METALWARE & CO. ETC.

v.

BANSILAL SHARMA AND ORS. ETC.

May 4, 1979

[V. R. KRISHNA IYER AND V. D. TULZAPURKAR, JJ.]

Tamil Nadu Building (Lease & Rent Control) Act, 1960—*Sections* 14(1)-(*b*), 14(2)(*b*), 15 *and* 16—*Scope of.*

The appellant, a proprietary concern, has been a tenant of a shop in the premises in dispute. The respondent had purchased the building in 1975 and filed eviction applications against all the tenants on the ground that (1) the building being very old and dilapidated required immediate demolition and reconstruction, (ii) the appellants *bona fide* required it for their own occupation, (iii) they possessed of sufficient means to undertake the demolition and reconstruction and lastly they obtained from the Municipal Corporation sanction for reconstruction. The appellants disputed the above allegations. The Rent Controller held that the respondent had sufficient means to undertake the demolition and reconstruction, (ii) the intention to demolish the existing structure and to reconstruct another building on the same site was honest but did not give a definite finding on the question "whether the building was in a dilapidated condition and required immediate demolition and reconstruction. The Rent Controller took the view that it was not always essential to prove that the building was decrepit before an application for possession could be made and that the respondent had right to demolish his property in order to build a new structure on the site with a view to improve his business. He therefore, ordered eviction of the appellant. Their appeal against the decision of the Rent Controller was dismissed. The appellants filed a civil revision in the High Court which was also dismissed on the ground that the only thing to be looked into in such cases is whether the intention to demolish the building was present, with the future intention to reconstruct and whether the same is *bona fide* and all these were found in favour of the respondent-landlord.

Allowing the appeals,

HELD : 1. The phrase used in s. 14(1)(b) of the Act is "the building is *bona fide* required by the landlord" for the immediate purpose of demolition and reconstruction and the same clearly refers to the *bona fide* requirement of the landlord. The requirement in the terms is not that the building should need immediate demolition and reconstruction. The state or condition of the building and the extent to which it could stand without immediate demolition and reconstruction in future would not be a totally irrelevant factor while determining "the *bona fide* requirement of the landlord." If the Rent Controller has to be satisfied about the *bona fide* requirement of the landlord which must mean genuineness of his claim in that behalf the Rent Controller will have to take into account all the surrounding circumstances including not merely the

A factors of the landlord being possessed of sufficient means or funds to undertake the project and steps taken by him in that regard but also the existing condition of the building, its age and situation and possibility or otherwise of its being put to a more profitable use after reconstruction. All these factors being relevant must enter the verdict of the Rent Controller of the question of the *bona fide* requirement of the landlord, under s. 14(1)(b). In a sense if the building happens to be decrepit or dilapidated it will readily make for the *bona* B *fide* requirement of the landlord, though that by itself in the absence of any means being possessed by the landlord would not be sufficient. Conversely a landlord being possessed of sufficient means to undertake the project of demolition and reconstruction by itself may not be sufficient to establish his *bona fide* requirement if the building happens to be a very recent construction in a perfectly sound condition and its situation may prevent its being put to a more profitable use after reconstruction. In any case these latter factors may cast a serious doubt C on the landlord's *bona fide* requirement. It is, therefore, clear that the age and condition of the building would certainly be a relevant factor which will have to be taken into account while pronouncing upon the *bona fide* requirement of the landlord under s. 14(1)(b) of the Act and the same cannot be ignored. [1114C-H, 1115A-B]

D 2. The age and existing condition of the building whether it is a recent construction or very old and whether it is in a good and sound condition or has become decrepit or dilapidated—are relevant factors forming part of 'all the circumstances' that have to be considered while determining the *bona fide* requirement of the landlord under s. 14(1)(b) of the Act and in the totality of the circumstances these factors may assume lesser or greater significance depending upon whether in the scheme of the concerned enactment there is or there is not a provision for reinduction of the evicted tenant into the new E construction. Such a view would be in accord with the main objective of the benign legislation enacted with the avowed intention of giving protection to the tenant. [1115E-F]

