RAMYA GOONEWARDANE
v.
PEIRIS

COURT OF APPEAL.
WEERASEKERA, J.
DR. GRERO, J.
C.A. 33/84 (F)
D.C. PANADURA 17380.
APRIL 28, 1994, NOVEMBER 18, 1994,
NOVEMBER 25, 1994, DECEMBER 13, 1994.

Landlord and Tenant – Rent Act No. 7 of 1972, S.48 – Regulation 3 – Applicability to Urban Councils – Consolidation of Premises – Physical alterations – Excepted Premises – Standard Rent – S.233, S.242, S.243 and S.236 to S.241 of the Municipal Councils Ordinance – Annual Value.

Three units were let to the Respondent-Tenant. These three units were consolidated and a single assessment Number 318 was assigned to the premises in October 1980. The premises No. 318 was assessed for the first time at an annual value of Rs. 3,750/-, thus falling within the ambit of Excepted Premises.

The Landlord sued the Respondent-Tenant for ejectment. The Appellant-Landlord relied upon the entries in the relevant Assessment Register. The Learned District Judge relied on certain letters written by the Actg. Chief Assessor to the Chairman U.C. Panadura and dismissed the action.

Held:

(1) To ascertain whether premises No. 318 are excepted premises recourse should be made not only to the Rent Act No. 7 of 1972 but also to the provisions of S.233, S.235 and S.237 of the Municipal Councils Ordinance.

(2) Annual value of a premises is entered in the Assessment Book, in terms of S.235 of the Municipal Councils Ordinance. This is relevant to decide the question of excepted premises.

(3) If the annual value shown in the Assessment Register exceeds the annual value shown in column 11 of Regulation 3 in the schedule to the Rent Act, then such premises are excepted premises.

***Per* Dr. Ananda Grero, J.**

"I am of the view that a consolidation affected under S. 233(1) to any Existing House, buildings etc., need not have physical alterations as contemplated in S.237(1) of the Municipal Councils Ordinance. Once such assessment is made in

respect of consolidated premises and the annual value is entered in the Register, unless it is amended according to the procedure laid down in S.235 of the Municipal Councils Ordinance, the annual value remains in force. On the basis of such annual value rates are calculated and entered in the Assessment Book (Register)."

(4) S.235(1) of the Municipal Councils Ordinance requires no such physical alterations be affected to separate premises in order to consolidate them, under this section consolidated premises should be assessed at the aggregate annual value of such premises.

(5) There is a significant difference between S.233(1) and S.237(1) of the Municipal Councils Ordinance.

AN APPEAL from the judgment of the District Court of Panadura.

Cases referred to:

1. *Hewavitharana v. Rathnapala* – 1988 S.L.R. 240.
2. *Ansar v. Hussain* 1986 1 Colombo Appellate Law Reports 365.
3. *A. K. Premadasa, P.C.*, with *P. A. D. Samarasekera, P.C.*, and *Y. Jayasekera* for Plaintiff-Appellant.
4. *H. L. de Silva, P.C.*, with *Faiz Musthapha, P.C.*, for Defendant – Respondent.

Cur. adv. vult.

March 15, 1995.

DR. ANANDA GRERO, J.

The plaintiff-appellant (hereinafter referred to as the appellant) sued the defendant-respondent (hereinafter referred to as respondent) for ejectment from the premises bearing Assessment No. 318, Main Street, Panadura on the ground that these premises are "**excepted premises**" within the meaning of Regulation 3 of the Schedule to the Rent Act No. 7 of 1972. The premises in question are business premises.

The respondent filed his answer and denied that a cause of action has accrued to the appellant to sue him and asked for the dismissal of her action.

After trial, the Learned District Judge of Panadura, dismissed the appellant's action with costs. It is against this judgment that the appellant preferred an appeal to this Court.

