

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.04.2019

PRONOUNCED ON : 12.06.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(NPD) Nos.2103 to 2105 of 2015
and M.P.Nos.1, 1 and 1 of 2015

Kasi .. Petitioner in CRP.No.2103 of 2015
Rani .. Petitioner in CRP.No.2104 of 2015
Raja .. Petitioner in CRP.No.2105 of 2015

vs

1.Rajam Radhakrishnan
2.A.Jayanthi .. Respondents in all CRPs.

Prayer in all CRPs.: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the decree and judgment dated 14.11.2014 made in R.C.A.Nos.679, 680 and 681 of 2007 on the file of the IX Judge, Small Causes Court, Chennai, reversing the Order and decree dated 27.11.2006 made in R.C.O.P.Nos.860, 858 and 861 of 2006 on the file of the XII Judge, Small Causes Court, Chennai.

For Petitioners : Mr.M.Devendran
(In all CRPs.)

For R1 (For All CRPs.) : Mr.T.Subramanian
For R2(For All CRPs.) : Mr.M.Syed Ibrahim

COMMON ORDER

By this common order all the three Civil Revision Petitions are being disposed. These civil revision petitions have been filed by the respective petitioners-tenants. By the impugned common fair and separate decretal orders, the Rent Control Appellate Court has allowed R.C.A.Nos.679 to 681 of 2007 filed by the respondent/landlady.

2. The Respondent/landlady herein had originally filed R.C.O.P.Nos.858 to 862 of 2006 under section 10(2)(i) and 10(3)(e)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960 to evict the petitioners and two others.

3. Petitioners/ Tenants resisted the case of the Respondent/Landlady and disputed the maintainability of the proceedings before the Rent Controller. Respective Petitioners/Tenants however admitted that there was a default from their side but blamed the respondent/landlady for the default inasmuch as she failed to collect the rent periodically.

4. As far as the requirement of own accommodation, was concerned, respective Petitioners/tenants submitted that the sons' of the respondent/landlady were well established and have accommodation of their

own apart from the suit property and therefore no case for own accommodation was made out.

5.The Rent Controller had framed seven issues in R.C.O.P.Nos.858 to 862 of 2006 which read as under:-

i. Whether there is a jural relationship between the parties?

(RCOP - 858/06,860/06 and 861/06)

ii. Whether the property falls under 'slum area' as prescribed under the G.O.Ms.No.378 dated 02.11.1972?

(RCOP - 858/06,860/06 and 861/06)

iii. Whether RCOP 860/06 is affected by Res-Judicata?

iv. Whether there has been a wilful default on part of the tenant?

(RCOP - 858/06,860/06 and 861/06)

v. Whether the landlords claim would fall under bonafide personal use?

(RCOP - 858/06,860/06 and 861/06)

vi. Whether there was default under RCOP 859/06 and 862/06?

vii. Whether the claims raised in RCOP 859/06 and 862/06 are for bonafide personal use?

6. The Rent Controller held that there was no jural relationship between the petitioners/ tenants and the respondent /landlady in the absence of evidence to substantiate the claim.

7. The Rent Controller also observed that there was res-judicata in view of an earlier order dated 04.04.2002 passed in R.C.O.P.No.2000/99 (connected R.C.O.P.No.860 of 2006) in respect of the same property which was dismissed for want of permission under Section 29 of the said Act.

8. The Rent Controller further observed that the fourth and fifth issues need not be looked into in view of the above reasoning as there was no jural relationship.

9. The above said petitions were dismissed by the Rent Controller by placing reliance on G.O.Ms.No.378 dated 02.11.1972 since the petitioner had not obtained permission from the competent authority under Section 29 of the Tamil Nadu Slum Areas (Improvement And Clearance) Act, 1971 and therefore, the petition was itself not maintainable.

10. As per G.O.Ms.No.378 dated 02.11.1972, the rented premises were situated in slum area and therefore in absence of a permission from the clearance authority, the proceedings were held not maintainable.