3. The existing condition of the building far from being totally irrelevant is a vital factor which will have to be considered while pronouncing upon the *bona fide* requirement or the landlord under that provision which has to F be done by having regard to "all the circumstances" and since in the instant case all the courts have totally ignored this vital factor their conclusion on the question of *bona fide* requirement of the landlord deserves to be set aside. The Court accordingly set aside the said conclusion of the Courts below and remanded the matter back to the Rent Controller to dispose of the landlord's application in light of this judgment. [1120 A-B]

G *Neta Ram* v. *Jiwan Lal*, [1962] Suppl. 2 SCR 623; *The Patiala and East Punjab States Union Urban Rent Restriction Ordinance, (Section* 13) 2006 *B. K. Mehsin Bhai* v. *Hale & Company, G. T. Madras*, (1964) 2 M.L.J. 147. affirmed.

Panchamal Narayan Shenoy v. *Basthi Venkatesha Shenoy*, [1970] 3 S.C.R. 734, distinguished.

H

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 2087-2088/78.

Appeals by Special Leave from the Judgment & Order dated 4-8-1978 of the Madras High Court in Civil Revision Petition Nos. 1723/78 and 1727/78.

AND

CIVIL APPEAL NO. 1301 *OF* 1978

Appeal by Special Leave from the Judgment and Order dated 4-8-1978 of the Madras High Court in C.R.P.No. 1054/78.

AND

CIVIL APPEAL NO. 1381 *OF* 1978

Appeal by Special Leave from the Judgment & Order dated 19-6-1978 of the Madras High Court in Civil Revision No. 1102/78.

AND

WRIT PETITION NO. 4428 *OF* 1978

Under Article 32 of the Constitution.

S. K. Dhingra for the Appellant in CA No. 1301/78 and for the Petitioner in W.P. 4428/78.

A. K. Sen and *E. C. Agarwala* for the Appellant in CA No. 1381/78 and 2087-2088/78.

K. S. Ramamurthy, P. N. Ramalingam, A. T. M. Sampath for the Respondents in C. A. 2087-2088/78.

Y. S. Chitale, L. N. Singhvi, J. S. Sinha, K. J. John and *B. Bhandari* for RR in CA 1381/78 and RR in C.A. 1301/78.

The Judgment of the Court was delivered by

TULZAPURKAR, J.—These appeals preferred by tenants by special leave raise a common question whether while considering the *bona fide* requirement of the building by the landlord for the immediate purpose of demolition and reconstruction under s. 14(1)(b) of the Tamilnadu Buildings (Lease and Rent Control) Act 18 of 1960 (as amended by Act 23 of 1973) (hereinafter referred to as 'the Act') the condition of the building is wholly irrelevant factor ?

Since the facts giving rise to the aforesaid question in all these appeals are almost similar it will suffice if the facts in C.A. Nos. 2087-2088/78 are stated. The appellant Metalware & Co., a proprietary concern has been a tenant of the premises in dispute, namely, a shop on the ground floor of door No. 425, Mint Street, George Town, Madras-1 since 1953. The respondents (landlord) purchased the

A building from its erstwhile owner some time in 1975 and filed applications against all the tenants thereof including the appellant for evicting them under s. 14(1)(b) of the Act alleging that the building being very old and dilapidated required immediate demolition and reconstruction and they *bona fide* required it for the said purpose for their occupa-
B tion. The respondents further alleged that they were possessed of sufficient means to undertake the demolition and reconstruction and had applied for and obtained from the Municipal Corporation sanctioned plans in that behalf and after duly terminating the tenancies had sought vacant possession. The application was resisted by the appellant on several grounds. *Inter alia,* the claim of the landlords that the build-
C ing was *bona fide* required by them for the immediate purpose of demolition and reconstruction was seriously disputed; in particular it was emphatically denied that the building was in a dilapidated condition requiring immediate demolition and reconstruction; so also the allegation that the respondents had sufficient means to undertake the demolition and reconstruction. Admittedly the building was
D over 70 years old but as regards the existing condition thereof the landlords were able to produce merely one Notice (Ex. P1) received from the Municipal Corporation requiring them to carry out repairs specified therein which clearly showed that the building could not be said to be in any dilapidated condition needing demolition. The Rent
E Controller (7th Judge Small Causes Court, Madras) on the evidence led before him by the parties came to the conclusion that the respondents had sufficient means to undertake the demolition and reconstruction, had got their plans approved by the Municipal Corporation and had an honest intention to demolish the existing structure and to reconstruct another on that site. On the question whether the building
F was in a dilapidated condition and required immediate demolition and reconstruction no definite finding one way or the other was given but he took the view that it was well settled that it was not always essential to prove that the building was decrepit before an application for possession could be made under s. 14(1)(b) of the Act and that the landlord had a right to demolish his property in order to build a new struc-
G ture on the site with a view to improve his business or get better returns out of investments and that since in the instant case the respondents had purchased the building for the purpose of demolition and reconstruction and had obtained the municipal sanction in that behalf and were found to be possessed of sufficient means, they satisfied the condition of s. 14(1)(b) of the Act. He, therefore, ordered the eviction of the
H appellant. In the appeal preferred by the appellant under s. 23 of the Act, the appellate authority (2nd Judge of Small Causes Court, Madras) confirmed the view of the Rent Controller that the respondents had