Briefly the appellant's case is :- That the respondent is in occupation of the premises in suit as a tenant and prior to October 1980, there were three assessed units bearing Nos. 318, 320 and 322. Even prior to that, there were three separate units bearing Nos. 304, 306 and 308. These three units had been let to one tenant, the respondent in this case, and premises No. 304 were used as a hotel and bakery, premises No. 306, as a shop for the sale of ceramics, and premises No. 308 as a shop for the sale of plantains. These three units (premises) were consolidated and single assessment number, 318 was assigned to this premises. This was done according to the appellant in October 1980. The premises No. 318 was for the first time assessed at an annual value of Rs. 3750/-. As premises No. 318 fall within the ambit of "**excepted premises**" according to the 3rd Regulation on the Schedule to the Rent Act of No. 7 of 1972, she (appellant) asked for the ejectment of the respondent tenant from such premises.

The plaint of the appellant was filed on 22.7.1981. At the time she filed her plaint, and instituted this case there was only one assessment number given to the premises in suit, and that No. was 318. The annual value given to premises No. 318 was Rs. 3750/-. Then the rate per quarter was Rs. 187/50. The documents marked වි1, and පැ1 (V1 and P1) bear ample testimony to the above stated facts.

There is no evidence to show, that the aforesaid entries entered in the "Assessment Book" (Register) have been altered or amended in terms of Section 235 of the Municipal Councils Ordinance, and at the time of filing this action, those entries were in the said Assessment Book without any change.

It should be noted that according to Section 166 of the Urban Councils Ordinance, for the assessment of any immovable property for the purpose of rates and taxes the manner prescribed by Section 235 of the Municipal Councils Ordinance shall apply with necessary modifications. Further all the provisions of Sections, 233, 242, 243 and 236 to 241 of the Municipal Councils Ordinance shall also apply with necessary modifications with respect to every such assessment made for the purposes of the Urban Councils Ordinance.

In dealing with the questions of consolidation, assessment of premises, Assessment Book (Register), objections to assessment, inquiry into such objection etc., the provisions of Sections 233 and 235 of the Municipal Councils Ordinance are relevant. Even with regard to physical alterations affecting annual value of any house, building etc., Section 237 of the Municipal Councils Ordinance is relevant.

The only question that arises to decide in this case is whether premises No. 318 are "**excepted premises**" or not. In deciding this vital question recourse should be made not only to the Rent Act of No. 7 of 1972, but also to the provisions of Sections 233, 235 and 237 of the Municipal Councils Ordinance.

No doubt Regulation 3 in the Schedule to the Rent Act directly deals with the question of "**excepted premises**". Under Regulation 3 in the Schedule to the Rent Act, "Annual Value" in respect of premises situated in various areas is given. In so far as the annual value of the premises in the present case is concerned, what is applicable under the 3rd Regulation is Rs. 2000/- limit. If the annual value of the premises No. 318 exceeds the relevant annual value of Rs. 2000/- then the said premises fall within the ambit of "**excepted premises**" as contemplated in the Rent Act.

According to Section 48 of the Rent Act, "Annual value" of any premises means, "the annual value of such premises assessed as residential or business premises, as the case may be, for the purposes of any rates levied by any local authority under any written law and as specified in the assessment under such written law, and where used in relation to the relevant amount, means the annual value of the premises as specified in the assessment in force..."

Thus it is apparent that the annual value of any premises coming within the purview of the Rent Act depends on the Assessment made by the relevant local authority as authorized by law applicable to such local authority.

Section 233(1) of the Municipal Councils Ordinance deals with assessment of houses, buildings, land and tenaments. For such

purpose buildings, tenaments, etc. may be divided, and consolidate any separate houses, buildings etc. In the present case as stated earlier, units bearing Nos. 318, 320 and 322 were consolidated into one unit or premises bearing assessment No. 318 and the annual value of Rs. 3750/- has been entered in the 'Assessment Book' as stated in Section 235 of the Municipal Councils Ordinance. Not only the annual value is entered in the said book, rate per quarter, viz., Rs. 167/- is also inserted in it. Thus, the importance and relevance of Section 233, more particularly subsection 1 of Section 233 of the Municipal Councils Ordinance can be clearly seen. Not only that, the assessment so made has a bearing on the annual value of a premises. In the present case after consolidation of premises the annual value was fixed at Rs. 3750/-.

