

A
ARYA SAMAJ, SAGAR & ORS.

v.
PINJAMAL & ANR.

B
AUGUST 8, 1986

[SABYASACHI MUKHARJI & K.N. SINGH, JJ.]

Madhya Pradesh Accommodation Control Act, 1961, s. 12(1)
C (f)—Eviction of tenant on ground of requirement by landlord for additional accommodation—When arises.

The landlord-appellant running a girls' school, filed an eviction suit against the tenant, the predecessor—in—interest of the respondent, on the ground that it needed additional accommodation for the school.

D The trial Judge as well as the Appellate Court ordered eviction under s. 12(i)(f) of the Madhya Pradesh Accommodation Control Act, 1961 holding that the object of the appellant-society was to get the building back for expansion of its activities and had proved the same.

E The High Court, however, in second appeal examined the sanctioned plan, held that the landlord's claim for eviction was on the ground of reconstruction, and the series of shops shown in the plan were meant to be let out to tenants and set aside the order of eviction passed by the two courts below.

F Allowing the appeal to this Court,

G HELD: 1(i). The order of the High Court is set aside. The orders of the Additional District Judge and the Trial Court are restored with the modification that in case any part of the building is used for shop or let out as shop, the first option should be given to the respondents and that the building must be constructed on the basis of the appended sanctioned plan. [517G; E]

H 1(ii). The High Court fell into error in misconstruing the plan Ext. 4 and in holding that the landlord's claim for eviction was on the ground of reconstruction. The High Court went on to examine whether s. 12(h) of the Act had been complied with. There was no such necessity

in view of the facts as found by the two courts below. In any case, in second appeal the High Court should not have interfered with such a question of fact. [517B-C]

2. The case of the landlord-appellant is clearly covered by s. 12(1)(f) of the Madhya Pradesh Accommodation Control Act, 1961. The mere fact that the landlord intended to make alterations in the house either on account of his sweet will or on account of absolute necessity in view of the condition of the house, would not affect the question of his requiring the house *bona fide* and reasonably for his occupation, when he had proved his need for occupying the house. [516E-F]

Ramnikkal Pitambardas Mehta v. Inderadaman Amratlal Sheth ([1964] 8 SCR p. 1, followed.

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 2637 of 1977

From the Judgment and Order dated 9.11.1976 of the Madhya Pradesh High Court in Second Appeal No. 223 of 1976.

Rameshwar Nath for the Appellants.

Y.K. Jain for the Respondents.

The Judgment of the Court was delivered by

SABYASACHI MUKHARJI, J. This is an appeal by special leave arising from the Judgment and Order of the High Court of Madhya Pradesh at Jabalpur dated 26th October, 1977. The landlord-appellant filed the eviction suit against the tenant, the predecessor in interest of the respondents. The appellant runs a girls' school, being covered by one of its objects. It needed additional accommodation for the said purpose. The building was also in dilapidated condition. The learned trial Judge as well as Appellate Court ordered eviction under section 12 (f) of the Madhya Pradesh Accommodation Control Act, 1961. The respondents were in occupation of an old shed as a tenant in the said house.

Section 12 (f) of the aforesaid Act gives the landlord the right to evict on the grounds, *inter alia*, as follows:

A "that the accommodation let for non-residential purposes is
required bonafide by the landlord for the purpose of con-
tinuing or starting his business or that any of his major sons
B or unmarried daughters if he is the owner thereof or of any
person for whose benefit the accommodation is held and
that the landlord or such person has no other reasonably
suitable non-residential accommodation of his own in his
occupation in the city or town concerned."

C Section 12 (g) deals with the situation where the building has
become unsafe or unfit and the landlord wants the premises for carry-
ing out repairs. Section 12 (h) on the other hand deals with the case
D where the accommodation is required bonafide by the landlord for the
purpose of building or re-building or making thereto any substantial
additions or alterations and such additions or alterations cannot be
carried out without the accommodation in the occupation of tenant
being vacated. Similar provision in section 31 (1)(g) under the Bombay
Rents, Hotels and Lodging House Rates Control Act, 1947 came up
E for consideration before this Court in *Ramniglal Pitambardas Mehta v.*
Inderadaman Amratlal Sheth, [1964] 8 SCR p. 1. This Court held that
the case in question fell under clause (g) which is similar to clause (f)
of the instant case before us of Madhya Pradesh Accommodation Control
Act, section 12 (f). This Court further held that the mere fact that the
F landlord intended to make alterations in the house either on account
of his sweet will or on account of absolute necessity in view of the
condition of the house, would not affect the question of his requiring
the house bonafide and reasonably for his occupation, when he had
proved his need for occupying the house. Nothing further need be
proved. In this case, the case of the landlord-appellant is clearly
G covered by section 12(1)(f). The fact that the building had to be recon-
structed for the said purpose is irrelevant. The learned trial judge as
well as the learned appellate court read the sanctioned plan and came
to the conclusion that the appellant had proved in this case all the need
for expansion of the building for girls' education which was one of the
objects of the appellant society. The High Court, in our opinion, mis-
read the sanctioned plan which is Ext. 4, which according to the High
H Court showed in front side of the building abutting the road, a series of
shops are to be constructed. The High Court was of the view that these
shops were meant to be let out to tenants. We are of the opinion that
this was a misreading of the plan. These shops were not indicated as
shops to be reconstructed, but as existing building was to be recon-
structed for the purpose of school there was no intention of construc-

tion of shops and let these out. There was no intention of the landlord-appellant to build for the purpose of letting it out. The learned trial judge as well as appellate judge held that the object was to get the building back for expansion of the activities of the appellant society. The High Court, therefore, in our opinion fell into error in misconstruing the plan and in holding that the landlord's claim for eviction was on the ground of reconstruction. In that view of the matter the High Court went on to examine whether section 12 (h) of the said Act had been complied with. There was no such necessity, in view of the facts as found by the two courts below. In any case, in second appeal the High Court should not have interfered with such a question of fact. This was unwarranted under the facts and circumstances of the case and on the evidence on record and in view of the decision in *Ramniklal's* case (supra).

Mr. Jain appearing for the tenant sought to urge before us that the plan indicated that the shops were intended to be reconstructed in the new plan. Shri Rameshwar Nath, Counsel for the appellant assured us that it was the intention of the society to reconstruct the building for the purpose of running the school. In order to avoid any apprehension, though we allow the appeal and restore the order of the learned appellate court as well as learned trial court, we make it clear that in case if any part of the building is used for shops or let out as shops, the first option should be given to the respondents. We further direct that the building must be constructed on the basis of the plan sanctioned and as appended in the records of this case. In view of the fact that the respondents were carrying on business for quite long time, they should have some time to vacate. We direct that the respondents should vacate the premises in their occupation by 31st December, 1986 and handover the same to the appellant to enable the appellant to proceed with construction. The respondent will file an undertaking on usual terms within a month from today.

The order of the High Court is set aside. The orders of the learned Addl. District Judge and the trial court are restored subject to the modifications indicated above. We further direct that after obtaining the possession of the premises from the respondents, the appellant should proceed to construct as quickly as possible. In the facts and circumstances of the case the parties will pay and bear their own costs.