

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.06.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CRP(NPD)No.1746 of 2012

A.Shahul Hameed

.. Petitioner

Vs.

Abdullah

.. Respondent

Prayer: Civil Revision Petition filed under Section 25 of Tamilnadu Buildings (Lease and Rent) Control Act, against the Judgment and Decree dated 12.07.2011 made in RCA.No.6 of 2011, on the file of the Sub-Court, Chidambaram, which is reversing the order passed in RCOP.No.4 of 2008, on the file of the District Munsif Court at Chidambaram, dated 15.02.2011.

For Petitioner : Mr.S.B.Fazluddin

For Respondent : Mr.S.Krishnasamy

ORDER

The petitioner/landlord in RCOP.No.4 of 2008 is the civil revision petitioner before this Court, challenging the order passed in RCA.No.6

of 2011, dated 12.07.2011, on the file of the Rent Control Appellate Authority / Sub Judge, Chidambaram.

2.The case of the petitioner is that the petitioner, who is the landlord of the petition mentioned property has purchased the same on 08.03.2002 by way of registered sale deed and pursuant to the said sale, he became the owner of the said building.

3.The petitioner further states that prior to the purchase of the said property, he was doing the business in the name and style of Malik Fancy Stores in the very same premises and after purchase the same, he continued the business. The name of the Malik in the Malik Fancy Stores refers only the name of the father of the petitioner and his brother. Apart from this, the petitioner also purchased the property situated in the eastern side under the registered sale deed dated 08.03.2002 and both the properties are the parts of the property of the entire building. Therefore, there is a dividing wall between them and the breadth of the wall is 3/4 feet.

4.The petitioner also come forward by saying that after purchasing the eastern side of the petition mentioned property, the petitioner has started the Foot Wear Shop. At the time of the

purchase of the petition mentioned property and after the purchase also, the respondent, who is the elder brother of the petitioner had no business and no source of income and he has also states that the status of the petitioner and his brother is better except the respondent. One Mr.Ayub, who is the uncle of the petitioner and respondent, who is resident of Cuddalore, one Mr.S.Mohamed Sait, uncle of the petitioner and the respondent, residing at Bhuvanagiri and the parents of the petitioner and respondent were requested the petitioner to give the Malik Fancy Stores as a gift to the respondent, since that the parents of the petitioner told the petitioner that they would prepared to pay a sum of Rs.2,00,000/- as advance for leasing out the suit property to the respondent and that the respondent should pay a sum of Rs.2,000/- per month as rent.

5.The petitioner further states that the petitioner has always in the habit of respecting the feeling, honouring the mind of the elders, because of the pressure of the elders and the petitioner's sympathy towards the respondent, the petitioner yielded the words of the elders, gave the Fancy store to the respondent, since, the petitioner did not think that the respondent would forget this help in future and attack him in future.

6.The petitioner further states that after handing over the property to the respondent, the petitioner received the advance amount of Rs.2,00,000/- from his parents of the petitioner as advance of the lease and that the respondent agreed to pay a sum of Rs.2,000/- as monthly rent. To that effect, a rental deed dated 01.03.2004 was executed between the petitioner and the respondent in the presence of the witnesses.

7.Pursuant to the terms of the rental deed, the respondent, who is the elder brother of the petitioner, has been occupying the petition mentioned property as a tenant. After the expiry of the period mentioned in the rental deed, the respondent requested the petitioner to continue in the possession of the property as a tenant only for further period of 11 months. Again the parents of the petitioner and other elders were permitted the respondent in possession of the property as a tenant. Therefore, another rental deed dated 02.03.2005 was executed between the petitioner and the respondent for a period of 11 months. Pursuant to the rental agreement, the respondent has agreed to pay a sum of Rs.2,200/- as monthly rent, even though, the respondent agreed to pay the amount of Rs.2,200/- as monthly rent, but he has paid only Rs.2,000/- per month. Therefore, the petitioner has issued notice dated 06.01.2006 to the

respondent called upon the respondent to vacate and hand over the vacant possession of the property.

8.For the notice dated 06.01.2006, this respondent also given reply notice on 25.01.2006. This petitioner also stated that the respondent has also agreed to vacate the property in the month of February 2008 or even earlier. For that, the respondent also issued acceptance letter dated 21.02.2006 and the said letter, the father of the petitioner Mr.E.K.Abdul Malik, Mr.A.Kather Oli, brother of the petitioner and Mr.Mohamed Sait, they are all the mediators, are all signed.