11. The respondent/landlady preferred appeal against the common order passed in RCOP.Nos.860, 858 and 861/06 alone vide R.C.A.Nos.679, 680 and 681 of 2007 before the Rent Controller Appellate Court.

12. These appeals were allowed by the Rent Control Appellate Court. While allowing the above appeals, the Rent Control Appellate Court has held that there was indeed a jural relationship between the Petitioners/tenant(S) and the Respondent/Landlady and therefore the Petitioners/-Tenants were liable to be evicted for the wilful default in payment of rent and for own accommodation of the respondent/Landlady.

13. Details of the respective Civil Revision Petitions are as follows:-

S.No	R.C.O.P Nos.	Petitioners herein who were respondents before the Rent Controller and the Rent Control Appellate Court.	R.C.A.Nos	C.R.P.Nos
1	860/2006	C.Kasi	679/2007	2103/2015
2	858/2006	Rani	680/2007	2104/2015
3	861/2006	Raja	681/2007	2105/2015

14. Heard Mr.M.Devendran, learned counsel for the petitioners; Mr.T.Subramanian, learned counsel for R1 and Mr.M.Syed Ibrahim, learned counsel for R2.

15. Short point that arises for consideration in the present batch of Civil Revision Petitions is whether the rent control proceedings before the Rent Controller was maintainable or not in the light of Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971?

16. The learned counsel for the petitioner(s) referred the recent decision of this Court in *P. Balakrishnan Vs. Kailasammal* and others (2018) 6 CTC 24 wherein this Court after referring the Sections 29 and 65 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 held that once the premises is within the ambit of the Slum Areas Act, the provision of Sections 29 and 65 would automatically come into play and Section 65 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 bars the jurisdiction of the civil court. The court held as follows :-

“8. Before discussing the correctness of the order under revision, it is necessary to extract the provisions of Sections 29 and 65 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 as follows:

“29. Proceedings for eviction of [occupants] not to be taken without permission of the prescribed 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 prescribed authority-

(a) institute, after the commencement of this Act any suit or proceedings for obtaining any decree or order for the eviction 1 [an occupant] from any building or land in such area:

or

(b) where any degree or order is obtained in any suit or proceeding instituted before such commencement for the

eviction of 3[an occupant] 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 prescribed authority in such form and containing such particulars as may be prescribed.

(3) On receipt of such application, the prescribed authority after giving an opportunity to the parties of being heard and after making such summary enquiry 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 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 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.”

65. Bar of jurisdiction of civil Courts. - Save as otherwise expressly provided in this Act, no civil Court shall have jurisdiction in respect of any matter which the Government are, or the prescribed authority is, empowered by or under this Act, to determine and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.”

9. A reading of the aforesaid Sections makes it very clear that insofar as any matter which the prescribed authority was empowered to do, no Civil Court or other authority could exercise the jurisdiction thereon.

10. Section 29 starts with a non obstante clause which prescribes that without the previous permission in writing of the prescribed authority, no suit or proceedings for

obtaining any decree or order of eviction of the occupant from any building or land in a slum area can be instituted.

11. The documents produced by the petitioner would show that the property in question is situate in a slum area and therefore, ambit of the Slum Areas Act, the provision of Sections 29 and 65 would automatically come into play.”amenable to the provisions of the slum Areas Act.”

12. Once the premises is within the ambit of the Slum Areas Act, the provision of Sections 29 and 65 would automatically come into play.”

17. Though the said issues squarely answers the issue in favour of the petitioners, the decision of the Hon’ble Supreme Court rendered in **Sarwan Singh vs Kasturilal**(1977) 1 SCC 750 has not been considered . Therefore, **P. Balakrishnan Vs. Kailasammal** and others (2018) 6 CTC 24 requires reconsideration.