established their *bona fide* requirement under s. 14(1)(b) and dismissed the appeal. The appellant preferred a Civil Revisional Application to the High Court specifically contending that the decision of the lower authorities on the question of *bona fide* requirement was wrong inasmuch as the factor whether the building itself required demolition and reconstruction or not had been regarded as irrelevant and completely ignored. The High Court dismissed the Revisional Application by observing that "the only thing to be looked into in such cases is whether the intention to demolish the building is there and whether such an intention is for the purpose of demolishing the same with a future intention to reconstruct and whether it is a *bona fide* intention; all these have been found in favour of the landlord." The appellant has challenged the correctness of the view adopted by the Rent Controller, the appellate authority and the High Court before us.

It will be desirable to set out the material provisions of s. 14 of the Act :

> "14. *Recovery of possession by landlord for repairs or for reconstruction*...(1) Notwithstanding anything contained in this Act, but subject to the provisions of sections 12 and 13, on an application made by a landlord, the Controller shall, if he is satisfied—
>
> (a) that the building is *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the building being vacated; or
>
> (b) that the building is *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 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 directing the tenant to deliver possession of the building under this section shall be passed—
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> (a) on the ground specified in clause (a) of sub-section (1), unless the landlord gives an undertaking that the building shall, on completion of the repairs, be offered to the tenant, who delivered possession in pursuance of an order under sub-section (1) for his re-occupation before the expiry of three months from the date of recovery of possession by the landlord, or before the expiry of such further period as the Controller may, for reasons to be recorded in writing, allow; or

A (b) on the ground specified in clause (b) of sub-section (1), unless the landlord gives an undertaking that the work of demolishing any material portion of the building shall be substantially commenced by him not later than one month and shall be completed before the expiry of three months from the date he recovers possession of the entire B building or before the expiry of such further period as the Controller may, for reasons to be recorded in writing allow.

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C It may be stated that under s. 15 provision has been made whereby the tenant has been given the right to reoccupy the premises from which he has been evicted under s. 14(1)(a) after all the repairs are carried out by the landlord while s. 16 makes a provision enabling the tenant to reoccupy the premises from which he has been evicted under s. 14(1)(b) only if the landlord fails to demolish the building in D contravention of the undertaking which he has to give under s. 14(2)(b) but it will be significant to note that there is no provision in the Act whereby the tenant is entitled to be reinducted in the reconstructed building. The question at issue is what is meant by the phrase "the building is *bona fide* required by the landlord" for the immediate purE pose of demolition and reconstruction occurring in s. 14(1)(b) ? It is true that the phrase refers to the *bona fide* requirement of the landlord and not that the building requires demolition and reconstruction but even so the question is whether while considering the *bona fide* requirement of the landlord for the immediate purpose of demolition and reconstruction the aspect as to what is the existing condition of F the building, whether it requires demolition and reconstruction is totally irrelevant or whether the said aspect forms part of the surrounding circumstances and should be taken into account while determining the *bona fide* requirement of the landlord ?