9.This petitioner also come forward by saying that the property which is in the occupation of the petitioner at Door No.37/1, Venugopal Street, Chidambaram, is not sufficient for expanding his business named as "Malik Foot Wear". There is no sufficient place for providing chairs in a row for the customers, because of the insufficient occupied portions of the property, the petitioner is not able to expanding his business, since the customers have to stand inside the shop till his or her selection is over. Most of the customers were complained about the non providing of chairs. Aged customers were not able to stand more than 5 minutes, it has a great hardship to the

petitioner. The purpose of purchasing the petition mentioned property is only to develop and improve the business in future. Because of refusal to vacate the premises of the respondent, the careers for developing the business is being curtailed. If the dividing wall is removed, the petitioner would get sufficient place for developing the business. The petitioner bonafide requires the petition mentioned premises for his personal occupation and additional accommodation. The petitioner had taken efforts to start whole sale business. Knowing fully well that the petitioner would insist the respondent to vacate the property in the end of February 2008, the respondent instituted a vexatious suit in O.S.No.61 of 2008, on the file of the District Munsif, Chidambaram, suppressed the material facts, for permanent injunction against the petitioner. After receiving the summons from the Court, the petitioner reported the matter to his elders i.e. mediators. Therefore, they told him that the petitioner can take legal action against the respondent and that nobody would tolerate the arrogant attitude of the respondent. Therefore, the petitioner has filed the Rent Control proceedings in RCOP.No.4 of 2008 before the learned Rent Controller Appellate Authority namely the District Munsif, Chidambaram, against this respondent seeking an order of the eviction and thereby evicting the respondent from the petition mentioned premises and put the petitioner in possession of the

petition mentioned property.

10. On summon in the above case, this respondent has engaged counsel and filed his counter affidavit, and denied the allegations set out by the petitioner.

11. The respondent has come forward by saying that it is true that the property situated in Chidambaram Town, but the respondent has denied the other allegations after purchasing the eastern side of the petition mentioned property, this petitioner has started the Foot Wear Shop, that the respondent had no business at that time.

12. The respondent also denied the other allegations that the parents of the petitioner were prepared to pay a sum of Rs.2,00,000/- as advance for leasing out the suit property to the respondent and agreed to pay the rental amount of Rs.2,000/- and all the pressure of the elders, the petitioner took sympathy to the respondent and given the fancy shop to the respondent. This respondent states that all these stories are created by the petitioner, since he is a Cine Script Writer.

13. This respondent also states that it is admitted fact that this

respondent alone has paid the amount of Rs.2,00,000/- as advance to the petitioner. The rental amount is fixed at Rs.2,000/- per month. The said agreement was executed on 01.03.2004, the respondent has denied the enhancement of rent of Rs.2,200/- p.m., the respondent also denied that the respondent agreed to vacate the premises in the month of February 2008. Since the agreement dated 21.02.2006 mentioning that the respondent is ready to vacate the premises on or before February 2008 and the said agreement the respondent's father and others are witnesses are all false and this respondent states that no such agreement dated 21.02.2006 was executed.

14.The respondent states that this petitioner having show room in the ground floor and having a stock room in the first floor. The petitioner has got enough space for providing the chairs to customers and also to display the goods therein. Moreover, even from the beginning, the petitioner doing Foot Wear business at all. Now, in order to vacate the respondent from the petitioner premises, the petitioner has invented a reason and falsely states that he bonafidely requires the premises for his personal occupation.

15.The respondent also states that when the petitioner tried to forcefully to dispossess the respondent in the petitioner premises, this

respondent has moved Civil Court and filed a suit in O.S.No.61 of 2008 for permanent injunction. Therefore, the respondent has prayed for the dismissal of the RCOP.No.4 of 2008.

16.Considering both side cases, the learned Rent Controller has allowed the Rent Control Proceedings in RCOP.No.4 of 2008, on the ground that the petitioner himself has stated that if the wall of the petition premises removed, he will get more profit in his business.

