

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2015

CORAM :

THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

C.R.P.No.2561 of 2007
and
MP.No.1 of 2007

R.A.Naazzar ... Petitioner/Appellant/Tenant

Vs.

1.Dr.A.Jayachandran ... 1st Respondent/1st Respondent
/Landlord

2.V.Kuppuraj ... 2nd Respondent/2nd Respondent
/Tenant

Prayer: Petition filed under Section 25 of the Tamil Nadu Buildings (lease and Rent Control) Act, 1960 against the order dated 21.11.2005 made in RCA.No.87 of 2005 on the file of the Rent Control Appellate Authority (Subordinate Judge), Coimbatore confirming the order dated 30.11.2004 made in RCOP.No.50 of 2001 on the file of the I Additional District Munsif (Rent Controller), Coimbatore.

For Petitioner : M/s.P.T.Asha
for Saravabhauman Associates

For Respondents : Mr.V.Raghavachari for R1.
R2 Served.

सत्यमेव जयते

O R D E R

The second respondent/subtenant in RCOP.No.50 of 2001, who is the appellant in RCA.No.88 of 2005 is the petitioner herein.

2.The parties are for the purpose of convenience in this order referred to as per their rank in the RCOP.

3.The first respondent herein filed a RCOP for eviction of the respondents 1 and 2 on the ground of wilful default, unauthorised subletting and different user. According to the first respondent, he was the tenant in the petition mentioned premises till November 2000 and he vacated the premises to let it out to one firm by name ''Top Class'' and he leased out to the same with the consent of the owner and it is the firm who has been in occupation of the property on the date of the RCOP and on the strength of the landlord and tenant relationship between the petitioner and the firm, the petitioner has been receiving the rent directly from the other tenant.

4.The eviction petition was seriously opposed by the second respondent stating that the second respondent is one of the partners of Top Class partnership firm and the RCOP is bad for not impleading the partnership firm and it is a partnership firm who has been in possession of the property as tenant with the knowledge and consent of the owner, as such, there is no unauthorised subletting and different user in respect of the petition mentioned property.

5.The parties during enquiry adduced oral and documentary evidence to substantiate their respective claims, the Rent Controller on the basis of the evidence adduced on both sides rejected the petitioner's claim regarding the wilful default and different user and ordered eviction on the ground of unauthorised subletting. Aggrieved against the same, the second respondent/sub tenant preferred RCA.No.87 of 2005. The learned Rent Control Appellate Authority having agreed with the findings of the learned Rent Controller confirmed the order of eviction and dismissed the appeal hence this civil revision petition before this court by the second respondent/sub tenant.

6.Heard the rival submissions made on both sides and perused the records.

7.The facts that the petitioner is the owner and the first respondent is the tenant of the petition mentioned premises and the second respondent has been inducted in possession of the property by the first respondent are not denied. The stand taken by the respondents 1 and 2 is that the second respondent has been put in the occupation of the property with the knowledge of the petitioner and the petitioner has been directly receiving rent from the second respondent. However, neither of the respondents adduced any evidence to substantiate such stand taken by them.

8. On the contrary, both the courts below have on the basis of the oral and documentary evidence arrived at definite finding that the rent is at no point of time paid directly to the petitioner and the rent is being deposited in the bank account held by the second respondent. Both the courts below have found that the deposit of rent into the bank account is without following the procedure laid down under the Act and that there was no refusal on the part of the petitioner to receive the rent and there was no issuance of notice by the second respondent calling upon the petitioner to receive the rent and there was no attempt on the part of the second respondent to pay the rent in any other mode, but the rent has been directly deposited in the bank account. By such conduct, the courts below were inclined to reject the theory that the second respondent came into occupation only with the knowledge of the petitioner and the same created the tenancy relationship between the petitioner and the second respondent. Such finding is in my considered view, based on sufficient materials and supported by proper reasoning and on the failure of the second respondent/revision petitioner to make out any ground much less valid ground to disagree with such findings, no interference into the well considered orders of the courts below is called for and the order of eviction passed by the Rent Controller as confirmed by the Rent Control Appellate Authority is liable to be confirmed.

9. The learned counsel for the revision petitioner at this juncture would appeal to this court to grant reasonable time to vacate the petition mentioned premises. This court, considering the nature of the business being carried on and the improvements made thereon is inclined to grant reasonable time for eviction, provided that the petitioner shall file an affidavit of undertaking to that effect within two weeks.

10. In the result, the civil revision petition is dismissed by confirming the order of eviction passed by the Courts below. Time for eviction is six months from the date of receipt of copy of this order. The petitioner is directed to file an affidavit of undertaking within two weeks. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Rent Control Appellate Authority,
(Subordinate Judge), Coimbatore.

2.The I Additional District Munsif,
(Rent Controller), Coimbatore.

+lcc to M/s.Sarvabhauman Associates, Advocate, S.R.No.28814

CRP.No.2561 of 2007

GP(CO)
CA(09/10/2015)



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