Counsel for the appellant contended that the words *"bona fide* reG quired" occurring in the phrase must be interpreted to have reference to the condition of the building, the demolition of which is sought by the landlord and those words cannot refer to the honest or *bona fide* intention entertained by the landlord to demolish the building and to reconstruct the same with a view to putting the property to a more profitable use after reconstruction. He urged that if mere entertaining H of a desire or intention on the part of the landlord to demolish the building and reconstruct the same were to satisfy the requirement of s.14(1)(b) then several tenants could be evicted even from building

which may be in a very good and sound condition simply because the landlord wishes to demolish and reconstruct the same with a view to render his investment more profitable. Counsel emphasized the aspect that unlike other Rent Control enactments, as for instance, the Mysore Rent Control Act (22 of 1961) or the Bombay Rent Act (57 of 1947) there was no provision in the Madras Act entitling the tenant evicted under s. 14(1)(b) to get reinducted into the reconstructed building. He, therefore, urged that apart from the landlord's honest desire or intention to undertake demolition and reconstruction, the Rent Controller must be satisfied that the building sought to be demolished is in such a condition that it requires demolition and reconstruction before the application under s.14(1)(b) could be granted by him. In any case, he urged that the aspect whether the building needs demolition or not was most vital and could not be ignored while determining the *bona fide* requirement of the landlord under s. 14(1)(b) and since all the Courts below had pronounced upon the landlord's *bona fide* requirement by totally ignoring the most vital factor their decision was liable to be set aside. In support of his contention strong reliance was placed by him on a decision of this Court in *Neta Ram* v. *Jiwan Lal*(1) and a decision of the Madras High Court in *Mehsin Bhai* v. *Hale and Company, G. T. Madras*(2).

On the other hand, counsel for the respondents (landlords) contended that both the Rent Controller as well as the Appellate Authority had recorded certain findings which were impliedly confirmed by the High Court, namely, that the building was more than 60 years old, that the landlords had purchased the building with a view to demolish it and reconstruct another at the same site for their own use and occupation, that their intention of demolition and reconstruction was backed by sufficient funds as well as sanctioned plans from the Municipal Corporation and above all no oblique motive had been found in making the application under s.14(1)(b) and on the basis of these facts it had been held that their *bona fide* requirement under s.14(1)(b) was established which conclusion should not be disturbed by this Court. He urged the language of section 14(1)(b) clearly showed that the existing condition of the building whether it was sound or dilapidated was not a relevant factor for determining the *bona fide* requirement of the landlord. He pointed out that the Madras High Court has in several decisions consistently taken the view that under s.14(1)(b) a *bona fide* desire or intention of the landlord was essential but not the requirement that the building

(1) [1962] Suppl. 2 S. C. R. 623.
(2) (1964) 2 M. L. J. 147

A should be old and decrepit and that in any case the age and dilapidated condition of the building was not a *sine qua non* for eviction of the tenant under the said provision. Reference in this behalf was made to two decisions of the Madras High Court, one in *Mahboob Badsha* v. *M. Manga Devi and Anr.*(1) and the other in *R. P. David & Anr.* v. *N. Daniel & Ors.*(2) and it was pointed out that the view of
B the learned Single Judge in *Mehsin Bhai's* case (supra) had not been approved in subsequent decisions of that Court. Reliance was also placed upon a decision of this Court in *Panchamal Narayan Shenoy* v. *Basthi Venkatesha Shenoy*(3) and certain observations made by this Court in *S. M. Gopalakrishna Chetty* v. *Ganeshan & Ors*(4).

C As stated earlier it cannot be disputed that the phrase used in s.14(1)(b) of the Act is "the building is *bona fide* required by the landlord" for the immediate purpose of demolition and reconstruction and the same clearly refers to the *bona fide* requirement of the landlord; it is also true that the requirement in terms is not that the building should need immediate demolition and reconstruction. But we
D fail to appreciate how the state or condition of the building and the extent to which it could stand without immediate demolition and reconstruction in future would be a totally irrelevant factor while determining "the *bona fide* requirement of the landlord". If the Rent Controller has to be satisfied about
E the *bona fide* requirement of the landlord which must mean genuineness of his claim in that behalf the Rent Controller will have to take into account all the surrounding circumstances including not merely the factors of the landlord being possessed of sufficient means or funds to undertake the project and steps taken by him in that regard but also the existing condition of the building, its age and situation and
F possibility or otherwise of its being put to a more profitable use after reconstruction. All these factors being relevant must enter the verdict of the Rent Controller on the question of the *bona fide* requirement of the landlord under s.14(1)(b). In a sense if the building happens to be decrepit or dilapidated it will readily make for the *bona fide* requirement of the landlord, though that by itself in the
G absence of any means being possessed by the landlord would not be sufficient. Conversely a landlord being possessed of sufficient means to undertake the project of demolition and reconstruction by itself may not be sufficient to establish his *bona fide* requirement if the building happens to be a very recent construction in a perfectly sound condition