17.The learned Judge also states that the respondent himself has agreed that if the petition premises given to the petitioner, the petitioner would expand his business and he will get more profit from the property and when the respondent himself has agreed for the bonafide occupation, the respondent should have vacate the premises. Therefore, the learned Judge has directed the respondent to vacate the premises within a period of three months.

18.Challenging the order of the learned Rent Controller, the respondent/tenant has filed the Rent Control Appeal proceedings in RCA.No.6 of 2011 before the learned Rent Control Appellate Authority namely the Sub Judge, Chidambaram, by raising various grounds.

19.The respondent in his appeal seeking the Rent Control Appellate Authority to set aside the order passed in RCOP.No.4 of 2008 on the ground that the petitioner is owning and in possession of four shops in various places in city and also premises in 2nd floor, whereas the suit property is only property, which is in possession of the respondent/tenant.

20.He has also raising grounds stating that the Rent Controller has miserably failed to consider the judgment reported in **1999 (iii) CTC 116** wherein, the hardship caused to the tenant, much more than the Landlord the Court ought to have dismissed the Landlord's eviction petition. He has also raising the another ground that the landlord is running a main shop at S.P.Koil Street and he is running only Branch shop at V.G.P. Street and should dismiss the Eviction Petition filed by the landlord. The respondent also raising another ground that the additional accommodation under Section 10(3)(a)(iii) does not apply to the case of the landlord/petitioner as reported in **1998 (iii) CTC 457**.

21.Considering both side cases, the learned Rent Control Appellate Authority namely the Sub-Judge, Chidambaram was pleased

to allow the appeal by order dated 12.07.2011 on the ground that both the petitioner and respondent are the brothers. The learned Appellate Authority also states that though the petitioner/landlord is running four shops and before leasing out the property to this respondent, the respondent was running the family in the poverty condition. Apart from this, the learned Judge also states that if the petition premises is hereby vacated by the respondent and given to the petitioner and on removing the wall put up by the respondent, the petitioner will get more profit which are all gives that the petitioner is running the shop without any income.

22.The learned Appellate Authority also states that when the petitioner/landlord has not produced any rental document to show that when the rental period was over and the learned Rent Controller ought to have note the non-production of rental agreement and the order of the Rent Controller directing the respondent/tenant to vacate the premises within a period of three months is a total wrong order. Therefore, the learned Rent Control Appellate Authority set aside the order passed in RCOP.No.4 of 2008 passed by the Rent Controller namely the Principal District Munsif Court, Chidambaram.

23.Challenging the said Rent Control appeal in RCA.No.6 of

2011 dated 12.06.2011, this petitioner/landlord has filed the present civil revision petition before this Court.

24.I heard Mr.S.B.Fazluddiin, learned counsel appearing for the petitioner and Mr.S.Krishnasamy, learned counsel appearing for the respondent and perused the judgments and records.

25.It is admitted case that the petition premises is belongs to this petitioner/landlord, the respondent himself has admitted that he has paid the advance amount of Rs.2,00,000/- and agreed to pay the rental amount of Rs.2,000/-, but he denied the letter dated 21.02.2006 agreeing to vacate the petition premises on or before February 2008.

26.It is also admitted fact that this petitioner/landlord is running more than four shops in the locality and particularly the petitioner having show room in the ground floor and having a stock room in the first floor. The petitioner has got enough space for providing the chairs to customers and also to display the goods therein.

27.Both the Courts below have miserably failed to note that for

the bonafide requirement particularly, if the wall put up between the petitioner and respondent shop will be removed, definitely the petitioner/landlord would get the more spacious for running his business and for proving the said ground, no Advocate Commissioner was appointed, since in this case only ground raised by the petitioner/landlord that the bonafide occupation of the petition premises for the only ground of expanding the business shop put near to the business shop.

28. Apart from this, it is admitted fact that both the petitioner and the respondent are the brothers, but this Court would not stream about the blood relative between the petitioner and respondent, but the Court must have looked into the ground raising by the petitioner filed under Section 10(3)(a) and 10(3)(c) of Tamilnadu Building Lease and Rent Control Act, 1960, Section 10(3)(a) and Section 10(3)(c), which is stated are as follows:

(1) **Section 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 residential building, if the landlord requires

it for his own occupation or for the occupation of [any member of his family] and if he or [any member of his family] is not occupying a residential building of his own in the city, town or village 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] is not occupying any such building in the city, town or village concerned which is his own;

(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 in the city, town or village concerned which is own:

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 registered:

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.

