

In the Court of Appeal of the Democratic
Socialist Republic of Sri Lanka.

CA 1301/96(F)

DC Negombo 1518/RE

P F Francisca Theresa Nonis

75, Kaleliya, Jaela.

W.M.Allen Mary Perera

76, Kaleliya, Jaela.

Plaintiff-Appellants

Vs.

K.D.Martial Appuhamy

10, Main Street, Jaela

Defendant-Respondent

Before:AWA Salam J.

Parties absent and unrepresented.

Decided on : 22.02.2011

AW Abdul Salam J.

This is an appeal from the judgment of the learned district judge of Negombo dismissing the plaintiff's action. The plaintiffs filed action against their tenant, the defendant seeking ejectment from the premises in suit on the ground that it is reasonably required for the use of the landlords to run their own business. The basic facts regarding the question of tenancy were not in dispute.

The plaintiffs are wives of two brothers. During the lifetime of their husbands they ran a business in the premises in suit and after the death of one of the brothers the 1st plaintiff and the husband of the 2nd plaintiff had leased out the premises to the defendant on deed of lease No.1880 dated 16.5.1968 for a period of five years along with certain movables. Admittedly, even after the expiry of the period of lease the defendant had continued to occupy the premises. There was no dispute as to the application of the provisions of the Rent Act with regard to the contract of tenancy.

At the trial the 1st and 2nd plaintiffs gave evidence and closed their case reading in evidence P1 to P5. Thereafter on behalf of the defendant Ramanathan Sivapalan gave evidence and the case of the defendant was closed reading in evidence D1 to D23.

At the conclusion of the trial the main question the learned district judge was obliged to decide was whether the premises in suit was reasonably required for the occupation of the landlord in order to carry on their own business. The plaintiffs claimed that they were contemplating to run a business in the premises with the assistance of their children as both plaintiffs were in their old age. The learned district judge has observed that the plaintiffs had

not established their financial capacity to run a business of their own and come to the conclusion that the assertion regarding the reasonable requirement of the premises had not been established. This finding of the learned district judge being a factual matter I am not inclined to interfere with the said finding. In any event, the findings of the learned district judge on factual matters as they reflect in the judgment appear to me as faultless. Hence, the appeal of the plaintiffs should stand dismissed.

There shall be no costs.

Judge of the Court of Appeal.