18. Dealing with a somewhat similar situation in the context of Slum Areas (Improvement and Clearance) Act, 1956 under the provisions of the Delhi Rent Control Act, 1958, the Full Bench of the Honourable Supreme Court in **Sarwan Singh (Shri) And Another Versus Shri Kasturi Lal**(1977) 1 SCC 750 held that the legislature gave an overriding effect to Section 14-A and Chapter IIIA of the Delhi Rent Control Act, 1958 with effect from 1 December 1975, while being aware of Sections 19 and 29 of the Slum Areas (Improvement and Clearance) Act, 1956. Section 19 is similar to Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1960.

19. Section 19 of the The Slum Areas (Improvement And Clearance) Act, 1956 and Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971 read as follows :-

	Section 29Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971
19. 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. (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	19. 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. (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,

	Section 29 Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971
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 competent authority shall take into account the following factors, namely:— (a) whether alternative accommodation within the means of the tenant would be available to him if he were evicted; (b) whether the eviction is in the interest of improvement and clearance of the slum areas; (c) such other factors, if any, as may be prescribed. (5) Where the competent 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.]	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 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. 5[Explanation.- In, this section and, in sections 31, 32, and 33, 'occupant' means an occupier, not being an owner in occupation of, or otherwise using, his hand or building.]

20. The court in ***Sarwan Singh (Shri) And Another Versus Shri Kasturi Lal***(1977) 1 SCC 750 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.

21. It was held that the amendment to the provisions of the Delhi Rent Control Act, 1958 in 1975 will prevail over the provisions of the Slum Areas (Improvement and Clearance) Act, 1956. The decision rendered in ***JyotiPershadvs Administrator for the Union Territory of Delhi*** (1962) 2 SCR 125 was distinguished.

22. In paragraph Nos. 17 and 18 in ***Sarwan Singh (Shri) And Another Versus Shri Kasturi Lal*** (1977) 1 SCC 750, the Court has held as under:-

17. The right conferred by Section 14-A has to be enforced in accordance with the procedure prescribed by Chapter III-A. That is the prescription of Section 25-B(1). In order expressly to exclude the operation of all provisions inconsistent with Chapter III-A whether such provisions are contained elsewhere in the Delhi Rent Act or in any other law like the Slum Clearance Act, Section 25-A was put on the statute book. That section gives an overriding effect to the provisions of Chapter III-A. But the legislature did not rest content by providing merely that the procedural provisions contained in Chapter III-A would have such overriding effect. It took the precaution of making an additional provision in Section 14-A itself that on and from the date of the order passed by the Central Government or

any local authority calling upon a person to vacate the residential accommodation allotted to him, there shall accrue to such person a right to recover immediately the possession of any premises let out by him, "notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary...". The provisions of Section 14-A must, therefore, prevail over anything contained elsewhere in the Delhi Rent Act or in the Slum Clearance Act.

"18. In December 1975 when Ordinance 24 of 1975 was promulgated and later when the ordinance was replaced by Act 18 of 1976 the legislature was cognizant that by reason of the provisions contained in Section 54 of the Delhi Rent Act and further by reason of those contained in Sections 19 and 39 of the Slum Clearance Act, this latter Act would prevail over all other laws. As a result, no proceeding could be instituted for obtaining any decree or order for the eviction of a tenant from any building or land in a slum area nor could any decree or order be executed against the tenant of any such building or land, without the previous permission in writing of the competent authority. The object of the legislature in incorporating the non-obstante clause both in Sections 14-A and 25-A of the Delhi Rent Act was to free the proceedings arising out of the right newly conferred by Section 14-A and falling within Chapter III-A, from the restraint imposed by Section 19 of the Slum Clearance Act and from the operation of Section 39 thereof. The reason for releasing such proceedings from the pre-condition imposed by the Slum Clearance Act is that if the Government or the local authority asks a 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 a person to obtain immediately the possession of his own house if it be in the occupation of a tenant. To subject this facility to the provisions of the Slum Clearance Act, under which the competent authority can grant the requisite permission only by