H (1) 1965 (2) M. L. J. 209..
(2) 1967 (1) M. L. J. 110.
(3) [1970] 3 S. C. R. 734.
(4) [1976] 1 S. C. R. 273.

and its situation may prevent its being put to a more profitable use after reconstruction. In any case these latter factors may cast a serious doubt on the landlord's *bona fide* requirement. It is, therefore, clear to us that the age and condition of the building would certainly be a relevant factor which will have to be taken into account while pronouncing upon the *bona fide* requirement of the landlord under s.14(1)(b) of the Act and the same cannot be ignored.

We would like to observe that each side has adopted an extreme stand on the question at issue which is obviously incorrect. On the one hand counsel for the appellant urged that the words "*bona fide* required" refer to the condition of the building and not to the honest or *bona fide* intention entertained by the landlord to undertake demolition and reconstruction, suggesting thereby that the condition of the building should be a decisive factor while counsel for the respondent on the other hand contended that that aspect was totally irrelevant and the *bona fide* requirement of the landlord should be determined on the basis of factors such as the financial capacity of the landlord to undertake the project and whether he had taken any steps in that behalf etc. We do not agree that old age and dilapidated condition of the building is a *sine qua non* or a decisive factor for eviction under s. 14(1)(b) nor is it possible to accept the view that the said circumstance is totally irrelevant in pronouncing upon the *bona fide* requirement of the landlord. We are clearly of the view that the age and existing condition of the building—whether it is a recent construction or very old and whether it is in a good and sound condition or has become decrepit or dilapidated—are relevant factors forming part of 'all the circumstances' that have to be considered while determining the *bona fide* requirement of the landlord under s. 14(1)(b) of the Act and in the totality of the circumstances these factors may assume lesser or greater significance depending upon whether in the scheme of the concerned enactment there is or there is not a provision for reinduction of the evicted tenant into the new construction. Such a view would be in accord with the main objective of the benign legislation enacted with the avowed intention of giving protection to the tenant.

Turning to the decided cases cited by counsel on either side we might mention that our aforesaid view receives support from them. In *Neta Ram's* case (supra) the landlord had sought eviction of his tenants from a building owned by him, *inter alia*, on the ground that the shops occupied by the tenants were in a state of great disrepair and were dilapidated and he wishes to rebuild the same after dismantling the structures. Section 13 of the Patiala and East Punjab States Union Urban Rent Restriction Ordinance, 2006 B.K. provided that a land-

A lord may apply for eviction "in the case of any building if he (landlord) requires it for re-erection of that building or for its replacement by another building or for the erection of other building." It also provided that the Controller shall, if he is satisfied that the claim of the landlord is *bona fide,* make an order directing the tenant to put the B landlord in possession of the building. On the question of the construction of the provisions of the Ordinance this Court observed that according to the provisions it should be established that a claim of the landlord that he required the building for reconstruction and re-erection, must be *bona fide,* that is to say, "honest in the circumstances" At pp. 629-630 of the report the relevant observations run thus :

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> "The Controller has to be satisfied about the genuineness of the claim. To reach this conclusion, obviously the Controller must be satisfied about the reality of the claim made by the landlord, and this can only be established by looking *at all the surrounding circumstances, such as the con-*
> D *dition of the building, its situation, the possibility of its being put to a more profitable use after construction, the means of the landlord and so on.* It is not enough that the landlord comes forward, and says that he entertains a particular intention, however, strongly, said to be entertained by him. ..... The very purpose of the Rent Restriction
> E Acts would be defeated, if the landlords were to come forward and to get tenants turned out, on the bare plea that they want to reconstruct the houses, without first establishing that the plea is *bona fide with regard to all the circumstances,* viz., that the houses need reconstruction or that they
> F have the means to reconstruct them, etc." (Emphasis supplied).

