

KONDETI SURYANARAYANA AND ORS.

v.

PINNINTHI SESHAGIRI RAO

NOVEMBER 4, 1999

[V.N. KHARE AND S.N. PHUKAN, JJ.]

Rent Control and Eviction:

Andhra Pradesh Building (Lease, Rent & Eviction) Control Act, 1960—Sections 12(1)(b); 12(2)—Eviction sought by landlord on ground that building was bonafide required by him for demolition as the construction of tenanted shops on the north eastern corner of the plot was inauspicious according to Vastu Shastra—High Court upholding the order of the Rent Controller according permission to the landlord to demolish the building without any direction to reconstruct the same—Appeal against—Held, where the landlord reasonably and bonafide requires a building for the immediate purpose of demolishing it, he has necessarily to reconstruct the same with a right to the tenant to re-enter the premises—Any interpretation to the contrary would encourage unscrupulous landlord to get eviction of tenants unfairly which would be repugnant to the object of the Act which aims to prevent unreasonable eviction of the tenant from the premises—Orders of all the Courts below set aside.

The respondent-landlord filed petitions before the Rent Controller for eviction of tenants from the premises on the ground that there were wilful defaults in payment of rent. Eviction was also sought on the ground that the building was reasonably and *bona fide* required by him for demolition as he had been advised by Pundits of Vastu Shastra that the construction of tenanted shops on the north-eastern corner of the plot was inauspicious. The said petitions were allowed by the Rent Controller thereby according permission to the landlord to demolish the building without any direction to reconstruct the building as required under sub-clause(b) of sub-section (1) of Section 12 of the Andhra Pradesh Building (Lease, Rent & Eviction) Control Act, 1960. The appeal filed by the tenants was dismissed by the High Court. Hence the present appeals.

On behalf of the appellants it was contended that the order passed by

A the Courts below was in conflict with the provisions of sub-clause (b) of sub-section (1) and sub-section (2) of Section 12 of the Act and therefore, the said order deserves to be quashed.

B On behalf of the respondent, it was urged that the word 'and' occurring in sub-clause (b) of sub-section (1) of Section 12 was disjunctive and it had to be read as 'or' meaning thereby that after demolition of the building the landlord was not required to reconstruct the building.

Allowing the appeals, the Court

C HELD : 1.1. Where the landlord requires demolition of the building, he has necessarily to reconstruct the same with a right to the tenant to re-enter the premises. Where a building is reasonably and bona fide required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the said building, the tenant shall have right of re-entry in the premises on its reconstruction.

D The language of sub-clause (b) of sub-section (1) of Section 12 is plain and simple and does not suffer from any ambiguity. Therefore, when a landlord requires a building to be demolished, necessarily he has to reconstruct the building on the same site of the building and on reconstruction of new building the tenant has a right to re-enter the said premises. [391-H; 392-A, B]

E 1.2. If it were to be held that after demolition of the building the landlord is not required to reconstruct the building, then it would encourage unscrupulous landlords to get eviction of the tenants on the ground of demolition of the building which would be repugnant to the object of the Act which aims to prevent unreasonable eviction of tenant from the premises.

[392-C]

F CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 9987 and 9989 of 1995.

From the Judgment and Order dated 28.4.95 of the Andhra Pradesh High Court in C.R.P. Nos. 409, 462 and 463 of 1994.

G A.T.M. Sainpath and V. Balaji for the Appellants.

M.N. Rao and Ms. B. Sunita Rao for the Respondent.

The Judgment of the Court was delivered by

H V. N. KHARE, J. The tenants are in appeal before us. The building in

question consists of two shops, which is owned by the respondent-landlord. A
 The respondent-landlord filed petitions before the Rent Controller for eviction
 of tenants from the premises on the ground that there were wilful defaults in
 payment of rent and also on the ground that building is reasonably and
 bonafide required by him for demolition. The said requirement was based on
 the allegations that a construction on the north-eastern corner of the plot is B
 inauspicious and Pundits of Vastu Shastra advised him to demolish the said
 shops as they are on the north-eastern corner of the plot. The Rent Controller
 allowed the application and accorded permission to the landlord to demolish
 the building without any direction to reconstruct the building as required
 under sub-clause (b) of sub-section (1) of Section 12 of the A. P. Building
 (Lease, Rent & Eviction) Control Act, 1960 (hereinafter referred to as the C
 'Act').

The appeal preferred by the tenant was dismissed and was affirmed by
 the High Court.

It is against the said judgment the tenants have come to this Court. D
 Learned counsel for the appellants urged that the order passed by the courts
 below is in conflict with the provisions of sub-clause (b) of sub-section (1)
 and sub-section (2) of Section 12 of the Act and therefore the order deserves
 to be quashed.

Sub-clause (b) of sub-section (1) and sub-section (2) of Section 12 E
 reads as under:—

“(b) that the building consists of not more than two floors and is
 reasonably and bona fide required by the landlord for the immediate
 purpose of demolishing it and such demolition is to be made for the
 purpose of erecting a new building on the site of the building sought F
 to be demolished, pass an order directing the tenant to deliver
 possession of the building to the landlord before a specified date”.

“(2) No order for recovery of possession under this Section shall be
 passed unless the landlord gives an undertaking that the building on
 completion of the repairs, alterations or additions or the new building G
 on its completion will be offered to the tenant, who delivered
 possession in pursuance of an order under sub-section (1), for his
 occupation before the expiry of such period as may be specified by
 the Controller in this behalf.”

A perusal of the aforesaid provisions show that where a building is H

- A** reasonably and bona fide required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the said building, the tenant shall have right of re-entry in the premises on its reconstruction. The language of sub-clause (b) of sub-section (1) of Section 12 is plain and simple and does not suffer from any ambiguity. Therefore, when a landlord requires a building to be demolished,
- B** necessarily he has to reconstruct the building on the same site of the building and on reconstruction of new building the tenant has a right to re-enter in the said premises. Learned counsel for the respondent urged that the word “and” occurring in sub-clause (b) of sub-section (1) of Section 12 is disjunctive and it has to be read as “or” meaning thereby that after demolition of the
- C** building the landlord is not required to reconstruct the building. If such interpretation is given, then it would encourage the unscrupulous landlord to get eviction of the tenants on the ground of demolition of the building which would be repugnant to the object of the Act which aims to prevent unreasonable eviction of the tenant from the premises. We are, therefore, of the view that where the landlord requires demolition of the building, he has
- D** necessarily to reconstruct the same with a right to the tenant to re-enter in the premises.

In this view of the matter, the orders of the courts below deserve to be quashed. We accordingly set aside the orders of all the three courts below.

- E** The appeals are allowed with costs.

M.P.

Appeals allowed.