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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	07.01.2020
Pronounced On	04.02.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Rev.Appl.Nos.201 to 203 of 2019

in

C.R.P. (NPD) .Nos.2103 to 2105 of 2015

C.Kasi	... Petitioner in Rev.Appl.No.201 of 2019
Raja	... Petitioner in Rev.Appl.No.202 of 2019
Rani	... Petitioner in Rev.Appl.No.203 of 2019

Vs.

1.Rajam Radharkrishnan

2.A.Jayanthi	... Respondents in all Rev.Appls.
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Common Prayer:

Review Applications filed under Section 114 r/w Order XLVII Rule 1 of CPC, to review the order made by this Court in C.R.P. (NPD) .Nos.2103, 2105 and 2104 of 2015, dated 12.06.2019.

C.R.P. (NPD) .Nos.2103, 2105 and 2104 of 2015:-

Petitions filed under section 25(i) of Tamil Nadu Buildings Lease and Rent Control Act 18 of 1960 as amended by Act 23 of 1973, praying this Hon'ble Court to set aside the decree and judgment dated 14.11.2014 made in RCA.Nos.679, 681 and 680 of 2007, on the file of the IX Judge, Small Causes Court, Chennai. reversing the order and decree dated 27.11.2006 made in RCOP.Nos.860, 861 and 858 of 2006 on the file of XII Judge, Small Causes Court, Chennai respectively.

For Petitioner : Mr.A.Palaniappan in all Rev.Appls.

For R1 : Mr.T.Subramanian in all Rev.Appls.

For R2 : Mr.N.Rajan for
Mr.M.Syed Ibrahim in all Rev.Appls.



C O M M O N O R D E R

The present Review Applications have been filed to review the common order dated 12.06.2019 in CRP.NPD.Nos.2103 to 2105 of 2015. The above Civil Revision Petitions were filed by the respective petitioners against the order of R.C.A.Nos.679 to 681 of 2007 on the file of the learned IX Judge, Small Causes Court, Chennai reversing the order and decretal order dated 27.11.2006 in R.C.O.P.Nos.860, 858 & 861 of 2006 on the file of the learned XII Judge, Small Causes Court, Chennai.

2.The respective petitioners herein are the tenants of the respondents who were subjected the eviction proceedings by the respondents herein under Section 10(2)(i) and Section 10(3)(e) (i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

3.By a common order dated 27.11.2006, the said R.C.O.Ps. came to be dismissed. The respondents therefore filed appeals in R.C.A.Nos.679 to 681 of 2007. The said R.C.As. were allowed by the Rent Control Appellate Court on 14.11.2014.

4.Aggrrieved by the said appeals, the petitioners herein had filed C.R.P.NPD.Nos.2103 to 2105 of 2015, to set aside the fair and decretal order dated 14.11.2011 in R.C.A.Nos.679 to 681 of 2007. By a common order dated 12.06.2019, the above Civil Revision Petitions were dismissed by this Court, which is now sought to be reviewed by the respective petitioners in the present Review Applications.

5.It is stated that the proviso to Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 has been wrongly interpreted by comparing with the Chapter III of the Delhi Rent Control Act 1958 in the light of the Full Bench of the Hon'ble Supreme Court in Sarwan Singh and Another vs. Sri Kasturilal, (1977) 1 SCC 750.

6.In the order under review dated 12.06.2019, a comparison was made between Section 19 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 and Section 29 of the Tamil Nadu Building (Lease and Rent Control) Act, 1960. In para 31, it was observed as under:

"31. Petitioners are no doubt occupiers of the property within the meaning of Section 2(g) of Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 which includes a person who, for the time being, is paying or is liable to pay to the owner of the rent or any portion of the rent of the land or building in respect



of which, the rent is to be paid or is payable.”