applying the tests prescribed in Section 19(4), would be to make illusory the right conferred by Section 14-A on the allottee to obtain "immediate possession" of the premises let out by him to his tenant. It is with a view to making that right truly effective that the legislature gave it precedence over anything inconsistent therewith contained in the Delhi Rent Act itself or in any other act like the Slum Clearance Act. It is noteworthy that whereas Section 25-A gives an overriding effect to the provisions of Chapter III-A over anything "inconsistent therewith" contained elsewhere in the Delhi Rent Act or in any other law for the time being in force, Section 14-A does not qualify the overriding effect of what is contained therein, that is in Section 14-A, in reference to anything "inconsistent" therewith contained either in the Delhi Rent Act itself or in any other law. Section 14-A provides that there shall accrue a right to the landlord to recover immediately possession of any premises let out by him notwithstanding "anything" contained elsewhere in the Delhi Rent Act or in any other law for the time being in force. In the context, the word "anything" would ordinarily mean "anything to the contrary", but the point of the matter is that the legislature has expressed its intention clearly and unequivocally in more than one way, that the provisions of Section 14-A and Chapter III-A of the Delhi Rent Act would have precedence over anything else contained in that Act itself or in any other law."

23. The learned counsel for the petitioners sought to down play the decision rendered in the above case by drawing attention to yet another decision of the Hon'ble Supreme Court rendered in *Lal Chand vs Radha Krishnan* (1977) 2 SCC 88.

24. The learned counsel for the petitioners drew my attention to para 17 of the aforesaid decision, wherein, it was observed as under:-

" 17. Since the respondent had not obtained permission of the competent authority for instituting the present suit for obtaining a decree for eviction of Lal Chand from a building situated in the slum area and since Lal Chand must be held to be a tenant for the purposes of Section 19(1)(a) it must follow that the suit is incompetent and cannot be entertained."

25. He submitted that though **Sarwan Singh (Shri) And Another Versus Shri Kasturi Lal (1977) 1 SCC 750** was passed by the Hon'ble Mr. Justice Y.V.Chandrachud, Hon'ble Mr. Justice.P.N.Goswami along with the Hon'ble Mr. Justice. Murtaza Fazl Ali, a diametrically opposite view was taken three days later in **Lal Chand vs Radha Krishnan (1977) 2 SCC 88**. It was presided over by two judges namely Hon'ble Mr Justice Y.V.Chandrachud and Hon'ble Mr Justice.P.N.Goswami who formed the quorum in **Sarwan Singh (Shri) And Another Versus Shri Kasturi Lal (1977) 1 SCC 750** along with the Hon'ble Mr. Justice. Murtaza Fazl Ali.

26. In **Sarwan Singh vs Kasturi Lal**, the Hon'ble Supreme Court held that the provisions of the Central Slum Areas (Improvement and Clearance) Act, 1956 and Delhi Rent Control Act, 1958 acted in the separate spheres and that the provisions of the Rent Control Act were not subservient to the provisions of

the Slum areas (Improvement and Clearance) Act, 1956 while in **Lal Chand vs Radha Krishnan (1977) 2 SCC** a contra view was taken on facts.

27. Learned counsel for the petitioners further submitted that the provisions of the Tamil Nadu Buildings (lease and Rent control) Act, 1960 are not *parimateria in many aspects* and therefore, the decision rendered in **Sarwan Singh (Shri) And Another Versus Shri Kasturi Lal (1977) 1 SCC 750** cannot be applied as such.

28. Per contra, the learned counsel for the respondent-landlady submitted that there is nothing on record to show that the lands situated in Slum areas have been excluded from the purview of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. Consequently, it cannot be straight away inferred that a prior permission of the competent was required under Section 29 of the Tamil Nadu Slum Areas (Improvement and Clearance) Act, 1971.