It is true that in the last sentence of the above observations this Court has used the disjunctive "or" when referring to the condition of the building and the means of the landlord to reconstruct the
G houses but that does not mean that this Court wanted to suggest that if the landlord established that he had means to reconstruct the houses the existing state of the building becomes irrelevant. This is clear from the fact that this Court has emphasized at two places in the above observations that the landlord's plea of *bona fide* claim is required to be established by having regard to "all the surrounding cir-
H cumstances". The observations quoted above clearly suggest that amongst the several circumstances which would go to establish the *bona fide* requirement of the landlord the existing condition of the

building and its situation play an important part. Incidentally, it may be stated that there was no provision entitling the evicted tenant to get reinducted in the reconstructed building in the concerned Ordinance. In *Mehsin Bhai's* case (supra) Mr. Justice M. Ananthanarayanan of the Madras High Court has taken the view that in order to decide the *bona fide* of the landlord in an application under s. 14(1)(b) of the Act, the Courts have to apply several criteria and judge upon the totality of the Acts and that even though a building may be old still its present condition may be such as to involve no danger whatsoever of any breaking up so as to necessitate a decision by the landlord that it is in his interest to demolish it immediately; the condition of the building and extent to which it could stand without immediate demolition and reconstruction in future are all relevant considerations in assessing the *bona fides* of the landlord. His observations, which meet with our approval, have been put in negative language. This is what he has observed :

> "What the section really requires is that the landlord must satisfy the Court that the building was *bona fide* required by him, for the immediate purpose of demolition. I am totally unable to see how the present state of the building, and the extent to which it could stand without immediate demolition and reconstruction, in the future, are not relevant considerations in assessing the *bona fides* of the landlord."

The decisions on which reliance was placed by counsel for the respondents, in our view, do not go to the extent of saying that the existing condition of the building is a totally irrelevant factor. In *Panchamal Narayan Shenoy's* case (supra), a case arising under s. 21(1)(j) of the Mysore Rent Control Act, an extreme contention was urged on behalf of the tenant that unless the landlord was able to establish that the condition of the building was such that it immediately required demolition and reconstruction no tenant could be ordered to be evicted under the provision, in other words, the contention was that the words "reasonably and *bona fide* required by the landlord" occurring in cl. (j) of s. 21(1) of that Act must be interpreted to have reference to the condition of the building, the demolition of which was sought to be made, and that those words had no reference to any intention entertained by the landlord. Such an extreme contention was negatived by this Court. And this Court went on to observe; "no doubt, whether the landlord's requirement is reasonable and *bona fide* has to be judged in the light of the surrounding circumstances, which will include his means for reconstruction of

A the building, and other steps taken by him in that regard". It is true that this Court also observed as follows :

> "In our opinion, it is not necessary that the landlord should go further and establish under this clause that the condition of the building is such that it requires immediate demolition."

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This observation, in our view, was made by this Court because of two aspects which emerged from the two other specific provisions contained in the Mysore Act. First, that in cl. (k) of s. 21(1) another ground of eviction had been provided to a landlord to obtain eviction C of his tenant, namely, that the condition of the property was such as required immediate demolition and secondly, that under s. 27 of the Act the tenant had been given the right to occupy the new building on its reconstruction provided he satisfied the provision contained in that section. In other words, it was in light of the such scheme of the Act, which contained cl. (k) of s. 21(1) and s. 27 that this D Court made that particular observation. That particular observation on which strong reliance was placed by counsel for the respondent will have to be read in the context of scheme of the Mysore Rent Control Act. Counsel for the respondent attempted to argue that purely on question of construction the identical words occurring in the E two Acts should receive the same construction and it must be held that under s. 14(1)(b) of the Act it is not necessary for the landlord to establish that the building is such that it requires immediate demolition. It is not possible to accept his contention for the simple reason that though the words employed in two enactments may be the same or identical their construction may not be the same and F would vary depending upon other cognate provisions of and the scheme of each enactment.