(2) **Section 10(3)(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 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.

29. Section 10(3)(a)(i) is very clearly states that in case it is residential building, if the landlord requires it for his own occupation or for the occupation of any member of his family and if he or any member of his family is not occupying a residential building of his own in the city, town or village concerned and the Section 10(3)(c)

has stated that 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 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.

30. When the Section 10(3)(a)(ii) clearly states that if the landlord is not occupying any such building in the city, town or village concerned which is own and apply to the Controller for an order directing the tenant to put the landlord in possession of the building, but in this case, this petitioner/landlord who is running a shop very near to the petition premises as well as in the ground floor and apart from the 3 shops in the same town in his own name has running the business. Therefore, very provision of Section 10(3)(a)(ii), this would not apply to the petitioner/landlord case for eviction of the respondent/tenant, on the ground of the bonafide occupation.

31. Therefore, the very filing of the petition under Section 10(3)(a) of the Act is not applicable to the petitioner's case, since in the very same city the petitioner having more than 4 properties i.e.

shops and one such shop is very near to the petition premises and therefore, Section 10(3)(c) is totally not applicable to the petitioner's case, since unless he complied the provision of Section 10(3)(ii) of the Act, he cannot invoke the Section 10(3)(c) of the Act, because it is not a bonafide requirement of the landlord.

32.This Court has considered that the bonafide requirement of the landlord for additional accommodation filed under Section 10(3)(c) of the Act and the landlord known in the evidence, hardship is not refer to in the upper case, this Court held that the landlord, who is the owner of the another non-residential building in the same town having the building non- residential and the landlord even co-owner of the non-residential building is occupying his own non-residential building. But, the landlord is dis-entitled for seeking eviction.

33.The petitioner/landlord has produced several judgments of this Court and the Hon'ble Apex Court, this Court has agreed that the petitioner produced the following judgments:

(1) ***Kuthalingam v. Jahir Hussain*** reported in **1997 (II) MLJ 496**, this Court held as follows:

“2. ... The finding rendered by the appellate authority, in my opinion, is purely based on facts and also

on the basis of the evidence tendered and therefore the said finding is not liable to be interfered with. I shall now deal with the argument of the learned counsel for the petitioner that the landlord cannot invoke Sec.10(3)(c) of the Act in this case in view of the fact that the petition schedule premises is not a part of the premises alleged to be in his occupation since both the premises are given separate door numbers and separate ingress and egress.

... As pointed out by the Supreme Court, What Sec.10(3)(c) envisages is the oneness of the building and oneness of the ownership of two different buildings one occupied by the landlord and the other by the tenant. In the instant case Door Nos.29, 30, 31, 40, 41, etc. are all owned by the landlord himself. The landlord is admittedly in occupation of Door No.31. The additional accommodation is now sought for Door No.30 which is in the occupation of the tenant. Merely because the two portions Door Nos.30 and 31 are separated only by a single wall, it would not alter the situation in any manner because the identify of the two portions is not to be judged on the basis of the buildings being separated by a single wall or two separate walls with intervening space in

between them. No one can say that the two adjoining buildings bearing different door numbers, one occupied by the landlord and other by the tenant will make them one and the same building if they are owned by one person and separate buildings if they are owned by two different persons. Here it is not the case of two adjoining buildings bearing different door numbers. In this case, there is only one building owned by the landlord himself separated only by a single wall.”

(2) ***A.Kaliappa Nadar (Died) and others v. V.S.T.Jeyaraj Nadar and another*** reported in ***2005 -1- L.W. 115***, this Court held as follows:

“26.With regard to the difficulties and hardship, though the petitioners would contend that they would face irreparable loss and hardship if eviction is ordered against them, no evidence was adduced as to what sort of hardship and irreparable loss they would sustain if eviction is ordered before the Rent Control Authority.

32.Further, following the principles laid down by the Supreme Court, in *T.Sivasubramaniam and others vs. Kasinathpujri and others* (2000-1-L.W. 778), that when a

landlord desires a premises, the requirement of law is that the landlord must set out his need for the premises in his petition and establish that such a need is bonafide. The need must be bona fide, genuine, honest and conceived in good faith, which was established by the landlord in this case, I am of the view that the Rent Control Appellate Authority has rightly come to the conclusion with which I am not inclined to interfere."