7. Section 29 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, contemplates the exemption under the said Act, read as follows:

The Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971.	Tamil Nadu Buildings (Lease and Rent Control) Act, 1960
29. Proceedings for eviction of tenants not to be taken without permission of the competent authority- (1) Notwithstanding anything contained in any other law for the time being in force, no person shall, except with the previous permission in writing of the competent authority,- (a) institute, after the commencement of the Slum Areas (Improvement and Clearance), Amendment Act, 1964 (43 of 1964) any suit or proceeding for obtaining any decree or order for the eviction of a tenant from any building or land in a slum area; or (b) where any decree or order is obtained in any suit or proceeding instituted before such commencement for the eviction of a tenant from any building or land in such area, execute such decree or order.	29. Exemptions - Notwithstanding anything contained in this Act, the Government may, subject to such conditions as they deem fit, by notification, exempt any building or class of buildings from all or any of the provision of this Act.

8. Since the respective petitioners have not produced any exemptions from the operation of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, it was concluded that the Civil Revision Petitions filed by the respective petitioners were liable to be dismissed.

9. The learned counsel for the petitioners drew my attention to Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971. He has produced a reproduction of Section



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29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 in a tabular column which reads as under:-

29.Proceedings for eviction of tenants not to be taken without permission of the competent authority.- "

(1) Notwithstanding anything contained in any other law for the time being in force, no person shall, except with the previous permission in writing of the competent authority,-

(a) institute, after the commencement of the Stum Areas (Improvement and Clearance), Amendment Act, 1964 (43 of 1964) any suit or proceeding for obtaining any decree or order for the eviction of a tenant from any building or land in a slum area; or

(b) where any decree or order is obtained in any suit or proceeding instituted before such commencement for the eviction of a tenant from any building or land in such area, execute such decree or order.

(2) Every person desiring to obtain the permission referred to in sub-section (1) shall make an application in writing to the competent authority in such form and containing such particulars as may be prescribed.

(3) On receipt of such application, the competent authority, after giving an opportunity to the parties of being heard and after making such summary inquiry into the circumstances of the case as it thinks fit, shall by order in writing, either grant or refuse to grant such permission.

(4) In granting or refusing to grant the permission under sub-section (3), the prescribed authority shall take into account the following factors, namely:-

(a) Whether alternative accommodation within the means of the 4[occupant] would be available to him if he were evicted:

(b) Whether the eviction is in the interest of improvement and clearance of the slum



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area;

(c) such other factors, if any, as may be prescribed.

(5) Where the prescribed authority refuses to grant the permission, it shall record a brief statement of the reasons for such refusal and furnish a copy thereof to the applicant."

10. I have considered the arguments of the learned counsel for the petitioners.

11. The learned counsel for the petitioners referred a decision of this Court in P. Balakrishnan Vs. Kailasammal and Others, (2018) 6 CTC 24, wherein it was observed as under:-

"14. The learned counsel appearing for the petitioner would rely on the Judgment of the Division Bench of this Hon'ble Court reported in 1980 (2) MLJ 83 (Parthasarathy & another vs. Kuppammal), wherein the Division Bench has observed as follows:

"A conjoint reading of all the sub-sections of S. 29 of the Act would clearly indicate that the Legislature intended to impose a restriction on the owner of the land either executing the decree obtained earlier or instituting a suit for eviction against an occupant of a slum area, by imposing a pre-condition that the owner of the slum area should get the permission of the requisite authority either for filing the suit for eviction or for executing the decree that had already been obtained. S. 29. in express terms, prohibits the owner of the slum area from instituting a suit for eviction or executing a decree obtained earlier against an occupant without such permission"

12. It may be therefore useful to refer to the decision of this Court reported in Parthasarathy and Another Vs. Kuppammal, AIR 1980 Mad 246, which on reference by the then Chief Justice to a Division Bench of this Court. Para Nos. 4 to 6, read as under:

4. In this case the executing court has sustained the execution petition without the written



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permission of the authority contemplated by S. 29 not on the ground that the petitioner cannot take advantage of S. 29, but on the ground that the Notification declaring the area as slum had expired by efflux of time. The executing Court has relied on S. 5(2) for taking that view. There appears to be an obvious error in the approach made by the executing court. It is under S. 5 a declaration is made that a particular area is a slum area. No time limit has been provided either under S. 3 or under any provision of the Act limiting the duration for the currency of such a declaration. The executing Court has proceeded on the basis that the Notification referred to under S. 5(2) is the Notification issued under S. 3. This appears to be a clear misconception. Sub-S. (1) of S. 5 provides for a Notification that no person shall erect any building in a slum area except with the previous permission of the prescribed authority and this is entirely a different notification. Sub-S. (2) of S. 5 says that every such notification issued under sub-S. (1) shall cease to have effect on the expiration of two years from the date thereof except as respects things done or omitted to be done before such cesser. The two years period referred to in Sub-S. (2) applies only to a Notification issued under Sub-S. (1) preventing the erection of any building in a slum area without permission, and it does not refer to any notification issued under S. 5 declaring a particular area as a slum area. Therefore, the Executing Court is in error in stating that the declaration declaring the area as slum area has ceased by efflux of time and, therefore, S. 29 cannot come in the way. In our view, the application of S. 29 cannot be avoided on the ground that two years time had elapsed since the issue of the Notification declaring the area as slum area.

5. The learned counsel appearing for the respondent, however, relies on the decision of Mohan, J. in *Varadappa Reddiar v. Tamil Nadu Slum Clearance Board* and contends that even if the reasoning of the executing court is wrong, its conclusion can be sustained on the basis of the said decision. In that case, Mohan, J. has taken the view on similar facts that no written permission is necessary from the Slum Clearance



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Board and that execution can be levied in respect of a decree obtained earlier even without the permission contemplated under S. 29 of the Act. The reasoning given by the learned Judge for taking such a view is as follows—

“A careful reading of the various provisions of the Act would reveal that a person like the petitioner cannot claim the right in his favour since, all the provisions merely empower the Slum Clearance Board to clear the slums for the improvement of the slums. The object of the Act is the proper improvement of the slums as they are likely to become a source of danger to public health and sanitation in the said area. This is clear from the preamble. Having regard to the above object, certain powers had to be vested in the Tamil Nadu Slum Clearance Board. That is why in S. 5 there is a restriction on building in slum areas. That reads—

(1) The prescribed authority may, by notification, direct that no person shall erect any building in a slum area except with the previous permission in writing of the prescribed authority—They are merely enabling provisions or powers conferred upon the Board for the improvement and clearance of the slum Under these circumstances, it is not open to the petitioner to set at naught the valid decree of the civil Court which was confirmed by this Court by seeking an illusory protection under this Act.”

The extract from the judgment of the learned Judge given above indicates that the learned Judge felt that the object of the Act was only to clear or improve the slum areas and not to confer any special right on the tenants or occupants in a slum area, that Ss. 5, 11 and 29 of the Act did not confer any benefit or a cause of action in favour of an occupant they being merely enabling provisions empowering the Slum Clearance Board to clear the slum and improve the same and that, therefore, it is not open to the judgment-debtors, who had suffered a decree for eviction, to set at naught those valid decrees by taking advantage of S. 29 of the Act.