Annual value of a premises is entered in the 'Assessment Book' or 'Register'. It is done in terms of Section 235 of the Municipal Councils Ordinance. This Section also deals with the manner with which objection to annual value could be raised and how such objection is to be dealt with. The annual value so entered in the Assessment Register has relevance in deciding the question of "**excepted premises**". Both these Sections (233 and 235 of the Municipal Councils Ordinance) in my view are relevant in deciding whether a premises comes within the definition of "**excepted premises**" under the Rent Act.

The Learned President's Counsel for the appellant strongly contended, that entries in the 'Assessment Register' are very relevant in this case, as the appellant relied upon such entries at the time she instituted this action. He referred to entries in පැ1 (P1) a certified extract from the Assessment Register maintained by the Panadura Urban Council with regard to premises bearing No. 318 from the year 1962 to 1982. On the basis of the annual value for the year 1981 (the year action was filed) he contended that the annual value, Rs. 3750/- exceeded the annual value (i.e. Rs. 200/-) given under the 3rd Regulation, in the Schedule to the Rent Act, and therefore the appellant is entitled to get judgment in her favour as the premises No. 318 fall within the definition of "**excepted premises**" in terms of the provisions of the Rent Act.

The Learned President's Counsel for the defendant-respondent contended that the submission of the Learned President's Counsel for the appellant that entries in the Assessment Register must prevail is not a correct statement of law in so far as the question whether premises are "**excepted premises**" or not. They (entries) are conclusive in so far as the payment of rates is concerned.

The annual value shown under Regulation 3, in the Schedule to the Rent Act has a bearing on "the assessment made as business premises for the purposes of rates levied by any local authority under any written law and in force. (e.g. the Municipal Councils Ordinance). Once an assessment is made under Section 233(1) of the Municipal Councils Ordinance, such assessment is entered in the "Assessment Register" as stated in Section 235 of the said Ordinance.

A landlord or a tenant if he wishes to find out the annual value of the premises he is interested, has to look into the Assessment Register kept with the relevant local body. In the said Register, rates are also included. If the annual value shown in the Assessment Register exceeds the annual value shown in Column II of Regulation 3 in the Schedule to the Rent Act, then such premises are "**excepted premises**" within the provisions of the Rent Act. Thus it is seen that the annual value stated in Column II of Regulation 3 in the Rent Act, has a bearing on the annual value entered in the Assessment Register maintained by a local body. No doubt regarding rates, such entries in the Register are relevant.

The appellant in this case could not have instituted this action if the annual value in the Assessment Register kept by the Panadura Urban Council did not exceed Rs. 2000/- as required in Regulation 3, in the Schedule to the Rent Act. It is because the annual value found in the Assessment Register exceeded Rs. 2000/-, she was able to file this action on the basis that the premises are "**excepted premises**".

There is evidence to show that the Urban Council, Panadura has consolidated the premises bearing assessment numbers 318, 320 and 322 (earlier Nos. 304, 306 and 308) and given the assessment No. 318, to the premises in suit in 1981. Of course the respondent had sent a letter to the Chairman U.C. Panadura objecting to the allocation of one assessment No. 318 to the premises in suit.

Regarding this matter I will deal with it later. There is also evidence that at the time action was instituted, no change in the annual value (i.e. Rs. 3750/-) has been effected in the Assessment Register.