(3) ***Bhagwan Chand & Co., rep. by its Proprietor, Mr.B.Chandanmull, Chennai-600 079 v. Uttam Chand and Others*** reported in ***(2007) 6 MLJ 841***, this Court held as follows:

"It is for the landlords to decide whether the premises which is in occupation of the tenant is adequate or inadequate and that it is their prerogative to decide whether they need additional place in view of the expansion of business and hence, the approach of the Court should not be whether the existing premises is sufficient or not but the approach should be whether the claim is bona fide or not."

(4) ***South Eastern Bookings (Regd.), rep. by its Partner,***

K.Venkataraman and others v. Haji V.K.M.Kuthubudeen, rep. by Power of Attorney Agent, Mr.C.Ganapathy, 214, Thambu Chetty Street, Chennai-600 001 reported in ***2010 (2) MWN (Civil) 474***, this Court held as follows:

“9.In so far as the other contention raised by the learned counsel for the Petitioners that the provision under Section 10(3)(e) has not been complied with is concerned, the said contention also cannot be countenanced. It is the specific case of the Petitioners that the Petition mentioned premises is required for expansion and his bona fide needs will over-whelm, the relative hardship that might be caused to the Petitioners. The Petitioners in their reply notice have not made any mention about the need of the Respondent for additional accommodation. When a specific pleading is raised about the relative hard ship by the Landlord, a duty is equally caused upon the tenant to substantiate his case regarding the relative hard ship.

11.Learned counsel for the Petitioners has relied upon the judgment of Apex Court reported in ***J.Jermans v. Aliammal and others***, 1999 (3) CTC 697 (SC) : AIR 1999 SC 3041; ***Ameena Beebi @ Jamurthu Begum v.***

P.M.Khaja Mohideen, 2000 (2) MLJ 196; and **Chellammal v. Krishnaveni Ammal**, 2006 (3) MLJ 360, in support of his contention that a duty has been cast upon the Rent Controller to decide the relative hardship between the parties. It is no doubt true that the Court will have to decide the relative hardship when an application is filed by the Landlord seeking a portion of the building in which he is doing business and the tenant is also doing his own business. However, in the present case on hand, the evidence produced by the parties would clearly show that the bona fide need of the Respondent will over-whelm the hardship that will be caused to the Petitioner. In the judgment reported in **M/s.Rasi Silks and another v. T.A.Venkatachalam & others**, 2007 (3) CTC 152 : 2007 (3) LW 61, this Court has held that when the Landlord has given evidence and proved the bona fide, **it is for the tenant** to substantiate his case regarding relative hardship. Therefore, on consideration of the above said legal decision, this Court is of the opinion that the available documentary evidence, read with the evidence of RW1 himself, would clearly establish the fact that the bona fide needs of the Respondent will over-whelm the hardship

of the Petitioner while ordering eviction. Hence, on consideration of the above said facts, this Court is of the consider view that there is no ground made out to interfere with the order passed in R.C.A.No.103 of 1998 on the file of the VII Small Causes Court, Chennai.”

34.Per contra, the respondent has produced the judgment rendered by this Court in ***Jothi Ammal and three others v. Kulandai Vadivel and others*** reported in ***1998 (iii) CTC 457***, this Court held as follows:

“10. The learned counsel appearing for the respondent has strongly relied on the decision in Kuthalingam v. Jahir Hussain, 1997 (2) L.W. 470 in support of her submission. In the said decision, the landlord was occupying the premises bearing door No.31, and other premises bearing door Nos.29, 30, 40 and 41 etc.. were occupied by the tenant. In the said case door numbers 30 and 31 are separated by single wall. The learned Judge in that case, refused to interfere with the findings of the appellate authority on the basis that the said finding is purely based on facts and also on the basis of the evidence. The learned Judge proceeded on facts and on the

basis of the factual findings of the appellate authority, has found as follows:-

"When the two portions bearing Door Nos. 30 and 31 are admittedly in one building and the requirement of the landlord is also bona fide, there can be no impediment on the part of the landlord from asking for additional accommodation in the same building. I have already held that the finding of the Appellate Authority holding that the requirement of the building is bona fide and does not warrant any interference by this Court".

