



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 6/1/2015
C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (NPD) (MD) No.2677 of 2014
AND
MP (MD) .No.3 of 2014

Vasanthan ... Petitioner/Appellant/Respondent/Tenant
Vs

Selvi ... Respondent/Respondent/Petitioner/landlord

Petition filed under Section 25 of the Tamil Nadu Buildings Lease & Rent Control Act 1960 (As amended by Act XXIII 1973 and Act-I of 1980) against the fair and decreetal order passed by the Principal Subordinate Judge, Thanjavur in R.C.A.No.6 of 2013 dated 12/11/2013 confirming the fair and decreetal order of the Rent Controller-cum-District Munsif Court, Thanjavur in R.C.O.P.No.23 of 2009 dated 30/1/2013.

For petitioner ... Mr.G.Karnan
For respondent ... No appearance

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O R D E R

This is a revision against the rent control proceedings filed by the tenant, who has lost before both the forums.

2. The landlady had filed R.C.O.P on the ground of willful default and owner's occupation. According to the landlady, the petitioner/tenant is a chronic defaulter and never paid the rent on time. Besides the landlady, her husband and children, her father and mother are also residing with her. Therefore, she wanted the petition mentioned property for her own use and occupation.

3. The tenant, who is the petitioner herein resisted R.C.O.P on the ground that there was no landlady - tenant relationship existing between the petitioner and the respondent and therefore, the Rent Control Act had no applicability.

4. It was also contended by the tenant that her son by name Raja entered into a sale agreement with the landlady on 14/6/2008 agreeing to purchase the petition mentioned property and had paid an advance of Rs.20,000/-. According to the tenant, only her son Raja is living in the premises and she is not living there. Hence prayed for dismissal of R.C.O.P.

5. The Rent Controller as well as the appellate authority concurrently held in favour of the land lady and ordered eviction on the ground of owners' occupation. Aggrieved by the same, the above Civil Revision Petition has been filed.



6. Heard the learned counsel for the petitioner.

7. The petitioner/tenant had denied that she was not living in the petition mentioned building and that only her son by name Raja was living there. However, she has admitted in her chief examination and also in the cross-examination that she has been residing in the petition mentioned premises along with her son and the family. Therefore, there is no truth in her statement. That apart, Ex.P.5 dated 1/7/2009 which is the legal notice sent by the land lady to the tenant to the petition mentioned premises was returned unclaimed. The finding of the Courts below is also that the summons in the R.C.O.P was sent only to the present address which was received by the tenant. From the above evidence, it is clear that the tenant is residing only in the petition mentioned premises.

8. Secondly, it was contended that the sale agreement was entered into between the son of the tenant and the landlady which was marked as Ex.R.1. The said agreement is dated 14/6/2008. Even presuming for a moment that the agreement is true, it will not absolve the tenant from the liability of paying the rent. In Ex.R.1 agreement dated 14/6/2008, the period for execution of the sale was on or before 15/10/2008. The agreement holder has not taken any steps to get the sale executed. Even otherwise, any suit that would be filed by the agreement holder for specific performance would be barred by limitation long ago. Therefore, the tenant cannot claim any shelter under the agreement.

9. The learned counsel would further contend that only the agreement holder Raja was residing in the suit premises and therefore, the eviction petition is not maintainable against the petitioner/tenant. This contention was rejected by the Courts below. The reasoning of the Courts below was based on the bank passbook Ex.R.4 and family card Ex.R.5 in which the address of the said Raja is mentioned as Valampuri Melakara street whereas the petition mentioned property is situate in Vadaku Kuruvikara Street. The son of the tenant, who had been examined as R.W.2 also had admitted in his evidence that he had not filed any suit for specific performance nor had he taken any steps to perform his part of contract. The respondent also has not averred in the counter that she has not paid the rent promptly.

10. The main contention of the tenant was that there was no jural relationship of landlord and tenant. Hence the petition is not maintainable. It was also contended by the tenant that a sum of Rs.20,000/- was paid as sale advance for the purchase of the property. As the said amount is only a part of the sale consideration, the tenant is precluded from claiming that the same should be adjusted towards the arrears of rent. Therefore, even on the question of willful default also, the tenant is liable to be evicted.

11. The rent Controller as well as the appellate authority had elaborately discussed the above facts and came to the concurrent finding that the tenant is liable to be evicted and accordingly, ordered eviction. I have also given my anxious consideration to the facts and evidence available. I see no reason to interfere with the concurrent findings of the Courts below.



12. In the result, this Civil Revision Petition is dismissed, confirming the order of eviction. No costs. The tenant is granted three months time from the date of receipt of the copy of this order to vacate and hand over the possession to the landlady. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CO)

\\True copy\\

Sub Assistant Registrar

To

1. The Principal Subordinate Judge, Thanjavur.

2. The Rent Controller-cum-District Munsif Court, Thanjavur

+1 CC TO M/S.G.KARNAN, ADVOCATE SR.NO.205

+1 CC TO M/S.D.SENTHIL, ADVOCATE SR.NO.204

C.R.P. (NPD) (MD) No.2677 of 2014
6/1/2015

MVS

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