In order to find out whether the annual value of Business premises stated in Regulation 3, in the Schedule to the Rent Act exceeds the annual value shown in Column II, as at 1.1.68 or after 1.1.68, the Assessment Register maintained by a local body becomes very relevant. The entries in such Register, more particularly the entry with regard to annual value is indispensable for the purposes of rates and to find out whether premises are "**excepted premises**" within the meaning of Regulation 3.

In the aforesaid circumstances, I am inclined to accept the submissions of the Learned President's Counsel for the appellant, that entries in the Assessment Register are most relevant even for the purpose of deciding whether premises are "**excepted premises**" within the ambit of the Rent Act. Such entries are not only conclusive with regard to the payment of rates (as submitted by the Learned Counsel for the respondent), but they have a bearing insofar as the determination of annual value of business premises, as contemplated in Regulation 3, in the Schedule to the Rent Act.

In the present case, the appellant quite rightly relied upon the entries in the relevant Assessment Register and instituted this action to eject the respondent from the premises in suit.

The Learned District Judge has relied upon ඵ 6, the letter dated 21.7.83 sent by the Acting Chief Assessor to the Chairman U.C. Panadura, stating that the consolidation of premises, (i.e. premises Nos. 318, 320 and 322) was done by an error, and the numbers and the annual values should be in terms of his letter dated 1.6.81. This letter dated 1.6.81 is produced, marked ඵ4. According to ඵ4, three separate numbers viz. 318, 320 and 322 were given with the annual value of Rs. 1750/-, Rs. 1000/- and Rs. 1000/- respectively.

The Learned District Judge was of the view, that the Chairman even after receiving these letters ඵ4, and ඵ6, had not taken any steps to effect alterations accordingly in the Assessment Register. He was of the view that assessment numbers and annual values should have been changed in accordance with these two documents. It appears

that the Learned District Judge had formed the view, that ඵ6, empowers the local authority (Chairman U.C. Panadura) to amend the entries, particularly the annual value, of the premises in suit entered in the Assessment Register.

The Learned President's Counsel for the appellant contended that a tenant is entitled to object to the annual value entered in the Assessment Register, and such objection shall be investigated in the presence of the parties and the decision after investigation shall be noted in the book of objections and necessary amendment shall be made in the Assessment Register, as contemplated in Section 235 of the Municipal Councils Ordinance. He contended that no investigation as contemplated in Section 235 of the said Ordinance was done, and no amendment was effected to the entries already entered in the Assessment Register.

The evidence of Karunasena, Chief Rates Clerk of the U.C. Panadura reveals that there was an inquiry regarding the consolidation of these premises. But there is no evidence that the objection of the respondent was investigated as contemplated in Section 235 of the Municipal Councils Ordinances; and steps were taken to amend the entries in the Assessment Register. The respondent admits in his evidence that the Urban Council informed him about the consolidation of the premises. No doubt by letter ඵ3, he has objected to the allocation of one assessment number to the existing three premises.

On the strength of ඵ6, the Chairman of the U.C. cannot make amendments to the entries entered in the Assessment Register. The procedure is laid down in Section 235 of the Municipal Councils Ordinance. Learned District Judge seems to hold the view that on receipt of ඵ 6, the Chairman should have amended the Assessment Register as stated in ඵ 4. These two documents 4 and 6 do not empower the Chairman U.C. Panadura to make necessary amendments with regard to entries already made in the Assessment Register, unless he strictly follows the procedure laid down in Section 235 of the Municipal Councils Ordinance.

It appears that the Learned District Judge has not considered the aforesaid Section at all when he arrived at the conclusion that the

Chairman U.C. Panadura should have acted upon ඵ 6 and amended the entries in the Assessment Register.