Though before the learned Judge, the decision of the Supreme Court in *Gangaram v. N. Shankar Reddy*, 1998 (4) S.C.C. 648 : AIR 1989 S.C. 302 was cited the learned Judge distinguished the same on the basis of the facts of the case before him.

11. Before dealing with the facts of the present case, it is necessary to point out certain decisions on this aspect. In *Gangaram v N. Shankar Reddy*, AIR 1989 S.C. 302 : 1988 (4) SCC 648, the Apex Court has elaborately discussed about the scope of Section 10(3) of the Act, and guidelines has been given in the said decision, which are as follows:-

"What S. 10(3)(c) envisages is the oneness of the building and not the oneness of ownership of two different buildings, one occupied by the landlord and the other by the tenant. The significant words used in S. 10(3)(c) are 'the landlord who is occupying only a part of a building' and 'any tenant occupying the whole or any portion of the remaining part of the building'. Surely no one can say that two adjoining buildings bearing different door numbers, one occupied by the landlord and the other by the tenant would make them one and the same building if they are owned by one person and separate buildings if they are owned by two different persons. A practical test which can be applied to find out if two adjoining buildings form part of the same building or two different buildings would be to see whether one of the two buildings can be sold by the landlord and the purchaser inducted into possession of the premises sold without the landlord's possession and enjoyment of the premises in his occupation being affected. Viewed in that manner, it can at once be seen that the leased premises in the appellant's occupation can be independently sold and the purchaser delivered possession without the respondent's possession of door No. 1-1-249

being affected in any manner. As a matter of fact, the previous history of the building shows that before it was purchased by the respondent, it was owned by Sri Sitaram Rao and the respondent was owning only door No. 1-1249. Such being the case, merely because the appellant has acquired title to door No.1-1-250 also, it can never be said that the building under the tenancy of the appellant became part and parcel of the respondent's building No. 1-1-249. Similarly, the fact that the two buildings are separated only by a single wall with no intervening space between them would not alter the situation in any manner because the identity of two separate buildings is not to be judged on the basis of the buildings being separated by a single wall or by two separate walls with intervening space in between them"

35.On fair reading of the above judgments rendered by this Court, it is made clear that this Court and the Hon'ble Apex Court very categorically held that it is for the landlords to decide whether the premises which is in occupation of the tenant is adequate or inadequate and that it is their prerogative right to decide whether they need additional place in view of the expansion of business and

hence, the approach of the Court should not be whether the existing premises is sufficient or not but the approach should be whether the claim is bona fide or not.

36. Though this Court in the above judgment rendered in **1998 (iii) CTC 457** it is my absolute view that a person or persons who are already having business which is expanding can be denied if they required the premises occupied by the tenants, if it is sought by them for expanding their business, it is the privilege of the landlords to choose and decide the area which they require for their business purposes. Thus the approach of the Court should not be whether the existing premises is sufficient or not but the approach should be whether the claim is bonafide or not.

37. The application filed under Section 10(3)(c) specify that the plea of the respondent/tenant that no evidence was adduced as to what sort of hardship and irreparable loss they would sustain if eviction is ordered before the Rent Control Authority.

38. It is my absolute view that requirement of law is that the landlord must set out his need for the premises in his petition and establish that such a need is bonafide. Therefore, the order of the

Rent Controller considered all these points and rightly ordered for eviction and setting aside the Rent Controller order by the Appellate Authority is totally wrong. Therefore, the order of the Rent Control Appellate Authority is set aside and the order of the Rent Controller is restored.

39.In the result:

(a) this civil revision petition is allowed by setting aside the order passed in RCA.No.6 of 2011, dated 12.07.2011, on the file of the Sub-Court, Chidambaram and this Court confirming the order in RCOP.No.4 of 2008, dated 15.02.2011, on the file of the District Munsif Court, Chidambaram;

(b) the time for eviction is three months from the date of receipt of a copy of this order. No costs.

01.06.2017

Index:Yes
Speaking Order

vs

To

1.The Sub-Court,
Chidambaram.

2.The District Munsif Court,
Chidambaram.

M.V.MURALIDARAN, J.

VS

Pre-Delivery order made in
CRP(NPD)No.1746 of 2012

<http://www.judis.nic.in>