

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P. (NPD) No.2637 of 2017
and
C.M.P.No.12578 of 2017

M.Hamsa ... Petitioner /Appellant/
Respondent/Tenant

Vs.
R.Chandrasahana ... Respondent /Respondent
Petitioner/Landlord

Prayer: Civil Revision Petition has been filed under Section 25 of the Tamil Nadu (Buildings Lease and Rent Control) Act , against the Judgment and decree dated 28.02.2017 made in R.C.A.No.18 of 2013 passed by the learned Principal Subordinate Judge (Rent Control Appellate Authority), Coimbatore confirming the Fair and Decretal order dated 07.02.2013 made in R.C.O.P.No.249 of 2003 passed by the learned Principal District Munsif (Rent Controller), Coimbatore.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.S.Vinoth Kumar
for I.Abrar Md.Abdullah

ORDER

This petitioner has filed this petition under Section 10 (2) (i) and 14 (1) (b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 for willful default of the Decree for Rent Control Proceedings.

2. According to the petitioner, what is leased out to her is only a vacant land during her father's time. She had put up construction over the vacant site. Therefore, Rent Control Proceedings are not maintainable. Even on an earlier occasion, the petition was dismissed as not maintainable and the petitioner /landlord condoned the delayed payments of rentals by accepting bulk payments made by the petitioner/tenant once in three months or six months. Therefore, order of eviction passed by both the Courts below are not sustainable in law.

3. Per contra, the learned counsel for the respondent/landlord submits that there is no evidence to show that land was leased out to the petitioner, and that in his

evidence has categorically stated that he purchased the premises along with super structure itself. There existed a building and the petitioner was paying a monthly rent of Rs.25/- which was enhanced to Rs.60/-. Therefore, it cannot be construed that the petitioner was paying rentals only for the vacant site.

4. The sub-court categorically found that the petitioner/defendant has not proved that her father had obtained lease of vacant land and he had put up construction over the same. Relying on the documents and the evidence of the witnesses, the Sub-court, confirmed the order of eviction. Against the concurrent findings of the court, the unsuccessful tenant has preferred the above revision.

5. After some arguments, the learned counsel appearing for the petitioner would submit that the petitioner is ready to vacate and hand over possession within a period of ten months. The respondent has objected the long period sought for handing over possession. However, by consensus six months period is granted. Accordingly, the time sought for by the petitioner/tenant would be restricted from 10 months to six months by which time, the petitioner shall hand over the possession to the landlord without waiting for further orders.

6. Accordingly, order of eviction passed by the courts below is confirmed and the petitioner is granted 6 months from today for vacating and handing over possession to the land lord. The Civil Revision Petition is disposed of accordingly. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS IV)

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सत्यमेव जयते

Sub Assistant Registrar

VV

TO

- 1.The Sub Judge, Coimbatore.
- 2.The District Munsif, Coimbatore.

C.R.P.No(NPD).2637 of 2017
and
C.M.P.No.12578 of 2017

CNR(CO)
GN(27/11/2017)