

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) No.1052 of 2015

and

M.P.No.1 of 2015

L.Jayavelu

...

Petitioner

Vs.

G.S.Harichandra

...

Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, against the Judgment and decree in R.C.A.No.229 of 2014 dated 25.11.2014 on the file of the IX Court of Small Causes, Chennai, confirming the order and decree passed in R.C.O.P.No.2275 of 2012 dated 29.01.2014 on the file of the XII Court of Small Causes, Chennai.

For Petitioner : Mr.P.R.Murali

ORDER

This civil revision petition is directed against the Judgment and decree in R.C.A.No.229 of 2014 dated 25.11.2014 on the file of the IX Court of Small Causes, Chennai, confirming the order and decree passed in R.C.O.P.No.2275 of 2012 dated 29.01.2014 on the file of the XII Court of Small Causes, Chennai.

2. The Respondent/Landlord initiated eviction proceedings against the petitioner/tenant under Section 10 (3) (a) (iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

3. The case of the landlord is that he purchased the petition property bearing New door No.16, Old No.17, Cengalaneer Pillaiyar Kovil Street, Mylapore, Chennai - 600 004 under a registered sale deed dated 12.04.2012. The tenant is in occupation of the ground floor of the property on a monthly rent of Rs.2,750/-. The landlord is running a business in the name of style of "Ganesha Fancy Jewellery" and for expansion of business and for setting up of independent Jewellery business for his married sons', he requires the petition premises.

4. The landlord has further alleged that the tenant is owning an independent place and he is in possession of five shops in and around the petition premises, but the landlord and his sons are not in occupation of any building belonging to them and they are running the business in a rented premises at Door No.20/1, New No.10, C.P.Kovil Street, Mylapore.

5. The application was resisted by the tenant stating that the vendors of the landlord viz., Mrs.Zaria Banu, had given assurance to the tenant that she would sell the premises to the tenant, since he had already earned goodwill in the business and he was ready to purchase the property at the prevailing market rate. However, totally, breaching the promise, the landlady sold the property to the petitioner/landlord and therefore, he filed a civil suit in O.S.No.1528 of 2012 before the learned XIII Assistant Judge, City Civil Court, Chennai, for declaration and also filed an application in I.A.No.5907 of 2012 for interim injunction restraining the previous owner viz., Zaria Banu, who is executing the sale deed in favour of the landlord. The tenant has further averred that the landlord owns a building at No.1/3, C.P Koil Street and in the building, three shops are kept vacant and therefore, this petition is not maintainable and there is no bonafide requirement of the landlord.

6. Before the Rent Controller, the landlord and tenant have been examined themselves as P.W.1 and R.W.1. Apart from that, the landlord had marked Exs.P1 to P10 and the tenant had marked Exs.R1 to R3.

7. The Rent Controller, after considering the oral and documentary evidence, held that the requirement of the landlord is bonafide and ordered eviction. Concurring with the findings of the Rent Controller, the Appellate

Authority dismissed the appeal in R.C.A.No.229 of 2014 filed by the tenant. Aggrieved by the order, the present civil revision petition is filed.

8. Mr.P.R.Murali, learned counsel for the petitioner submitted that the main R.C.O.P. itself was not maintainable on the ground sought for by the landlord, since the landlord has other premises of his own, but he failed to occupy the same. It is further contended that P.W.1 himself admitted that one portion in his building is kept under lock and key and therefore, the requirement of the landlord is not bonafide.

9. It is seen from the records that the landlord has specifically pleaded that he is carrying on business in the name and style of “Ganesha Fancy Jewellery” at a rented premises bearing Door No.20/1, New No.10, C.P Kovil Street, Mylapore and he purchased the petition property through a sale deed dated 12.04.2012. The landlord requires the petition premises for expansion of business and for setting up of an independent jewellery business for his married son. The tenant has contended that two shops in the petition premises are kept vacant and therefore, the requirement is not a bonafide one.

10. P.W.1 has given evidence stating that apart from the tenant, two other persons are carrying on business in the ground floor of the petition

premises. The tenant has suggested to the landlord that he has not initiated eviction proceedings against the other two tenants, but filed the petition only against the present tenant. P.W.1 has admitted that he owns a property bearing Door No. 1/3, C.P Kovil Street and he kept one shop vacant for use of his son. It is further seen from the records that one of his son met with an accident and thereafter, the shop was closed and kept under lock and key.

11. R.W.1 has admitted in his evidence that he has four sons and they have been separately running jewellery shops in different places and he owns a building near the petition premises. The landlord has produced Exs.P6 and Ex.P7, registration certificates and Ex.P8 photos, which would prove, the landlord is carrying on business and it was also not disputed by the tenant. The evidence of P.W.1 would reveal that he requires the petition premises to start a business for his another son, who is having experience in the Jewellery business.

12. It is settled law that the tenant cannot dictate terms to the landlord, where he shall start a business. Therefore, the contention of the tenant that the landlord has not initiated the eviction proceedings against the other two tenants cannot be countenanced. The Rent Controller and the Appellate Authority, on proper appreciation of evidence, rendered a findings of fact that the requirement of the landlord is bonafide. The finding of fact recorded by the

K.KALYANASUNDARAM, J.

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Authorities cannot be upset while exercising its power under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act. I do not find any illegality or irregularity in the impugned order.

In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The tenant shall vacate and handover possession to the landlord on or before 30.09.2015.

24.03.2015

Index : Yes/No

Internet: Yes/No

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To

1. The IX Court of Small Causes,
Chennai.
2. The XII Court of Small Causes,
Chennai.

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