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After a careful consideration of the various provisions with reference to the scheme and object of the Act, we are not inclined to agree with the view expressed by the learned Judge. We do not see how it can be said that S. 29 will not come into play in cases where decrees for possession had been obtained from civil Courts and those decrees are put in execution. S. 29 occurs in Ch. VII of the Act under the heading 'protection of occupants in slum areas from eviction'. The marginal note of S. 29 is "proceedings for eviction of occupants not to be taken without permission of the prescribed authority.". That section says that notwithstanding anything contained in any other law for the time being in force, no person shall, except with the previous permission in writing of the prescribed authority, where any decree or order is obtained in any suit or other proceedings instituted before such commencement for the eviction of the occupant from any building or land in a slum area, execute such a decree or order. It also prohibits an owner of a land from instituting a suit for eviction of an occupant from any building or land from the slum area after the commencement of the Act. Sub-S. (2) of S. 29 provides for an application for obtaining the permission from the prescribed authority. Sub-S. (3) deals with the manner of conducting of the enquiry by the prescribed authority on an application for the permission to institute the suit or to execute the decree obtained earlier. Sub-S. (4), which throws considerable light on the aspect we are considering, is as follows:-

"(4) In granting or refusing to grant permission under Sub-S. (3) the prescribed authority shall take into account the following factors, namely-(a) whether alternative accommodation within the means of the occupant would be available to him if he were evicted; (b) whether the eviction is in the interest of improvement and clearance of the slum area; (c) such other factors, if any, as may be prescribed".

A conjoint reading of all the sub-sections of S. 29 of the Act would clearly indicate that the Legislature intended to impose a restriction on



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the owner of the land either executing the decree obtained earlier or instituting a suit for eviction against an occupant of a slum area, by imposing a pre-condition that the owner of the slum area should get the permission of the requisite authority either for filing the suit for eviction or for executing the decree that had already been obtained. S. 29. in express terms, prohibits the owner of the slum area from instituting a suit for eviction or executing a decree obtained earlier against an occupant without such permission. One of the facts to be taken into account by the prescribed authority for granting the sanction under sub-S. (4) is whether alternative accommodation within the means of the occupant would be available to him if he were evicted. This means to suggest that the Legislature wanted to safeguard the interests of the occupant by securing him an alternative accommodation within his means, if a suit for eviction or the execution of a decree for eviction is to be permitted. We are not in a position to say that S. 29 does not confer any benefit on the occupier or that the conferment of such a benefit is outside the scope and object of the Act or that the benefit conferred on the occupants under S. 29 is, in any way, illusory. The object of the Act cannot be gathered merely from the long title or the preamble of the Act. The object and purpose of the Act has to be gathered from the provisions of the Act as a whole and S. 29 being one of the provisions of the Act, the object of which is to give protection to the occupants in slum areas from eviction cannot be overlooked or ignored in finding out the object of the Act. We are not inclined to agree, with Mohan, J. that the object of the, Act was only to clear the slum areas and; develop the slum areas, and that the protection of occupants from eviction will not come! within the scheme of the Act,

6. In this case, it is not in dispute that no permission has been obtained from the competent authority under S. 29 of the Act by the respondent, the owner of the slum area. The eviction proceedings taken by him against the occupant, the petitioner herein, cannot, therefore, be sustained in view of the prohibition contained therein. The learned



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counsel appearing for the respondent would submit that he filed an application for permission as soon as he came to know of the existence of such a restriction as is contained in S. 29, but the permission sought for was refused without any reason by the competent authority. Even assuming that the respondent applied for permission and the permission was wrongly refused, as is alleged by the learned counsel the matter could have been taken in appeal under S. 30 which says that any person aggrieved by an order of the prescribed authority refusing to grant the permission under Sub-S. (4) of S. 5 or under Sub-S.(3) of S. 29 may, within any such time as may be prescribed, prefer an appeal to the Government and the decision of the Government on such an appeal that be final. Admittedly, the respondent has not filed an appeal before the Government, under S. 30. We are not here concerned with the validity of the order of the competent authority refusing permission sought for by the respondent under S. 29, So long as there is no permission obtained in writing by the respondent, execution proceedings cannot be maintained in view of the prohibition contained in S. 29.