29. The learned counsel for the respondent-landlady further submitted that under Section 30 of the Tamil Nadu Buildings (Lease and Rent Controller) Act, 1960 powers to have been given to the Government to grant exemption of certain types of buildings. There are no documents or G.O. to show that such an exemption has been given to properties situated in slum areas where the suit property is situated.

30. I have considered the rival contention and submissions on either side.

31. Petitioners are no doubt occupiers of the property within the meaning of Section 2(g) of Tamil Nadu Slum Area (Improvement and Clearance), 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.

32. Therefore, the only question to be answered in these civil revision petitions is whether the respondent was incompetent to institute a rent control proceeding without permission of the competent authority under Section 29 of the Tamil Nadu Slum Area (Improvement and Clearance) Act, 1971.

33. The building in question in the present case is situated in the Slum area as defined in Section 2(k) of the Tamil Nadu Slum Area (Improvement and Clearance), 1976 . The respondent is the owner of building. Under Section 29 of the Tamil Nadu (lease and Rent Control) Act 1960, the State Government is competent to grant exemption from application of all or any provisions of the Act to any building or class of buildings. The said provision reads as under:-

“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 provisions of this Act.”

34. The powers are vested with the State Government to exempt any building or class of buildings by a notification from any or all the provisions of the Act.

35. There is no notification issued under Section 29 of Tamil Nadu Buildings (Lease and Rent Control) Act 1960 exempting the operation of the provisions of the Tamil Nadu Slum Area (Improvement and Clearance) Act, 1971 to building located in a slum area.

36. The petitioners also have not produced any notification of the Government of Tamilnadu exempting any or all of the provisions of the Act to buildings located in a slum area

37. I have also considered the decisions of the Hon'ble Supreme Court. Apart from the 3 cited decisions, it may be useful to refer to two other decisions rendered in the context of the Delhi Rent Control Act, 1958. In **Ravi Datt Sharma v. Ratan Lal Bhargava**, (1984) 2 SCC 75 it was observed as follows:

7. In order to appreciate this contention it may be necessary to give an extract of Statement of *Objects and Reasons of the amending Act*:

“There has been a persistent demand for amendments to the Delhi Rent Control Act, 1958 with a view to conferring a right of tenancy on certain heirs/successors of a deceased statutory tenant so that they may be protected from eviction by landlords and also for simplifying the procedure for eviction of tenants in case the landlord requires the premises bona fide for his personal occupation. Further, Government decided on September 19, 1975 that a person who owns his own house in his place of work should vacate the Government accommodation allotted to him before December 31, 1975. Government considered that in the circumstances, the Act requires to be amended urgently.”

The dominant object of the amending Act was, therefore, to provide a speedy, expeditious and effective remedy for a class of landlords contemplated by Sections 14(1)(e) and 14-A and for avoiding unusual dilatory process provided otherwise by the Rent Act. It is common experience that suits for eviction under the Act take a long time commencing with the Rent Controller and ending up with the Supreme Court. In many cases experience has indicated that by the time the eviction decree became final several years elapsed and either the landlord died or the necessity which provided the cause of action disappeared and if there was further delay in securing eviction and the family of the landlord had by then expanded, in the absence of accommodation the members of the family were virtually thrown on the road. It was this mischief which the Legislature intended to avoid by incorporating the new procedure in Chapter III-A. The Legislature in its wisdom thought that in cases where the landlords required their own premises for bona fide and personal necessity they should be treated as a separate class along with the landlords covered by Section 14-A and should be allowed to reap the fruits of decrees for eviction within the quickest possible time. It cannot, therefore, be said that the classification of such landlords would be an unreasonable one because such a classification has got a clear nexus with the objects of the amending Act and the purposes which it seeks to subserve. Tenants cannot complain of any discrimination because the Rent Act merely gave certain protection to them in public interest and if the protection or a part of it afforded by the Rent Act was withdrawn and the common law right of the tenant under the Transfer of Property

Act was still preserved, no genuine grievance could be made. This was clearly held in the case of *Kewal Singh v. Lajwanti* [(1980) 1 SCC 290 : AIR 1980 SC 161 : (1980) 1 SCR 854] .

