



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23/2/2015

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THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.NPD(MD) No.1970 of 2014
and MP(MD)No. 1 of 2014 and 1 of 2015

Periyasamy Nadar (died)

P. Athishangar ... Petitioner/2nd Appellant
/2nd Respondent/Tenant

Vs

Dr.A.Raman ... Respondent/Respondent/
Petitioner/ land lord

Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 against the fair and decreetal order dated 4/8/2014 in R.C.A.No.60 of 2010 on the file of the Principal Subordinate Judge, Madurai, confirming the fair order and decreetal order dated 30/6/2010 in R.C.O.P.No.6 of 2004 on the file of the District Munsif, Madurai Taluk, Madurai.

For petitioner ... Mr.K.Govindarajan

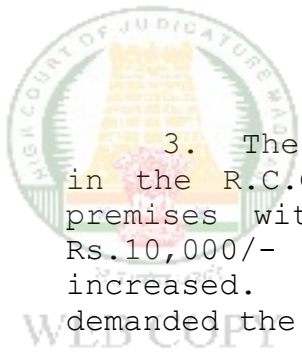
For respondent ... Mr.R.Suriya Narayanan

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ORDER

The tenant, who has lost before both the Rent Control authorities below is the revision petitioner herein.

2. The landlord, who is the respondent herein had filed R.C.O.P.No.6 of 2004 on the ground of owner's occupation and for demolition and reconstruction. The landlord had averred in the O.P that the petitioner herein is a tenant under the respondent for a monthly rent of Rs.1,200/- and the tenancy is for non-residential purpose. The landlord had further contended that he is a qualified Doctor and served as a Medical Officer in Madurai Corporation and now, he was retired from service. As he did not have any premises of his own for carrying on his profession, he required the premises for running a Hospital. The landlord also had required the premises for demolition and reconstruction as the premises is situated in a very important commercial locality. Besides, the building is more than 75 years old and the walls of the building had already developed many cracks in the ceiling and flooring had damaged to a large extent. The condition of the building immediately wanted a demolition. Hence the landlord had filed R.C.O.P for eviction.



3. The tenant, who is the petitioner herein had filed his objections in the R.C.O.P contending that his father was a tenant in the rental premises with a monthly rent of Rs.200/- and he had paid a sum of Rs.10,000/- as advance to the landlord and the rent had been gradually increased. As the landlord intended to raise the rent to Rs.1,500/- and demanded the same, it was refused by the tenant.

4. According to the tenant, the building is in a good condition and it does not require any demolition or reconstruction. The tenant also had stated that he had carried out repairs by spending more than Rs.72,000/- by putting up asbestos sheet on the terrace and he had also carried out repairs in the down stairs front portion by spending Rs.45,000/-.

5. On the said rival contentions by the respective parties, the Rent Controller as well as the Appellate Authority, ordered eviction on the ground of demolition and reconstruction

6. Heard the learned counsel appearing for the petitioner and the respondent.

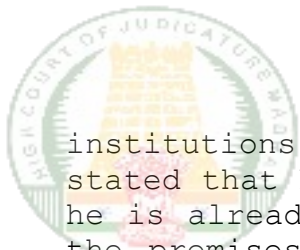
7. The only question that has to be decided is whether the order dated 4/8/2014 can be sustained.

8. Admittedly, there is no finding given by the authorities below on the question of owners occupation under Section 10 (3) (a) (i) of the Act but they had ordered eviction only on the ground of 14 (1) (b) of the Act.

9. In a case of demolition and reconstruction, the condition of the building has to be seen. Admittedly, the demised premises is an old construction which is of 75 years old and requires demolition and reconstruction. The building is of 1600 Sq.feet on the ground floor and 1600 sq.feet on the first floor. The building is also located in the busy commercial locality of Madurai town. There is a pressure of population in the developing City and there are several multi-storeyed complexes have come up in the vicinity of the demised premises.

10. Admittedly, the landlord is a Doctor, who was the Medical Officer since retired from Madurai Corporation. Though he is a retired person, he wanted to construct a hospital in the property and use it for his own purpose and also to augment income. From the above requirement of the landlord, there is nothing to cast a shadow of doubt in his bonafides. Already, it has been pleaded in the petition that the building has developed cracks both on the ceiling and the ground and also on the walls. Therefore, the demand of the landlord for immediate need for demolition followed by a reconstruction appears to be bona fide. The building not necessarily be dilapidated or dangerous for human habitation. It is only the bona fide requirement of the landlord which is the primary question.

11. The petitioner/tenant contended that the landlord had not obtained any sanctioned plan from the Corporation for putting up a new construction. The landlord also did not have the wherewithal to put up a new construction. However, it has been repeatedly held by the Supreme Court that the landlord need not have the necessary fund for raising the construction as it is always open to him to borrow it from financial



institutions and proceed with the construction. The landlord also has stated that he wants to construct the new building to augment income as he is already been paying Rs.15,000/- to Rs.16,000/- as property tax for the premises. So, on this ground also, the tenant is unable to sustain the contention.

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12. The landlord has specifically required the property for putting up a Hospital as he himself is a retired Doctor. Even otherwise, when the premises is situate in a busy commercial locality, it will have an economic advantage. If the landlord is allowed to pull down the whole structure and put up a new building, it would certainly yield better revenue and will appreciate in value. Now, admittedly, there is only asbestos sheet roof on the first floor. When the new construction is raised with better and modern building, it will provide for better quality accommodation to the needs of the present day. Even viewing from the angle of the general interest of the public, the site if constructed as a Hospital with better facilities, it would only solve the increase in demand of the public.

13. For the sake of the tenant, who is in occupation, the landlord cannot be expected to retain the old model building which is built of mud and mortar which is more than 75 years old. The capacity of the landlord who is the Doctor, cannot be challenged by the tenant. The demand for additional space, the sites of the existing building, the condition of the place would go to show the economic advantage of the landlord, who is seeking to construct a new modern premises that would augment his income.

14. The landlord, who is the respondent herein places his reliance on P.S.PAREED KAKA AND OTHERS Vs. SHAFEE AHMED SAHED reported in {2004 (2) CTC - 364}, wherein in paragraph 11, it has been held as follows:-

"Law is well settled on this aspect. Even if the building is in a good condition, if it is not suitable for the requirement of the landlord, he can always demolish even a good building and put up a new building to suit his requirements. It is not necessary for the landlord to prove that the condition of the building is such that it requires immediate demolition, particularly when the premises is required by the landlord. Therefore, it has to be held that the finding of the trial Court cannot be sustained and the High Court on re=appreciation of the evidence, rightly so, held that the landlord has established that his need for all the four petition schedule premises is bona fide and reasonable."

15. In view of the above judgment, even if the building is not in a very bad shape, if the landlord requires to be demolished and reconstructed, the tenant cannot stall the same.

16. In view of the above observation, this Civil Revision Petition is dismissed. No costs. Three months time is given to the petitioner to vacate and hand over the premises in question to the landlord. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/

Assistant Registrar



To

1. The Principal Subordinate Judge, Madurai

2. The District Munsif, Madurai Taluk, Madurai.

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+2cc to M/S. K.Govinda Rajan, Advocate in SR.No. 8171

+1cc to M/S. R.Suriya Narayanan, Advocate in SR.No. 8625

TS/16.03.2015/4P-5C

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