The next decision relied upon by counsel for the respondents is *S. M. Gopalakrishna Chetty's* case (supra), the ratio of which is clearly different and does not touch the issue arising before us in G these appeals. The question which arose for determination in that case was whether a landlord who had a life interest in the property in question could seek eviction of his tenant for *bona fide* requirement of demolition and reconstruction and this Court took the view that the H definition of the word "landlord" under s. 2(6) was wide enough to include the appellant who had a life-interest in the premises. Counsel however, relied upon the general observation made by this Court in that case to the effect "A landlord has every right to demolish his property in order to build the new structure on the site with

a view to improve his business or to get better return on his investment. Such a step *per se* cannot be characterised as *mala fide* on the part of the landlord. In the first place these observations were made in the context of the contention that was strongly urged before the Court that a person (landlord) having merely a life interest could not be allowed to demolish the property in order to reconstruct it as that action would *per se* be not *bona fide* for the purposes of s. 14(1)(b). It was while rejecting this contention that the aforesaid observation was made by this Court. Secondly, all that the said observation indicates is that in the view of this Court if a landlord were to exercise his right to demolish his property in order to build a new structure at the site with a view to improve his business or to get better return on his investment such a step *per se* could not be regarded as *mala fide* on the part of the landlord. This has nothing to do with the question whether while determining the *bona fide* requirement of the landlord under s. 14(1)(b) of the Act, the condition of the building is or is not a relevant factor. The Madras decision in *Mahboob Badsha's* case (supra) merely takes the view that the age and the dilapidated condition of the building is not a *sine qua non* for eviction under s. 14(1)(b) of the Act. That is far from saying that it is a totally irrelevant factor. In fact, in that case the relevancy of this factor has in one sense been accepted, for, the Court has observed that a decrepit building may call for immediate demolition and without anything more the landlord could be said to have satisfied the condition of his *bona fide* requiring the building for immediate demolition but according to the Court the terms of s. 14(1)(b) are wide enough to cover cases where landlord *bona fide* requires a building for the expanse of his own business or for legitimate purpose. In *David* v. *Denial* (supra) also the Division Bench of the Madras High Court has proceeded on the basis that under s. 14(1)(b) of the Act *bona fide* desire or intention on the part of the landlord was essential and that it was not essential requirement of the provision that the building should be old and decrepit. But it is the alternative contention of the counsel for the appellant which we have accepted, namely that the age and decrepit condition of the building is a relevant factor amongst several others which will have to be considered while adjudicating upon the *bona fide* requirement of the landlord under that provision and might receive greater emphasis in a case where the enactment, as is the case here, contains no provision for reinducting the evicted tenant into the new building than where the concerned enactment has such a provision.

Having regard to the above discussion, on the construction of s. 14(1)(b) of the Act, particularly in the light of its scheme, we are

clearly of the view that the existing condition of the building far from being totally irrelevant is a vital factor which will have to be considered while pronouncing upon the *bona fide* requirement of the landlord under that provision which has to be done by having regard to "all the circumstances" and since in the instant case all the Courts have totally ignored this vital factor to feel that their conclusion on the question of *bona fide* requirement of the landlord deserves to be set aside. We accordingly set aside the said conclusion of the Courts below and remand the matter back to the Rent Controller to dispose of the landlord's application in light of our judgment.

In Civil Appeal No. 1301 of 1978 and Civil Appeal No. 1381 of 1978 which are by two tenants against the same landlord and attempt was made by counsel appearing for the respondent-landlord to show that the tenants in their written statements had made an admission that the building which was sought to be demolished was not merely old but in a dilapidated condition. After going through the written statements of the tenants in these appeals we are not satisfied that any such clear admission has been made by the tenants in their written statements. Further, in these matters also the Rent Controller, the Appellate Authority as well as the High Court proceeded on the footing that even if it were assumed that the building was not old nor dilapidated even then the landlord was entitled to an order of eviction as his honest intention to demolish the building and to reconstruct the same was backed by sufficient funds and the steps which he took by applying for sanction of plan for demolition and reconstruction and, therefore, the applications of the landlord will have to go back to the Rent Controller and we accordingly set aside the orders of the High Court and remand the applications to the Rent Controller for disposal according to law in the light of our judgment.

There will be no order as to costs in all these appeals.

In view of our judgment in Civil Appeal Nos. 2087-2088, 1301 and 1381 of 1978 the writ petition is allowed to be withdrawn since the same is not pressed.

N.K.A. *Appeals allowed.*