

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.821 of 2016
and C.M.P.No.12018 of 2016

Kalifullah

... Petitioner

Vs.

Mrs.Mallika (Died)

1.M.Subramaniam

2.Karthika

3.Minor Sivani

rep by her father and natural guardian

M.Subramaniam

... Respondents

Civil Revision Petition filed under Section 25 of Act 18 of 1960 of the Tamil Nadu Buildings (Lease and Rent Control) Act as amended under Act 23 of 1973 against the judgment and decree passed by the 1st Additional Subordinate Judge (Appellate Authority), Coimbatore dated 11.08.2015 in R.C.A.No.29 of 2011 confirming the judgment and decree of I Additional District Munsif Court (Rent Controller), Coimbatore in R.C.O.P.No.218 of 2000 dated 14.12.2010.

For Petitioner : Mr.S.S.Mathivanan

For Respondents : Mrs.Nalini Chidambaram
for M/s.J.P. & A.P. Associates

ORDER

The above Civil Revision Petition arises against the judgment and decree passed in R.C.A.No.29 of 2011 on the file of the 1st Additional

Subordinate Court (Rent Control Appellate Authority), Coimbatore confirming the order passed in R.C.O.P.No.218 of 2000 on the file of the I Additional District Munsif Court (Rent Controller), Coimbatore.

2.The 3rd respondent in R.C.O.P.No.218 of 2000 has filed the above Civil Revision Petition. The respondent is the landlady. The landlady filed the Original Petition in R.C.O.P.No.218 of 2000 for eviction on the ground of own use and occupation and demolition and reconstruction. The 1st respondent had died and the respondents 2 to 11 in the Rent Control Original Petition were brought on record as the legal representatives of the deceased 1st respondent.

3.The case of the landlady is that she has no other building in Coimbatore City and the same is a non-residential building for demolition and reconstruction and converting the same into a residential building for her use and occupation. The petition filed by the landlady was resisted by the father of the revision petitioner.

4.Before the Rent Controller, on the side of the landlady, P.W.1 was examined and 3 documents, Exs.P1 to P3 were marked and on the side of the tenants, R.W.1 was examined. However, no document was marked.

5.The Rent Controller, taking into consideration the case of both parties, ordered eviction, against which the revision petitioner filed an appeal in R.C.A.No.29 of 2011 and the Rent Control Appellate Authority also confirmed the order of eviction granted by the Rent Controller. Against the concurrent findings of the Courts below, the 3rd respondent in the Original Petition has filed the above Civil Revision Petition.

6.The contention raised by the respondent is that the petitioner has not marked any planning permission or examined the Engineer to prove the age of the building and also has not filed any proof of financial status for reconstructing the building.

7.Ex.P3 is the letter of the local planning authority, which would establish that the landlady has taken steps for demolition and reconstruction of the building. In respect of the adjoining shop bearing Door No.410, the Rent Control Appellate Authority has ordered eviction.

8.It is also not in dispute that the landlady is occupying a rented building and therefore, she requires the petition premises for her own use and occupation. The tenants admitted that they came into possession of the property in the year 1953 as tenants and therefore, it would establish that the building is a old building. It is the case of the landlady that she wanted to

demolish the petition premises and also the adjoining building and reconstruct a new building in both the places for her use and occupation. R.W.1 tenant had admitted that the landlady is having sufficient means for constructing a new building. Exs.P2 & P3 would establish that the landlady had taken steps to demolish and construct a new building.

9. When the oral and documentary evidences let in by the parties proved the case of the landlady, the Courts below have concurrently ordered eviction. In the absence of any acceptable evidence let in by the tenants, the case of the tenants cannot be accepted.

10. In these circumstances, I do not find any reason to interfere with the concurrent findings of the Courts below. The Civil Revision Petition is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed.

11. The petitioner also filed a petition in C.M.P.No.12108 of 2016 under Order 41 Rule 27 of the Civil Procedure Code to receive photographs, CD and a Bill dated 08.07.2016 as additional documents.

12. Since the petitioner has not explained the reasons for not producing the documents before the Rent Controller, the same cannot be accepted at this stage. That apart, the 3rd document (i.e.) bill dated 08.07.2016 is

subsequent to the disposal of the Rent Control Original Petition and Rent Control Appeal. Therefore, the additional evidence cannot be received at this stage in the absence of sufficient reason given by the petitioner for not producing the same at the earliest point of time.

13.In these circumstances, the petition in C.M.P.No.12108 of 2016 is liable to be dismissed. Accordingly, the same is dismissed. No costs.

Index : No
Internet : Yes
va

09.08.2016

To

- 1.The 1st Additional Subordinate Judge
(Appellate Authority),
Coimbatore.
- 2.The I Additional District Munsif Court
(Rent Controller),
Coimbatore.

M.DURAIWAMY,J.
va

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