (5) he has let out a portion in the building to the insurance company 3 or 4 months prior to the filing of the RCOP, it is to be held that there is a genuine doubt in the claim of the revision petitioner/landlord for getting an order of eviction under Sec.10(3)(a)(iii) and the revision petitioner has not proved his case bonafide by letting in acceptable evidence."

So it is the duty of the respondent/landlord to prove that he requires the demise building for his own occupation and the need for his own use of the said building is a genuine, reasonable and a bonafide one. He ought to have proved that he has not possessed any other non-residential building on his own.

15. Now it is appropriate to consider the following decisions relied upon by the learned counsel for the respondent/landlord:

(i) In **(1999) 6 SCC 222 (Shiv Sarup Gupta v. Dr. Mahesh Chand Gupta)**, wherein it is held that " the need of the landlord should be genuine and honest, conceived in good faith; and that, further, the court must also consider it reasonable to gratify that need. bonafide to mean 'in good faith : genuine'. The word 'genuine' means 'natural; not spurious; real: pure: sincere'. Para-13 and 14 are extracted hereunder:

"13. Chambers 20th Century Dictionary defines bonafide to mean 'in good faith : genuine'. The word 'genuine' means 'natural; not spurious; real: pure: sincere'. In Law Dictionary, Mozley and Whitley define bonafide to mean 'good faith, without fraud or deceit'. Thus the term bonafide or genuinely refers to a state of mind. Requirement is not a mere desire. The degree of intensity contemplated by 'requires' is much more higher than in mere desire. The phrase 'required bonafide' is suggestive of legislative intent that a mere desire which is the outcome of whim or fancy is not taken note of by the Rent Control Legislation. A requirement in the sense of felt need which is an outcome of a sincere, honest desire, in contra-distinction with a mere pretence or pretext to evict a tenant, on the part of the landlord claiming to

occupy the premises for himself or for any member of the family would entitle him to seek ejectment of the tenant. Looked at from this angle, any setting of the facts and circumstances protruding the need of the landlord and its bonafides would be capable of successfully withstanding the test of objective determination by the Court. The Judge of facts should place himself in the armchair of the landlord and then ask the question to himself - whether in the given facts substantiated by the landlord the need to occupy the premises can be said to be natural, real, sincere, honest. If the answer be in the positive, the need is bonafide. The failure on the part of the landlord to substantiate the pleaded need, or, in a given case, positive material brought on record by the tenant enabling the court drawing an inference that the reality was to the contrary and the landlord was merely attempting at finding out a pretence or pretext for getting rid of the tenant, would be enough to persuade the Court certainly to deny its judicial assistance to the landlord. Once the court is satisfied of the bonafides of the need of the landlord for the premises or additional premises by applying objective standards then in the matter of choosing out of more than one accommodation available to the landlord his subjective choice shall

be respected by the court. The court would permit the landlord to satisfy the proven need by choosing the accommodation which the landlord feels would be most suited for the purpose; the court would not in such a case thrust its own wisdom upon the choice of the landlord by holding that not one but the other accommodation must be accepted by the landlord to satisfy his such need. In short, the concept of bonafide need or genuine requirement needs a practical approach instructed by the realities of life. An approach either too liberal or too conservative or pedantic must be guarded against.

14. The availability of an alternate accommodation with the landlord i.e. an accommodation other than the one in occupation of the tenant wherefrom he is sought to be evicted has a dual relevancy. Firstly, the availability of another accommodation, suitable and convenient in all respects as the suit accommodation, may have an adverse bearing on the finding as to bonafides of the landlord if he unreasonably refuses to occupy the available premises to satisfy his alleged need. Availability of such circumstance would enable the Court drawing an inference that the need of the landlord was not a felt need or the

state of mind of the landlord was not honest, sincere, and natural. Secondly, another principal ingredient of clause (e) of sub-section (1) of Section 14, which speaks of nonavailability of any other reasonably suitable residential accommodation to the landlord, would not be satisfied. Wherever another residential accommodation is shown to exist as available than the court has to ask the landlord why he is not occupying such other available accommodation to satisfy his need. The landlord may convince the court that the alternative residential accommodation though available is still of no consequence as the same is not reasonably suitable to satisfy the felt need which the landlord has succeeded in demonstrating objectively to exist. Needless to say that an alternate accommodation, to entail denial of the claim of the landlord, must be reasonably suitable, obviously in comparison with the suit accommodation wherefrom the landlord is seeking eviction. Convenience and safety of the landlord and his family members would be relevant factors. While considering the totality of the circumstances, the court may keep in view the profession or vocation of the landlord and his family members, their style of living, their habits and the background

wherefrom they come.”