By ඵ 6, the Acting Chief Assessor wanted the Chairman U.C. Panadura to regard the assessment numbers and the annual values of the premises as stated not in ඵ 4. That is to say, that premises bearing assessment No. 318 should not be regarded as consolidated premises having one assessment number, but to consider having three separate Nos. viz. 318, 320 and 322 and separate annual value of Rs. 1750/-, Rs. 1000/- respectively. Acting on ඵ6, if the Chairman of the U.C. treated the premises as three separate units having three separate annual values, yet he was acting contrary to subsections 6 and 7 of Section 235 of the Municipal Councils Ordinance. Even if he just amended the entries in the Assessment Register on the basis of ඵ 6, such an amendment was also contrary to the above stated subsection of Section 235. Unless he followed the procedure laid down in the said Section and amended the entries in the Assessment Register, there cannot be any valid amendment to the entries in the Register in respect of the year 1981.

One cannot blame the appellant; or even the tenant (respondent) for the Chairman, U.C. Panadura, not taking appropriate action under the provisions of Section 235 of the Municipal Councils Ordinance to amend the entries entered in the Assessment Register. At the date of filing this action the entries in the Assessment Register amply demonstrated that the annual value of premises bearing No. 318 was Rs. 3750/-, excess of the annual value shown in Column II in Regulation 3, in the schedule to the Rent Act. Thus the appellant is entitled to file action to eject the respondent on the ground that the premises No. 318 are "**excepted premises**" in terms of the Rent Act. The Learned District Judge relying on ඵ 6 finally came to the conclusion that assessment of the annual value with regard to the premises should be that of 1.1.68, and on that basis the premises are not "**excepted premises**". Had the Learned Judge, considered Regulation 3 in the Schedule to the Rent Act along with the provisions of Sections 233 (1) and 235 of the Municipal Councils Ordinance, I am of the view he could not have reached the conclusion that the premises are not "**excepted premises**". This conclusion in my view is erroneous.

The Learned President's Counsel for the respondent relied heavily on the decision of the Court of Appeal in the case of *Hewavitharana v. Rathnapala* [1]. Relying on this decision he contended that no substantial structural alterations were done to the existing premises i.e. premises Nos. 318, 320 and 322 in order to give birth to a "new premises" to make an assessment of the annual value for the first time after 1.1.68 as contemplated in Regulation 3, in the Schedule to the Rent Act. Therefore he contended the assessment as at 1968 should prevail, and the premises are not "excepted premises" but they remain, to continue as premises governed by the Rent Act.

The Learned President's Counsel for the appellant submitted to Court the case of *Hewavitharana v. Rathnapala* (*Supra*) must be restricted to the facts of that case and in any event authorized rents of the original premises (i.e. premises Nos. 318, 320, and 322) cannot be calculated if consolidation is ignored, and therefore whether there are physical alterations or not the entries in the Assessment Register should prevail.

In the Hewavitharana's case, (*supra*) Dheeraratne J considered a number of authorities which have interpreted certain statutory provisions analogous to Regulation 3 in the Schedule to the Rent Act before arriving at the decision reported in the said case.

In the aforesaid case, the Court of Appeal held that the nature of the physical alterations done to the premises is such, the assessment of October 1975 did not give birth to new premises attracting an assessment for the first time and therefore the January 1968 annual value should be applied to determine whether the premises are excepted premises or not.

A perusal of the judgment in the Hewavitharana's case (*supra*) reveals that Dheeraratne, J. considered Sections 233 (1) and 237 (1) of the Municipal Councils Ordinance.

In his judgment he observed as follows:-

"From the evidence led at the trial it appears that the Municipal authorities considered it as a consolidation in terms of Section 233(1)

and made the assessment of the premises by taking the aggregate annual values of the two existing premises increasing it by five rupees for mere convenience. The facts of the present case do not warrant me to conclude, that the assessment was made in terms of Section 237(1). An assessment made under Section 237 (1) may perhaps, in certain circumstances, give birth to entirely new premises, attracting such assessment as its first" (vide page 247).

