

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) NO.1070 OF 2015
AND M.P.NO.1 OF 2015

R.Kasilingam ... Petitioner

Vs.

OM. Ahamed Lateef ... Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 18 of 1960 against the judgment and decree dated 10.11.2014 made in R.C.A.No.184 of 2011 on the file of VIII Small Causes Court, Chennai, partly allowed the order and decree dated 18.09.2010 made in R.C.O.P.No.798 of 2009 on the file of the XV Small Causes Court, Chennai.

For Petitioner : Mr.R.Ramakrishnan

For Respondent : Mr.H.Mohammed Farook

ORDER

This Civil Revision Petition arises out of the judgment and decree dated 10.11.2014 passed in R.C.A.No.184 of 2011 by the VIII Judge, Small Causes Court, Chennai, reversing the order and decree dated 18.09.2010 passed in R.C.O.P.No.798 of 2009 by the XV Judge, Small Causes Court, Chennai.

2.The unsuccessful tenant in R.C.O.P.No.789 of 2009 on the file of the XV Judge, Small Causes Court, Chennai is the petitioner herein. The respondent / landlord filed an eviction petition against the petitioner under Sections 10(2)(iii) and 10(3)(a)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act.

3.The case of the landlord is that the tenant was inducted in the year 2003 for a period of three years and after expiry of three years, the lease was renewed on 23.02.2006. As per the lease agreement, the landlord orally asked the tenant to vacate the premises in the year 2008, but it was not accepted. The landlord requires the tenanted premises for the own use and occupation of his son to set up interior decoration business in the petition premises. The landlord issued a legal notice dated 21.01.2009 calling upon the tenant to vacate and hand over possession and the same was received and acknowledged by the tenant. Since the tenant has failed to vacate the premises, the eviction petition was filed.

4.The tenant resisted the eviction petition stating that the rent was increased to Rs.7,150/- per month from 23.02.2006 and thereafter, he spent a sum of Rs.1,50,000/- for the infrastructure development in addition to the rental advance. In the year 2009, the landlord demanded a sum of Rs.10,000/- per month as rent, but it was not accepted by the tenant. The tenant has further stated that the ground for own use and occupation was not a bonafide one.

5.The parties have adduced both oral and documentary evidence before the Rent Controller. The Rent Controller dismissed the petition on the only ground that there is no pleading in the petition to the effect that he does not own any other property in the city of Chennai. Aggrieved by the order, the landlord preferred an appeal before the Appellate Authority in R.C.A.No.184 of 2011. The Appellate Authority allowed the appeal and ordered eviction vide order dated 10.11.2014. Challenging the same, the present Civil Revision Petition is filed.

6.Mr.R.Ramakrishnan, learned counsel for the petitioner submitted that the tenant has been in possession of the property since 2003 and the eviction petition was filed with an oblique motive to evict the tenant and the requirement of the landlord is not bonafide. The learned counsel further submitted that in the year 2009, the landlord has demanded exorbitant rent of

Rs.10,000/- per month, which was rightly refused by the tenant. Thereafter, the tenant filed the suit in O.S.No.3978 of 2009 before the City Civil Court, for permanent injunction and the Civil Court has also granted interim injunction in favour of the tenant.

7.Per contra, Mr.H.Mohammed Farook, learned counsel for the respondent submitted that admittedly the son of the landlord is carrying on business in a residential building and the landlord does not own any other non-residential building in the city of Chennai. Though the tenant has contended that the landlord owns other properties, it was not proved by the tenant. The learned counsel further submitted that the Appellate Authority, on proper appreciation of oral and documentary evidence, came to the conclusion that the landlord requires the petition premises for occupation of his son, which cannot be overturned by this Court, in the revisional jurisdiction.

8.I have considered the submissions made on either side and perused the materials available on record.

9.It is seen that the landlord was examined as P.W.1 and he produced Exs.P1 to P7. Ex.P1 is the legal notice dated 24.01.2009 issued by the landlord, which was received by the tenant under Ex.P2 - acknowledgment.

Ex.P3 is the partnership deed, which shows that the son of the landlord is carrying on business in the name of "Plasmould Designs" at Door No.154/24A, First Floor, Nelson Manickam Road, Chennai - 600 029. Exs.P4 and P5 letters would reveal, landlord's son is carrying on business. Through the evidence of P.W.1 and Exs.P3 to P7, the landlord has proved that his son is running a business at Door No.154/24A, First Floor, Nelson Manickam Road, Chennai - 600 029, which is situated near the tenanted premises.

10.It is to be noted that the tenant has specifically stated that the landlord is having several other properties. However, the tenant has not produced any evidence to establish his case. The Appellate Court, on proper appreciation of oral and documentary evidence has recorded the finding of the fact that the requirement of the landlord is bonafide. The finding recorded by the Appellate Authority based on evidence cannot be set aside by this Court. I do not find any perversity or illegality in the order impugned in this Civil Revision Petition.

11.At this juncture, the learned counsel for the landlord undertakes to withdraw the fair rent proceedings initiated against the tenant.

12.Accordingly, this Civil Revision Petition is dismissed. The tenant

is directed to vacate and hand over possession to the landlord on or before 30.11.2015. The tenant is also directed to file an affidavit of undertaking and pay rent directly to the landlord regularly. No costs. Consequently, connected miscellaneous petition is closed.

19.03.2015

Index : Yes/No
Internet : Yes/No
TK

To

1.The VIII Judge
Small Causes Court
Chennai .

2.The XV Judge
Small Causes Court
Chennai.

K.KALYANASUNDARAM, J.

TK

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