(ii) In **(2001) 8 SCC 561 (Siddalingamma and another v. Mamtha Shenoy)**, in para-9, it is held as follows:

“9.Rent control legislation generally leans in favour of the tenant; it is only the provision for seeking eviction of the tenant on the ground of bona fide requirement of the landlord for his own occupation or use of the tenanted accommodation which treats the landlord with some sympathy. In Shiv Sarup Gupta v. Dr.Mahesh Chand Gupta (1999) 6 SCC 222 this Court has held that a bona fide requirement must be an outcome of a sincere, honest desire in contradistinction with a mere pretext for evicting the tenant on the part of the landlord claiming to occupy the premises for himself or for any member of the family which would entitle the landlord to seek ejectment of the tenant. The question to be asked by a Judge of facts, by placing himself in the place of the landlord, is, whether in the given facts proved by the material on record the need to occupy the premises can be said to be natural, real, sincere, honest. If the answer be in the positive the need is bona fide. The concept of bona fide need or genuine requirement needs a practical approach instructed by the realities of life. An approach

either too liberal or too conservative or pedantic must be guarded against. If the landlord wishes to live with comfort in a house of his own, the law does not command or compel him to squeeze himself and dwell in lesser premises so as to protect the tenant's continued occupation in tenancy premises. In Deena Nath v. Pooran Lal (2001) 5 SCC 705 this Court has held that bona fide requirement has to be distinguished from a mere whim or fanciful desire. The bona fide requirement is in praesenti and must be manifested in actual need so as to convince the Court that it is not a mere fanciful or whimsical desire."

(iii) In **(2014) 15 SCC 610 (Anil Bajaj and another v. Vinod Ahuja)**, wherein it is held that it is not on the part of the tenant to prove as to how the property of the landlord to utilise for the purpose of landlord . In para-6, it is held as follows:

"6. In the present case it is clear that while the landlord (Appellant 1) is carrying on his business from a shop premise located in a narrow lane, the tenant is in occupation of the premises located on the main road which the landlord considers to be more suitable for his own business. The materials on record, in fact, disclose that the

landlord had offered to the tenant the premises located in the narrow lane in exchange for the tenanted premises which offer was declined by the tenant. It is not the tenant's case that the landlord, Appellant No. 1, does not propose to utilize the tenanted premises from which eviction is sought for the purposes of his business. It is also not the tenant's case that the landlord proposes to rent out/keep vacant the tenanted premises after obtaining possession thereof or to use the same in any way inconsistent with the need of the landlord. What the tenant contends is that the landlord has several other shop houses from which he is carrying on different business and further that the landlord has other premises from where the business proposed from the tenanted premises can be effectively carried out. It would hardly require any reiteration of the settled principle of law that it is not for the tenant to dictate to the landlord as to how the property belonging to the landlord should be utilized by him for the purpose of his business. Also, the fact that the landlord is doing business from various other premises cannot foreclose his right to seek eviction from the tenanted premises so long as he intends to use the said tenanted premises for his own business."

The Apex Court held that what is bonafide? Admittedly, the

petitioner/tenant is doing business in two places and got separate license.

16.In para-5 of his counter, the petitioner/tenant stated as follows:

"5. The main business center of the respondent is the business in the petition schedule building. The agency is allotted by the 'Oshadhi' to the petition schedule building. If the petition schedule building is to be vacated this respondent will lose the agency and consequently the branch at Irattpilakool will have also to be closed. "

17.The petitioner in his cross-examination, stated as follows:

".. .. It is true that Municipality has issued two separate license to conduct business in the shop mentioned in the petition and shop situated at Erattapilakool. The agency situated in Erattapilakkool is in the year 2008 not before 2008. "

18.On considering the evidence of respondent/landlord, it is clear that he is having experience in sales man work and he wants to start a stationary business in the suit property. Now he is

working as a salesman in Lulu Sarees and Textiles Pvt. Ltd., Thalasserry. Hence, I am of the view that the respondent's requirement is bona fide. In the petition itself, the landlord/tenant stated that "the petitioner or other members of their family are not in possession of any vacant buildings in the locality to run the proposed business."

19.As per the ratio decidendi of **(2014) 15 SCC 610 (Anil Bajaj and another v. Vinod Ahuja)**, wherein it is held that the landlord is carrying on his business from a shop located in the narrow lane. Now he wants to shift the same to the main road. So he filed the application for eviction. Further it is held that the tenant cannot dictate terms to the landlord as to how the property belonging to the landlord should be utilised by him for his business.

20.Considering the facts and circumstances of the case along with the above decisions, I am of the view that the petitioner is having business in two places with separate license. The landlord has pleaded and proved that himself and other members of his family are not in possession of any vacant buildings in the locality to run the proposed business. So both the Courts below have

considered the oral and documentary evidence and rightly came to the conclusion that the landlord has proved that the demise building is required for his personal occupation and his requirement is bona fide. So I do not find any merits in the revision and the fair and decreetal order passed by both the Courts below is hereby confirmed.

21. In the result, the Civil Revision Petition stands dismissed. Three months time is granted for eviction. No costs. Consequently, connected Miscellaneous Petitions are closed.

07.02.2017

Index: Yes/No
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To

1. The Rent Controller
(Sub-Court) Mahe.

2. The Rent Control Appellate Authority
II Additional District Court, Puducherry.

R.MALA,J.

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Pre-delivery order made in
C.R.P(NPD).No.4836 of 2014
and M.P.Nos.1 of 2014 and 1 of 2015

Dated: 07.02.2017

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