

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD).No.692 of 2015

and

M.P.No.1 of 2015

1.Nawas

2.J.Feros

....

Petitioners

Vs.

1.A.Muthusamy (Died)

2.Suppathal

3.Mahalakshmi

4.Lalitha Jothi

5.Kandavel

....

Respondents

PRAYER : Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the fair and decreetal order of the Rent Controller Appellate Authority (Sub -Court, Pollachi) dated 30.04.2013 in R.C.A.No.4 of 2012 confirming the fair and decreetal order of the Rent Controller (District Munsif, Pollachi) dated 09.01.2012 in R.C.O.P.No.23 of 2009.

For Petitioners : Mr.A.Thiyagarajan

For Respondents : Mr.S.Sithirai Anandam

ORDER

The unsuccessful tenants in the eviction petition are the petitioners in this civil revision petition.

2. One Muthusamy initiated eviction proceedings against the petitioners in R.C.O.P.No.23 of 2007 before the Rent Controller, Pollachi, seeking eviction under Sections 10 (3) a (i) (ii) (iii) of the Rent Control Act. After demise of the original owner, the respondents 2 to 5 herein were impleaded as the petitioners/landlords and they continued the eviction petition.

3. The landlord has averred in the eviction petition that the tenants/petitioners herein were inducted in the petition premises as per the lease dated 17.12.2004. The tenants paid Rs.60,000/- towards an advance and agreed to pay rent of Rs.125/- per day. The landlord's son is an agent of Coca Cola company, in Pollachi and he is doing business in a rental building. So, he requires the petition premises for own use and occupation of his son.

4. The eviction petition was opposed by the tenants contending that the requirement of the landlord is not bonafide. The tenanted premises is not suitable for use and occupation of the petitioners and the landlord attempted to evict the tenants from the petition premises and hence, they filed the suit in O.S.No.444 of 2006.

5. The parties adduced oral and documentary evidence before the Rent Controller. After considering the evidence of the parties, the Rent Controller

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.4 of 2012. Aggrieved by the order, the present civil revision petition is filed.

6.Mr.A.Thiyagarajan, learned counsel for the petitioners submitted that the eviction petition was filed on the sole ground that the landlord requires the petition premises to carry on the business of his son, since he is an agent of Coca Cola Company. But, subsequently, it is elicited from the evidence of the landlord that the agency was cancelled. It is further contended that after demise of the original landlord, the legal heirs were impleaded as petitioners and they did not give consent to the son of the original landlord to carry on the business under the petition premises. The learned counsel further submitted that the eviction petition was filed with an oblique motive to evict the tenants and the requirement of the petition premises is not bonafide.

7. Per contra, Mr.S.Sithirai Anandam, learned counsel for the respondents submitted that the landlord has produced Exs.P1 to P3 to show that the son of the original landlord is carrying on the business in a rented premises and the other legal heirs did not have any objections for the son of the original landlord to carry on the business in the petition premises. The learned counsel further

submitted that the Rent Controller and the Appellate Authority, on appreciation of the evidence, held that the requirement of the landlord is bonafide which cannot be interfered with by this Court.

8. The son of the original landlord, viz., Kandavel was examined as P.W.1. and he has produced Exs.P2 and Ex.P3 certificates issued by the Commercial Tax Office in the year 2004. Oral and Documentary evidence reveal that the son of the original landlord is doing business in a rented premises. R.W.1 also admitted in his evidence that after cancellation of the agency of Coco cola, the son of the landlord is doing business of Mineral Water. The Rent Controller and the Appellate Authority based on the evidence held that the requirement of the landlord is bonafide.

9. The only contention of the tenants is that the agency of the Coco cola company, was cancelled and the landlords have not pleaded that the petition premises were required for carrying on business of Mineral Water and the other legal heirs have not given consent for the son of the original landlord to do business in the petition premises.

10. Admittedly, the son of the landlord is carrying on the business at Pollachi in rented premises. The tenants have not established that the landlord

is carrying on business in his own premises in Pollachi. The other legal heirs of the original landlord were impleaded in the eviction petition and they did not object the requirement pleaded in the eviction petition. The other legal heirs were very well aware of the contentions of the eviction petition. Hence, I am unable to agree with the contentions of the learned counsel for the petitioner. I do not find any perversity or illegality in the order impugned in this civil revision petition.

11. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. The tenants are directed to vacate and handover the petition premises on or before 31.07.2015. The tenants are further directed to pay the entire arrears within a period of two weeks from the date of receipt of copy of this order.

17.02.2015

Index : Yes/No
Internet: Yes/No
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To

1. The Rent Controller Appellate Authority,
(Sub -Court, Pollachi).
2. The Rent Controller (District Munsif, Pollachi).

K.KALYANASUNDARAM,J.

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