

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) NO.1256 OF 2015
AND M.P.NO.1 OF 2015

T.Murugesan

... Petitioner

Vs.

M.Manohar

... Respondent

PRAYER: Civil Revision Petition filed under Section 25(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the fair and decreetal order dated 21.01.2015 passed in R.C.A.No.415 of 2012 by the learned VII Judge, Court of Small Causes at Chennai, and against the fair and decreetal order passed by the X Small Causes Judge, Chennai in R.C.O.P.No.729 of 2010 dated 17.02.2012.

For Petitioner : Mr.David Tyagaraj

For Respondent : Mr.N.Nagusah

ORDER

Heard the submissions made by Mr.David Tyagaraj, learned counsel for the petitioner and Mr.N.Nagusah, learned counsel for the respondent and perused the materials available on record.

2.The unsuccessful tenant in R.C.O.P.No.729 of 2010 is the petitioner in this Civil Revision Petition. The respondent filed the eviction petition against the petitioner under Section 10(3)(a)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

3.The case of the respondent / landlord is that he is carrying on business in Mirror Industry under the name and style of M/s.Eskayce Mirror Industries as Proprietor in the ground floor at Old No.45/1, New No.4, Kamaraj Street, Shanthi Nagar, Saligramam, Chennai - 93. There is no space for keeping a showroom to market the mirrors manufactured by him and hence, he could not develop his business. The tenanted premises is the most convenient, comfortable and suitable portion for the landlord to run the show room to market the mirrors manufactured by him. It is further stated that except the petition premises, the landlord does not own any other non-residential building of his own in the City of Chennai and the requirement for own use and occupation is bonafide. The eviction petition was resisted by the tenant stating

that the premises is not suitable for the business of the landlord and the application was filed with an oblique motive to evict the tenant.

4.Before the Rent Controller, the parties have adduced both oral and documentary evidence. The Rent Controller, after considering the evidence, held that the requirement of the landlord is bonafide and ordered eviction.

5.Concurring with the findings of the Rent Controller, the appellate authority dismissed the appeal on 21.01.2015 preferred by the tenant in R.C.A.No.415 of 2012. Challenging the concurrent findings, the present Civil Revision Petition is filed.

6.Mr.David Tyagaraj, learned counsel for the petitioner submitted that the landlord has not specifically pleaded that no other building, except the petition building is available in the City of Chennai and both the Courts have not considered the evidence of the landlord, who admits that he is doing business in his own building.

7.The learned counsel for the petitioner further submitted that the petition premises consists of 2 shops and one shop cannot be utilized by the landlord for carrying on business and the object of the landlord is only to evict

the tenant from the petition premises. The learned counsel further submitted that two other portions in the same building is vacant, but the landlord, without any reason, has filed the eviction petition against the petitioner and hence, the petition is liable to be dismissed for lack of bonafide.

8.Per contra, Mr.N.Nagusah, learned counsel for the respondent has made submissions in support of the findings given by the appellate court.

9.It is seen that the landlord has produced Ex-P1, which is the registration certificate for the business run by the landlord in the name of M/s.Eskayce Mirror Industries. Ex-P2 is the receipt for payment of tax under Value Added Tax. Ex-P3 is the receipt for payment of commercial tax. Exs-P1 to P3 and the evidence of P.W.1 would show that the petitioner is running a business and he is the manufacturer of mirrors. The main contention of the tenant is that there are two portions vacant in the same premises, which was not used by the landlord. However, in the cross examination, R.W.1 has admitted that the shops were given to the other tenants 7 years prior to filing of this Eviction Petition. The Rent Controller as well as the appellate authority on proper appreciation of material evidence have held that the requirement of the landlord is bonafide. The finding of fact recorded by the authorities on proper appreciation of evidence does not require any interference by this Court. I do

not find any perversity or infirmity in the order impugned in this Civil Revision Petition.

10. In the result, the Civil Revision Petition is dismissed. However, considering the fact that the tenant has been carrying on business in the petition premises, the tenant is directed to vacate and hand over possession to the landlord on or before 31.12.2015. The tenant is further directed to file an affidavit of undertaking within a period of two weeks from today. No costs. Consequently, connected miscellaneous petition is closed.

25.03.2015

Index : Yes
Internet : Yes
TK

To

1. The VII Judge
Court of Small Causes
Chennai.

2. The X Judge
Court of Small Causes
Chennai.

K.KALYANASUNDARAM, J.

C.R.P.(NPD) NO.1256 OF 2015

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