7. The learned counsel appearing for the respondent submits that the provisions of the Tamil Nadu Act XI of 1971, including S. 29 are constitutionally invalid. If that is so, it is always open to the respondent to challenge the validity of the said Act in appropriate proceedings. The learned counsel for the respondent further submits that the decrees obtained by the respondent against the petitioners are composite ones and even if the decree for eviction cannot be executed, the decree so far as it relates to mesne profits can be executed by the respondent. The question whether the decree could be executed for recovery of the meane profits and costs or in any other respect will come up for consideration as and when the respondent files an execution petition seeking those reliefs. We make it clear that our decision will not prevent the executing court from entertaining the execution petition for other reliefs.

13.However, while answering the above reference, the



decision of the Hon'ble Supreme Court rendered in Sarwan Singh vs Kasturilal, (1977) 1 SCC 750, was not noted. The Hon'ble Supreme Court noted that the presence of a non-obstante in the amending provisions to the Delhi Rent Control Act, 1958 vide Amendment Act of 1976 and the 1975 ordinance made it clear that it would not be subject to the provisions of the Slum Areas (Improvement and Clearance) Act, 1956.

14. In the said case, the owner of the rented property situated in a slum area was in occupation of the government accommodation and therefore he filed petitions for evicting his tenants in the slum area directly under the provisions of the Delhi Rent Control Act, 1958 without getting permission of the authority under Section 19(1) under the provisions of the Slum Areas (Improvement and Clearance) Act, 1956.

15. A question arose whether application for eviction filed by the owner without getting the permission of the authorities under the provisions of the Slum Areas (Improvement and Clearance) Act, 1956 could be initiated directly under the provisions of the Delhi Rent Control Act, 1958. The Hon'ble Supreme Court examined the issue from the prism of Chapter III A of the Delhi Rent Control Act, 1958. There, the Honourable Supreme Court observed that "Sections 19 and 39 of the Slum Clearance Act were to that extent inconsistent with the procedure prescribed under chapter III A of the Delhi Rent Control Act, 1958 and have to be subordinated to it". The reason for releasing such proceedings from the precondition imposed under the Slum Clearance Act was that the Government or the local authorities ask the person to vacate the premises allotted to him by it on the ground that he owns a residential accommodation in his own name or in the name of his wife or dependent child, a provision ought to be made to enable such person to obtain immediate possession of his own house if it be in the occupation of the tenant.

16. It was in that context the Hon'ble Supreme Court held that when two or more laws operate in the same field and each contains a non-obstante clause stating that its provisions will override those of any other law, stimulating and incisive problem of interpretation arise. Since statutory interpretation has no conventional protocol, cases of such conflict were to be decided in reference to the object and the purpose of the law under consideration frustrated if the provisions of the Slum Clearance Act requiring permission of the competent authority were to prevail over them. Therefore, the then newly introduced provisions of the Delhi Rent Control Act were held to hold field and were to be given full effect despite anything to the contrary contained in the Slum Clearance Act.



17.The decision rendered on 12.06.2019 was largely influenced by the decision of the Hon'ble Supreme Court in Swaran Singh Vs. Kasturi Lal, AIR 1977 SC to 65 and that of the decision rendered in Ravi Dutt Sharma Vs. Ratan Lal Bhargava, (1984) 2 SCC 75. In the 2nd mentioned case also the Hon'ble Supreme Court observed and summarised in paragraph 13 "that in view of the procedure in Chapter IIIA of the Rent Control Act, the Slum Clearance Act is rendered in applicable to the extent of inconsistency and it is not, therefore, necessary for the landlord to obtain permission of the Competent Authority before instituting a suit for eviction and coming within section 14(1) (e) or 14-A of the Rent Control Act".

18.Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 and Section 19 of the Slum Areas (Improvement and Clearance) Act, 1956 are similar. Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 contains a non-obstante clause. "Notwithstanding anything contained in any other law for the time being in force". Section 29 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 also contains non-obstante clause. However, it starts with the expression "Notwithstanding anything contained in this Act".