From the above quoted passage it is abundantly clear that Dheeraratne, J. considered Sections 233 (a) and 237 (1) of the Municipal Councils Ordinance and was of the view that the facts of that case do not warrant him to come to a finding that the assessment was made in terms of Section 237 (1). He was of the view, if assessment was done under Section 237 (1), it may give birth to entirely "new premises" depending on certain circumstances, attracting such assessment to be its first. As consolidation was done by taking the annual values of the existing two premises and increasing it by five rupees for mere convenience sake, he held that the assessment of 1968 should be applicable. On the basis of the assessment, the premises in that case were not considered as "**excepted premises**".

According to Section 233 (1) A Municipal Council for purpose of assessment, can divide a house or building etc. The Council can also consolidate any separate houses or buildings etc. If consolidation is done the consolidation premises shall be assessed at the aggregate annual value of several houses, buildings etc., of which premises are composed.

Section 237 (1) empowers a Council to prepare a new assessment on the alteration of any house or buildings etc., affecting the annual value. In fact this Section begins as follows:

> "Where physical alterations affecting the annual value of any house, building..."

Insofar as "consolidation under Section 233 (1) is concerned, this Section does not speak of any physical alterations as in Section 237(1). It says: **"Consolidate any separate house, buildings etc."**

Assessment under section 233(1) is done to levy rate or rates. But that too depends on the annual value of the premises.

There is a significant difference between these two Sections. Section 233(1) speaks of consolidation of any separate houses, buildings etc., without mentioning any physical alterations to such houses, buildings etc., whereas Section 237(1) specifically speaks of **"physical alteration"** any house, building etc.

If the intention of the Legislature was, that houses, buildings etc., should have undergone physical alterations prior to consolidation of such houses, buildings etc., then it should have stated so in Section 233(1).

Under Section 233(1) discretion, is given to a Municipal Council for purpose of assessment from time to time to divide any house, building and also to consolidate such separate houses, buildings etc. There is also provision in the Municipal Councils Ordinance for any proprietor or any occupier of such house, building etc., to object to such assessment based on consolidation. Section 235(8) says that every assessment against which no objection is taken shall be final for the year. So if consolidation was done improperly objections can be taken, they are investigated, and if necessary amendments are effected in the Assessment Book (Register). Needless to say that a Council should exercise its discretion reasonably and properly, when consolidation is carried out.

I am of the view that a consolidation effected under Section 233(1) to any existing houses, buildings etc., need not have physical alterations as contemplated in Section 237(1) of the Municipal Councils Ordinance. Once such assessment is made in respect of consolidated premises, and the annual value is entered in the Register, unless it is amended according to the procedure laid down in Section 235 of the Municipal Councils Ordinance, the normal value remains in force. On the basis of such annual value rates are calculated and entered in the Assessment Book (Register).

In order to find out whether the annual value as stated in Regulation 3, in the schedule to the Rent Act exceeds the amount specified in Column II of the Regulation, one has to rely on the annual value

entered in the Assessment Book (Register). Therefore entries entered in the aforesaid Register have a bearing on the question of deciding whether premises are "**excepted premises**" or not.

The Learned President's Counsel for the appellant strongly urged before us that in the present case, once the assessment of Rs. 3750/- was made in October 1980, it is not possible to hark back to the assessment of three units Nos. 318, 320 and 322 prior to October 1980.

He further contended that this submission is mathematically correct due to the following reasons:–

The Authorized Rent has to be calculated according to Section 4 of the Rent Act Namely:–

(a) Annual value in the year 1955 plus
(b) Rates for the particular year.

Therefore if it is necessary to calculate the separate authorised rent for January 1981 of premises No. 318, or 320, or 322 it is not possible to do so as there is no separate rate for premises No. 318 or 320 or 322, as all three have been consolidated.

According to his argument once consolidation of a separate premises (Units) is carried out there is no possibility to calculate the authorised rent in respect of each premises or unit, (in this case premises No. 318, 320 and 322). If authorised rent is to be calculated in respect of each unit No. 318, 320 and 322 that existed prior to consolidation, then consolidation affected must be altered or amended in the manner set out in Section 233 of the Municipal Councils Ordinance.