38. The Court further held that in view of the procedure in Chapter III-A of the Delhi Rent Act, 1958 the provisions of the Slum Area (Improvements and Clearance) Act, 1956 is rendered inapplicable to the extent of inconsistency and it is not, therefore, necessary for the landlord to obtain permission of the Competent Authority under Section 19(1)(a) of the Slum Act before instituting a suit for eviction and coming within Section 14(1)(e) or 14-A of the Rent Act.

39. This view was followed in *Safait Ali vs Shiva Mal (Dead)* by Lrs (1987) 3 SCC 728.

40. Therefore, the lone view in *Lal Chand vs Radha Krishnan* (1977) 2 SCC 88 that the tenants in slum area cannot be evicted without permission of the competent authority cannot be applied in view of subsequent decisions.

41. Chapter III-A to the Delhi Rent Control Act, 1958 which was introduced in 1975 vide ordinance w.e.f. 1/12/1975 and later inserted vide Delhi Rent Control (Amendment Act) 1976 carved out an exception.

42. The Delhi Rent Control Act, 1958, was later amended by an ordinance with effect from 1.12.1975. Certain provisions were introduced to giving unbridled powers and jurisdiction under the Act to the Rent Controller. Later these Amendments were incorporated by an Amendment Act of 1976 wherein *Chapter III-A* which was introduced in the Delhi Rent Control Act, 1958, which reads as follows:

“Section 14. (1) Notwithstanding anything to the contrary contained in any other law or contract, no order or decree for the recovery of possession of any premises shall be made by any court or Controller in favour of the landlord against a tenant:

Provided that the Controller may, on an application made to him in the prescribed manner, make an order for the recovery of possession of the premises on one or more of the following grounds only, namely:

* * *

(e) that the premises let for residential purposes are required bona fide by the landlord for occupation as a residence for himself or for any member of his family dependent on him, if he is the owner thereof, or for any person for whose benefit the premises are held and that the landlord or such person has no other reasonably suitable residential accommodation;

* * *

(6) Where a landlord has acquired any premises by transfer, no application for the recovery of possession of such premises shall lie under sub-section (1) on the ground specified in clause (e) of the proviso thereto, unless a period of five years has elapsed from the date of the acquisition.

(7) Where an order for the recovery of possession of any premises is made on the ground specified in clause (e) of the proviso to sub-section (1) the landlord shall not be entitled to obtain possession thereof before the expiration of a period of six months from the date of the order.”

“Section 14-A. *Right to recover immediate possession of premises to accrue to certain persons.*—(1) Where a landlord who, being a person in occupation of any residential premises allotted to him by the Central Government or any local

authority is required, by, or in pursuance of, any general or special order made by that Government or authority, to vacate such residential accommodation, or in default, to incur certain obligations, on the ground that he owns, in the Union territory of Delhi, a residential accommodation either in his own name or in the name of his wife or dependent child, there shall accrue, on and from the date of such order, to such landlord, notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract (whether express or implied), custom or usage to the contrary, a right to recover immediately possession of any premises let out by him: . . .

*“Section 25-A Provisions of this Chapter to have overriding effect.—*The provisions of this Chapter or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained elsewhere in this Act or in any other law for the time being in force.

25-B. Special procedure for the disposal of applications for eviction.—(1) Every application by a landlord for the recovery of possession of any premises on the ground specified in clause (e) of the proviso to sub-section (1) of Section 14, or under Section 14-A, shall be dealt with in accordance with the procedure specified in this section.

* * *

(4) The tenant on whom the summons is duly served (whether in the ordinary way or by registered post) in the form specified in the Third Schedule shall not contest the prayer for eviction from the premises unless he files an affidavit stating the grounds on which he seeks to contest the application for eviction and obtains leave from the Controller as hereinafter provided; and in default of his appearance in pursuance of the summons or his obtaining such leave, the statement made by the landlord in the application for eviction shall be deemed to be admitted by the tenant and the applicant shall be entitled to an order for eviction on the ground aforesaid.

