

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2015

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.2965 of 2015 &

M.P.No.1 of 2015

S.Jayarama Pandian

... Petitioner

v.

J.Rathina Singh

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the Decree and Judgment in R.C.A.No.704 of 2014 on the file of VII Small Causes Judge (Rent Control Appellate Authority) Chennai, dated 16.03.2015 confirming the decree and judgment in R.C.O.P.No.609 of 2013 on the file of XV Small Causes court (Rent Controller) at Chennai, dated 10.11.2014.

For Petitioner : Mr.M.Chidambaram

For Respondent : Mr.K.J.Parthasarathy

O R D E R

Challenging the judgment and decree passed in R.C.A.No.704 of 2014 on the file of VII Small Causes Judge (Rent Control Appellate Authority) Chennai confirming the order passed in R.C.O.P.No.609 of 2013 on the file of

XV Small Causes court (Rent Controller) at Chennai, dated 10.11.2014 on the file of XV Judge, Court of Small Causes, Chennai, the tenant has filed the above Civil Revision Petition

2. The respondent-landlord has filed the Original Petition in R.C.O.P.No.609 of 2013 for eviction on the ground of demolition and reconstruction.

3. According to the respondent-landlord, the petitioner-tenant is paying the monthly rent of Rs.20,272/- as fixed in the petition filed by him for fixation of fair rent. Further, according to the landlord, the building was constructed more than 75 years ago and that it has become dilapidated and damaged and therefore, requires demolition and reconstruction. Further, the landlord obtained planning approval for demolition and reconstruction from the Corporation of Chennai on 16.10.2012 and has also stated that he has got sufficient means for the proposed construction. Further, in the petition, the landlord has undertaken that if the petition is allowed, he will commence the process of the demolition within one month and complete the same within three months. The tenant is in possession of 700 sq.ft. of the building in the ground floor and 60 sq.ft. in the first floor.

4. The tenant filed his counter disputing the averments stated in the petition and stated that building is in good condition.

5. Before the Rent Controller, on the side of the landlord, 2 witnesses were examined and 8 documents Exs. A1 to A8 were marked and on the side of the tenant, 2 witnesses were examined and 7 documents Exs. B1 to B7 were marked.

6. The Rent Controller, after taking into consideration the oral and documentary evidences of both parties, came to the conclusion that the building is in bad condition, which requires demolition and reconstruction and allowed the petition by ordering eviction.

7. Aggrieved over the order of passed by the Rent Controller, the tenant preferred an appeal in R.C.A.No.704 of 2014 on the file of VII Small Causes Judge (Rent Control Appellate Authority) Chennai and the Appellate Authority also confirmed the order passed by the Rent Controller and dismissed the appeal.

8. Aggrieved over the concurrent findings of the courts below, the tenant has filed the above Civil Revision Petition.

9. Heard Mr.M.Chidambaram, learned counsel appearing for the petitioner and Mr.K.J.Parthasarathy learned counsel appearing for the respondent.

10. On a careful consideration of the materials available on record and the submissions made by the learned counsel on either side, it could be seen that there is no dispute that the petitioner is a tenant under the respondent in respect of the petition premises. The petitioner is in occupation of 700 sq.ft. of the building in the ground floor and 60 sq.ft. in the first floor. According to the tenant, he is doing business in the petition premises for more than 40 years. The landlord has stated that the building was constructed more than 75 years ago and that the building is in bad condition, which requires demolition and reconstruction. In order to support his case, the landlord examined an Engineer, who also deposed that the building is in a bad condition. Countering the case put-forth by the landlord, the tenant examined another Engineer on his side, who has stated that building is in good condition. However, the learned counsel for the respondent-landlord pointed out that a Public Works Department Engineer had inspected the petition property and gave a report dated 5.02.2013 wherein, it has been stated that "the building in general is in a badly deteriorated condition and the building is structurally unfit for occupation". The Corporation of Chennai has also issued demolition notice dated 9.6.2015 to the tenant, which was challenged by the tenant in a Writ Petition in W.P.No.19720 of 2015 before this court and this court had dismissed the writ petition by order dated 6.7.2015.

11. The documents produced by the landlord would clearly establish that petition building is in a bad condition, which must be demolished. When the Executive Engineer of the Public Works Department has stated that the building is structurally unfit for occupation, the case put-forth by the tenant cannot be accepted. The landlord has proved his case by oral and documentary evidences before the Rent Controller.

12. The courts below accepting the oral and documentary evidences produced by the landlord rightly came to the conclusion that the building is in a bad condition, which has to be demolished.

13. In these circumstances, I do not find any error or irregularity in the order passed by the courts below. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

04.11.2015

Index : No
Internet : Yes

Rj

M. DURAISWAMY,J.,

Rj

To

1. VII Small Causes Judge
(Rent Control Appellate Authority)
Chennai
2. XV Small Causes Court
(Rent Controller)
Chennai

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