As earlier mentioned, consolidation effected under Section 233(1) require no physical alterations; In other words consolidation of separate houses, buildings etc. is not done on the basis of physical alteration.

In the case of consolidation, the consolidated premises shall be assessed at the aggregate annual value of several houses, buildings etc. This aggregate annual value is entered in the Assessment Book

(Register), As contended by the Learned President's Counsel for the appellant, the entries so made after consolidation remain in force until they are amended according to the procedure laid down, particularly in Section 235 of the Municipal Councils Ordinance; and such entries must prevail. The entries so made, particularly the entry regarding "annual value" has a direct bearing with Regulation 3, in the Schedule to the Rent Act. This aspect has not been fully gone into in the case of *Hewavitharana v. Rathnapala* (*supra*) mentioned earlier.

When authorized rents in respect of premises that existed prior to consolidation has to be calculated, one cannot ignore the consolidation that has been already made, whether such consolidation was done on the basis of physical alterations or not. This aspect too has not been considered in the *Hewavitharana's case.* (*supra*)

The President's Counsel for the respondent relied on the judgment of the Supreme Court in the case of *Ansar v. Hussain* [2] to substantiate his argument, that the assessment of 1.1.68 should prevail and not the assessment of 1981.

In the said case the premises in suit were adjacent premises bearing assessment Nos. 100 and 102. Against the decision of the Court of Appeal the appellant appealed to the Supreme Court to decide two specific matters out of which one was –

Whether the computation of the standard rent should be based on the annual value for 1941 or the annual value for 1966.

Wanasundera, J. after considering the facts of the case, arguments of both Counsel, finally held that the Court of Appeal was correct when it ruled that premises No. 100 and 102 in respect of which the action was brought were in existence as separate entities, bearing separate assessment numbers from the year 1941 and the standard rent should be computed on the annual value based on the 1941 assessment.

In *Ansar v. Hussain,* (*supra*) the necessity did not arise for the Supreme Court to consider the computation of separate authorised rents of premises or units after their consolidation. Thus the question of such computation was left undecided. Such a computation

becomes relevant in deciding whether consolidation of premises can be ignored on the ground that there are no substantial physical alteration to the premises in question. Section 233(1) of the Municipal Councils Ordinance requires no such physical alterations be effected to separate premises in order to consolidate them. Under this Section consolidated premises should be assessed at the aggregate annual value of such premises. This aggregate annual value which is entered in the Assessment Book (Register) has a bearing on the "annual value" stated in Regulation 3 of the Schedule to the Rent Act. If such annual value exceeds the annual value given in Column II of the Regulation, then such premises become "**excepted premises**". Therefore the contention of the Learned President's Counsel for the appellant, that whether there are physical alterations or not insofar as consolidation of premises is concerned, the entries in the Assessment Register should prevail, holds good.

In the present case it is abundantly clear, that the annual value in 1981 (at the time of filing this case) was Rs. 3750/- which exceeds the annual value given in Regulation 3 of the Schedule to the Rent Act.

Thus the premises in suit (bearing Assessment No. 318) are "**excepted premises**" within the provisions of the Rent Act and therefore the appellant is entitled to succeed in his appeal.

For the above stated reasons, the judgment of the Learned District Judge dated 6.1.84 is hereby set aside, the appeal is allowed and we make order that judgment be entered in favour of the appellant as prayed for in the plaint.

Considering the fact that the respondent is using the premises in suit for business purposes, we direct that Writ of possession should not be issued for a period of five months (5) from today (i.e. 15.3.1995) so as to enable him to find alternative premises within this period. The appellant is entitled to recover costs fixed at Rs. 750/- from the respondent.

WEERASEKERA, J. – I agree.

Appeal allowed.