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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.01.2018

PRONOUNCED ON : 02.02.2018

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

REV.APLC(MD)No.249 of 2017 in CRP(MD)No.1268 of 2017

and

CMP(MD) No.11895 of 2017

1. D.G.Devaraj
2. Ramala Devaraj

.. Review Petitioners/ Petitioners
Vs.

M/s T.Tharmar & Sons,
Firm Registered and Firm Registration,
No.39/02, through its Partner,
T.Tharmar,

.. Respondent / Respondent

Prayer :- Review Application has been filed under Order 47 1 and 2 r/w 114 of Code of Civil Procedure 1908 to review the order dated 24.08.2017 passed by this Hon'ble Court made in CRP (MD) No.1268 of 2017 on the file of this Hon'ble Court.

CRP NPD(MD):1268/2017

Petition is filed under section 25 of Tamil Nadu Building Lease and Rent Control Act to set aside the order and decreetal order dated 21.04.2014 made in RCA No.06 of 2012 on the file of the Rent control appellate Authority (Sub Court, Tutricorin, confirming the order and decreetal order dated 02.01.2012 made in RCOP No.36 of 2009, on the file of the Rent Control (principal District Munsif court) Tutricorin.

For the Petitioners : Mr.V.Malaiyendran



ORDER

This Review Application is directed against the order dated 24.08.2017 passed in CRP (NPD) (MD) No.1268 of 2017.

2. CRP (NPD) (MD) No.1268 of 2017 is filed by the tenants against the fair and decretal orders dated 21.04.2017 passed in R.C.A.No.6 of 2012, on the file of the Rent Control Appellate Authority / Sub Court, Tuticorin, confirming the fair and decretal orders dated 02.01.2012 passed in R.C.O.P No.36 of 2009 on the file of the Rent Controller / Principal District Munsif Court, Tuticorin.

3. The above Civil Revision Petition is in respect of the eviction proceedings initiated under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and it is found that the landlord had sought for eviction of the tenants namely, the review petitioners on the ground of owners occupation under Section 10(3) (a) (iii) of the above said Act. Various contentions were put forth by the review petitioners to stall the eviction sought for by the landlord in the proceedings and however, both the Rent Controller as well as the Rent Control Appellate Authority had found that the requirement of the landlord of the premises concerned is bona fide and required for its occupation for running its partnership business and accordingly, finding that the landlord is not possessed of any building on their own to carry on the partnership business and accordingly, determined that the landlord is entitled to seek the eviction of the tenants from the premises concerned and passed the orders of eviction against the tenants/review petitioners and impugning the above said determination of the above said authorities, the Civil Revision Petition had been laid before the High Court and in the said Civil Revision Petition also, after analyzing the materials placed on record by the respective parties, the Court had found that the landlord has established its bona fide in seeking an order of eviction of the tenants /review petitioners from the premises concerned and further, holding that the landlord is not possessed of any own building on its own to run the business concerned and finding that the tenants/ review petitioners had failed to establish that the landlord is possessed of any other building on its own as put forth by them in the counter and considering the bona fide requirement of the landlord, as rightly determined by the authorities concerned, did not find acceptance to the case of the tenants/ review petitioners and accordingly, dismissed the Civil Revision Petition on 24.08.2017.



4. Seeking review of the said order, the present review petition has come to be laid. However, as seen from the submissions placed by the petitioners' counsel, no new material of important nature has been projected by him to warrant any review of the order passed in the Civil Revision Petition. He would contend that the landlord has other property of his own to carry on the business concerned and their requirement of the petition property is not bona fide. However, when the above points had already been canvassed by the review petitioners in the Civil Revision Petition as well as before the authorities concerned, when their contentions are found to be discountenanced both by the authorities concerned as well as by the High Court in the Civil Revision Petition, it is found that the impugned order as such does not suffer from any mistake or error apparent on the face of the record and the petitioners have also not projected any other sufficient reason entitling them to seek the review of the order in question.

5. In the light of the above discussions, it is seen that as pointed out in the decision of the Apex Court reported in 2013 8 SCC 320, (Kamlesh Verma Vs. Mayavathi and Others) the petitioners having failed to establish the principles relating to review jurisdiction that may be exercised by this Court under Order 47, Rule 1 of Code of Civil Procedure and on the other hand, when it is found that the petitioners had only made a repetition of the contentions already raised by them in the Civil Revision Petition and in such view of the matter, I do not find any merit in the Review Petition.

6. The petitioners' counsel submitted that this Court, while disposing of the Civil Revision Petition, had not granted time to the tenants to vacate the premises and accordingly, prays for a reasonable time to vacate the premises in question. However, when it is found that the petitioners had been squatting on the premises since the institution of the RCOP against them in the year 2009, this Court, considering the above fact and also the bona fide requirement of the landlord of the petition property right from 2009 onwards, accordingly, did not find it necessary to grant time to the revision petitioners to vacate the premises in question, while disposing of the civil revision petition. In such view of the matter, the petitioners cannot be allowed to seek the said relief by way of the review petition now presented and it is seen that the review on that ground is not maintainable, when the said request sought at the time of disposing of the main matter had not been accepted and negatived.



7. In toto, the Review Application is found to be devoid of merits and substance, resultantly, the same is dismissed.

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Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

adl
To

1. The Rent Controller / Principal District Munsif Court, Tuticorin.
2. The Rent Control Appellate Authority / Sub Court, of Tuticorin.

Pre-Deliver order made in
REV.APLC (MD) No.249 of 2017
in CRP (MD) No.1268 of 2017
and
CMP (MD) No.11895 of 2017

nm (CO)
TR (20/02/2018)