



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.08.2016
CORAM :

THE HONOURABLE MR.JUSTICE **K.KALYANASUNDARAM**

C.R.P. (MD) No.2540 of 2015
and M.P. (MD) No. 1 of 2015

WEB COPY

M/s.Sri Muruga Vilas Pathira Kadai
Rep. By its partner,
V.R.C.Sundaram,
S/o.V.R.Chidambaram Chettiar ... Petitioner/Appellant/
Respondent/Tenant
Vs.
A.Sundaram,
S/o.P.Adinarayana Chettiar ... Respondent/Respondent
/Petitioner/Landlord

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair order and decretal order passed in R.C.A.No.1 of 2015 dated 06.11.2015 on the file of the Rent Control Appellate Authority (Subordinate Court, Kulithalai) confirming the fair order and decretal order passed in R.C.O.P.No.1 of 2008 dated 27.07.2010 on the file of the Rent Control Tribunal) (Principal District Munsif Court, Karur).

For Petitioner : Mr.V.Meenakshi Sudnaram
for Mr.M.Bindran
For Respondent : Mr.K.Govindarajan

O R D E R

This revision arises out of the order passed by the Rent Contoll Appellate Authority (Sub Court, Kulithalai) in R.C.A.No. 1 of 2015 confirming the order of the Rent Controller passed in R.C.O.P.No.1 of 2008.

2. Unsuccessful tenant is the revision petitioner. The respondent, as landlord, initiated eviction proceedings against the petitioner under Section 10(2)(3) of Tamil Nadu Buildings (Lease and Rent Control) Act,1960 on the ground of wastage and different usage.

3. The case of the landlord is that the petition premises was leased out to the tenant on 01.04.2004 for running a vessel business on a monthly rent of Rs.10,000/-. The respondent paid advance of Rs. 5,00,000/- (Rupees five lakhs only). It is alleged that the tenant without knowledge and consent of the landlord had demolished a portion of the petition premises and altered the superstructure and thereby caused damage to the property. In view



of the damage caused to the building, value and utility of the same is materially affected.

4. The tenant filed a counter stating that he has not demolished any portion of the property and he has not caused any damage or wastage to the building. It is further stated that the roof of the first floor is a Madras terrace and the tenant requested the landlord to remove the terrace and put up a concrete roof. The tenant further requested the landlord to make suitable improvements for more convenient use like bed room and hall. Since the landlord expressed inability to spend huge amount, he permitted the tenant to do improvements and all the improvements have been done only with the consent of the petitioner.

5. Before the Rent Controller, an Advocate Commissioner was appointed. The Advocate Commissioner inspected the petition premises and filed a report, which are marked as Ex.C.1 and C.2. The landlord examined himself as P.W.1 and produced Ex.P.2 lease agreement dated 11.03.2004. The cursory perusal of the lease agreement would reveal that the tenant can carry out only minor repairs and major repairs have to be done by the landlord. The tenant examined three witnesses and produced Ex.R1 to R3. Ex.R.3 would show that the the tenant has spent about Rs.10,00,000/- for repairing the premises.

6. The Rent Controller, on appreciation of oral and documentary evidence, came to the conclusion that the tenant without any consent of the landlord has carried out the repairs and ordered eviction on the ground of wastage and different usage.

7. Aggrieved over the order, the tenant preferred an appeal before the Rent Control Appellate Authority in R.C.A.No.1 of 2015. The Rent Control Appellate Authority after analyzing the entire evidence, confirmed the order of the Rent Controller.

8. In Hindustan Petroleum Corporation Limited vs. Dilbahar Singh reported in 2014(3) MWN (Civil) 334, the Constitution Bench of the Supreme Court, while considering the scope of Revisional Jurisdiction of the High Court held as follows:-

"45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on reappraisal of the evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in Revisional jurisdiction under these Acts is confined to finding out that finding of facts recorded by the Court/Authority below is according to law and does not



suffer from any error or law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its Revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an Appellate power to reappreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a Court of First Appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity."

9. Since both the authorities have ordered eviction based on the evidence, this Court does not find any perversity or illegality in the orders impugned in this revision. In the light of the decision cited supra, this Court while exercising Revisional Jurisdiction cannot re-appreciate the evidence to come to a different conclusion.

10. In fine, the Civil Revision Petition fails and the same is dismissed. No costs. Consequently, connected M.P.(MD) No. 1 of 2015 is also dismissed.

11. The tenant has filed an affidavit dated 21.08.2016 undertaking to vacate and hand over the vacant possession to the respondent/landlord on or before 31.08.2017. The tenant is directed to handover vacant possession as per his undertaking. Till such time, Execution Petition in E.P.No.89 of 2012 shall be kept in abeyance. At the time of handing over the possession, the respondent/landlord shall return the advance amount of Rs.5,00,000/- to the tenant.

Sd/-

Assistant Registrar (AE)

/True copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To,

1. The Subordinate Court, Kulithalai.
2. The Principal District Munsif Court, Karur.

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.M.BINDRAN, Advocate, SR No.44654

+1 CC to Mr.K.GOVINDARAJAN, Advocate, SR No.44975

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SH/SKS-RR:28.11.2016:4P/6C