(5) The Controller shall give to the tenant leave to contest the application if the affidavit filed by the tenant discloses such facts as would disentitle the landlord from obtaining an order for the recovery of possession of the premises on the ground specified in clause (e) of the proviso to sub-section (1) of Section 14, or under Section 14-A.

(6) Where leave is granted to the tenant to contest the application, the Controller shall commence the hearing of the application as early as practicable....

25-C. Act to have effect in a modified form in relation to

certain persons.—(1) Nothing contained in sub-section (6) of Section 14 shall apply to a landlord who, being a person in occupation of any residential premises allotted to him by the Central Government or any local authority is required by, or in pursuance of, an order made by that Government or authority to vacate such residential accommodation, or, in default, to incur certain obligations, on the ground that he owns a residential accommodation either in his own name or in the name of his wife or dependent child in the Union territory of Delhi.

(2) In the case of a landlord who, being a person of the category specified in sub-section (1), has obtained, on the ground specified in clause (e) of the proviso to sub-section (1) of Section 14, or under Section 14-A, an order for the eviction of a tenant from any premises, the provisions of sub-section (7) of Section 14 shall have effect as if for the words ‘six months’, occurring therein, the words ‘two months’ were substituted.

“Section 54. Nothing in this Act shall affect the provisions of the Administration of Evacuee Property Act, 1950, or the Slum Areas (Improvement and Clearance) Act, 1956, or the Delhi Tenants (Temporary Protection) Act, 1956.”

43. Though, these provisions are conspicuously absent in the Tamil Nadu (Lease and Rent Control) Act, 1960.

44. Further, both the Sections 29 of the Tamil Nadu (Lease and Rent Control), 1960 and section 29 of the Tamil Nadu Slum Area (Improvement and Clearance), 1971 start with a *non obstante* clause.

45. The presence of Section 29 in Tamil Nadu (Lease and Rent Control) Act 1960 makes up for the absence of other provisions similar to the one in the Delhi Rent Control Act, 1958. Mere presence of Section 29 of the Tamil Nadu

Slum Area (Improvement and Clearance), 1971 is of no avail in the absence of a corresponding notification of the State Government under Section 29 of the Tamil Nadu (Lease and Rent Control) Act, 1960 exempting the operation of the said Act, to the property situated in slum areas.

46. I am therefore of the view that the provisions of the Tamil Nadu Buildings (Lease and Rent control) Act, 1960 and the provisions of the Tamil Nadu Slum Area (Improvement and clearance) Act 1971 act in separate spheres. Therefore the order of the Rent Control Appellate court allowing the appeal filed by the Respondent/ landlady cannot be interfered.

47. Further, the Civil Revision petitions were filed for default of payment of rents and for owners' occupation. The petitioners have themselves admitted having defaulted and have not taken any steps to deposit the arrears of rent. Therefore, they cannot shield themselves stating that the property is located in slum area/locality.

48. Considering the facts and circumstances of the case, the rent proceeding was of the year 2006, the petitioners are directed to vacate the rented premise within a period of three months from the date of receipt of copy of this order. In case there is a breach, the respondent should initiate only appropriate execution proceedings.

C.SARAVANAN,J.

kkd

49. In the result, all the three Civil Revision Petitions are dismissed with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

12.06.2019

Speaking : Non-speaking order
 Index : Yes/No
 Internet : Yes/No
 kkd

Note : Issue order copy on 28.06.2019.

To

1. IX Judge, Small Causes Court, Chennai.
2. XII Judge, Small Causes Court, Chennai.

Pre-delivery Common order in
 C.R.P(NPD) Nos.2103 to 2105 of 2015
 and M.P.Nos.1, 1 and 1 of 2015

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