19.Though not brought to the notice of the court by either of the parties at the time of disposal of the Civil Revision Petitions or while arguing the present Review Applications, the issue has been already considered by the Constitutional Bench of the Hon'ble Supreme Court in its decision rendered in Jyothi Pershand and others Vs. Administrator for Union Territory of Delhi and others, (1962) 2 SCR 125.

20.The said decision was rendered prior to the decision of the Hon'ble Supreme Court in Swaran Singh Vs. Kasturi Lal, 1977 AIR SC 265, which was relied by this court while dismissing the above Civil Revision Petitions on 12.6.2019.

21.In Jyothi Pershand and others Vs Administrator for Union Territory of Delhi and others, (1962) 2 SCR 125, the issue before the Hon'ble Supreme Court was relating to constitutional validity of Section 19 of the Slum Areas (Improvement and Clearance) Act, 1956 which is similar to Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971.

22.In paragraph 17 , the Hon'ble Supreme Court observed as under:-



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17. The Act, no doubt, looks at the problem not from the point of view of the landlord, his needs, the money he has sunk in the house and the possible profit that he might make if the house were either let to other tenants or was reconstructed and let out, but rather from the point of view of the tenants who have no alternative accommodation and who would be stranded in the open if an order for eviction were passed. The Act itself contemplates eviction in cases where on the ground of the house being unfit for human habitation it has to be demolished either singly under Section 7 or as one of a block of buildings under Chapter IV. So long therefore as a building can, without great detriment to health or safety, permit accommodation, the policy of the enactment would seem to suggest that the slum dweller should not be evicted unless alternative accommodation could be obtained for him. In this connection the learned Attorney-General brought to our attention the provisions of the Delhi Development Act, 1957 (Act 61 of 1957), which makes provision for the design of a master plan for the city which, if executed, is likely to greatly reduce, if not to eliminate, slums altogether. It was suggested that taken in conjunction with this enactment it would be seen that the power to restrain eviction under Section 19 of the Act is one which would not last forever but to a limited period, though this could not naturally be defined by reference to fixed dates. We see force in this submission as well. In view of the foregoing we consider that there is enough guidance to the competent authority in the use of his discretion under Section 19(1) of the Act and we, therefore, reject the contention that Section 19 is obnoxious to the equal protection of laws guaranteed by Article 14 of the Constitution. We need only add that it was not, and could not be, disputed that the guidance which we have held could be derived from the enactment, and that it bears a reasonable and rational relationship to the object to be attained by the Act and, in fact, would fulfil the purpose which the law seeks to achieve viz. the orderly elimination of slums, with interim protection for the slum dwellers until they were moved into better dwellings. We are further of the opinion that



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the order of the competent authority in the present case is not open to challenge either, because it would be seen that the grounds upon which he has rejected the petitioner's application for execution is in line with what we have stated to be the policy and purpose of the Act.

23. In paragraph 23, the Hon'ble Supreme Court further observed.

23. There are, however, a few more matters which have relevance about the objection on the score of the restriction not being reasonable within Article 19(5) and the tests to be applied to determining its reasonableness to which we should refer. It has already been pointed out that the restrictions imposed on the right of the landlord to evict have a reasonable and rational connection with the object sought to be achieved by the Act viz. the ultimate elimination of slums with protection to the slum-dwellers from being meanwhile thrown out on the streets. The question might still remain whether this restriction on the rights of the landlords is excessive in the sense that it invades and trenches on their rights in a manner or to an extent not really or strictly necessary to afford protection to the reasonable needs of the slum-dwellers which it is the aim and object of the legislation to subserve. The criteria for determining the degree of restriction on the right to hold property which would be considered reasonable, are by no means fixed or static, but must obviously vary from age to age and be related to the adjustments necessary to solve the problems which communities face from time to time. The tests, therefore, evolved by communities living in sheltered or placid times, or laid down in decisions applicable to them can hardly serve as a guide for the solution of the problems of post-partition India with its stresses and strains arising out of movements of populations which have had few parallels in history. If law failed to take account of unusual situations of pressing urgency arising in the country, and of the social urges generated by the patterns of thought-evolution and of social consciousness which we witness in the second half of this century, it would have



to be written down as having failed in the very purpose of its existence.

24. In the same paragraph the Hon'ble Supreme Court further held as follows:-

"Where the legislature fulfils its purpose and enacts laws, which in its wisdom, is considered necessary for the solution of what after all is a very human problem the tests of "reasonableness" have to be viewed in the context of the issues which faced the legislature. In the construction of such laws and particularly in judging their validity the courts have necessarily to approach it from the point of view of furthering the social interest which it is the purpose of the legislation to promote, for the courts are not, in these matters, functioning as it were in vacuo, but as parts of a society which is trying, by enacted law, to solve its problems and achieve social concord and peaceful adjustment and thus furthering the moral and material progress of the community as a whole."

25. Again in paragraph 25, the Hon'ble Supreme Court repelled the argument advanced to the effect that section 19 of the said Slum Areas (Improvement and Clearance) Act imposed double restriction, restriction superimposed on a restriction already existing by 1956 virtue of the provisions of the Delhi Rent Control Act, 1958 and that this rendered it unreasonable.

26. The Hon'ble Supreme Court observed "if by this submission learned counsel meant that different results as to constitutional validity flowed from whether the impugned section was part of the provisions of the Rent Control Act, or was a section in an independent enactment, the argument is clearly untenable. If, however, that was not meant, but in the context of the restrictions already imposed by the Rent Control Act section 19 of the Act was really unnecessary and therefore an aggregate restraint on the freedom of the landlord, what we have said earlier ought to suffice to repel the arguments.

27. In paragraph 26, the Hon'ble Supreme Court in Jyothi Pershand and others Vs. Administrator for Union Territory of Delhi and others, (1962) 2 SCR 125, also referred to Section 38 of the Delhi Rent Control Act, 1958 which has much wider than Section 29 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.



28.Ultimately, the Hon'ble Supreme Court in paragraph 26 held that "the Result therefore would be that the provisions of the special enactment, is, will in respect of the buildings in the areas declared slum areas operate in addition to the Rent Control Act. The argument therefore that the Act is inapplicable to building is covered by the Rent Control Act is without substance, particularly when it is only when a decree for eviction is obtained that section 19 of the Act comes into play."

29.Thus, it is evident that though there is no bar for initiating proceedings before a Rent Controller under the provisions of the Tamil Nadu Buildings (Lease and Control) Act, 1960, yet before enforcing a decretal order before the execution court, a successful landlord has to obtain permission from the Competent Authority to proceed further.

30.Therefore, the conclusion in order 12.06.2019 remains unaltered. The respondents were indeed entitled to initiate proceedings for evicting the petitioner without permission of the Competent Authority. However, after the decrees obtained, the respondent landlord is expected to obtain appropriate permission of the Competent Authority under Section 29 of the Tamil Nadu Slum Areas (Improvement And Clearance) Act, 1971 as per the decision of the Hon'ble Supreme Court in Jyothi Pershand and others Vs. Administrator for Union Territory of Delhi and others, (1962) 2 SCR 125.

31.Under these circumstances, the present Review Applications are dismissed with the above observation. No cost.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

jen

To

1. The IX Judge,
Small Causes Court,
Chennai.



2. The XII Judge,
Small Causes Court,
Chennai.

Copy To
The Section Officer,
VR Section, High Court,
Madras-104.

+lcc to Mr.M.Syed Ibrahim, Advocate, S.R.No.8331

+lcc to Mr.T.Subramanian, Advocate, S.R.No.9159

Rev.Appl.Nos.201 to 203 of 2019
in
C.R.P. (NPD) .Nos.2103 to 2105 of 2015

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