

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated: 23.10.2017****CORAM****THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN****CRP(NPD)No.602 of 2017 and
CMP.No.3107 of 2017 and
Caveat No.646 of 2017**

Mohan

.. Petitioner

Vs.

S.Rama

.. Respondent

Prayer: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rents) Control Act No.18 of 1960 as Amended by Act No.23 of 1973 and Act No.1 of 1980), against the fair and decretal order dated 17.11.2016 passed in R.C.A.No.248 of 2016 on the file of the learned IX Judge, Small Causes Court at Chennai, confirming the fair and decretal order dated 09.10.2015 passed in R.C.O.P.No.320 of 2014, on the file of the XI Small Causes Court (Rent Controller), Chennai.

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For Petitioner : Mr.Ajoy Kumar Gnanam

For Respondent : Mr.K.Kannan

ORDER

The petitioner has filed this Civil Revision Petition to set aside the fair and decreetal order dated 17.11.2016 passed in R.C.A.No.248 of 2016 on the file of the IX Judge, Small Causes Court at Chennai, confirming the fair and decreetal order dated 09.10.2015 passed in R.C.O.P.No.320 of 2014 on the file of the XI Small Causes Court (Rent Controller) Chennai, by allowing this civil revision petition.

2.The revision petitioner is a tenant in a Rent Control Petition filed by the landlord / respondent herein in R.C.O.P.No.320 of 2014 before the XI Judge, Court of Small Causes at Chennai. The eviction is sought for on two grounds namely 1.wilful default under section 10(2)(1) and demolition and reconstruction under section 14(b) of the Tamilnadu Buildings (Lease and Rent Control) Act. The eviction was ordered on the ground of willful default and rejected on the ground of demolition and reconstruction by the Learned Rent Controller. Against which the tenant filed R.C.A.No.248 of 2016 before the Learned IX Judge, Court of Small Causes at Chennai and the same was dismissed by order and decree dated 29.03.2016. As against the same the tenant has prepared this civil revision.

3. For better understanding the rank of the parties before the original proceeding is referred in the Civil Revision Petition. It is the case of the landlord that she purchased the petition premises under a registered sale deed dated 25.02.2004 which was marked as Ex.P4. The petition mentioned premise is a residential one. At the time of purchase, the tenant / petitioner herein was in occupation of the house as tenant and the admitted rent was Rs.2,500/-. The petition premise is 74 year old one and at the time of purchase by the respondent / landlord, the building was in dilapidated condition and a portion of the building fell down. There are other tenants in the property purchased by the landlord and she informed about the purchase of the building to all the tenants including the petitioner herein. All the tenants have vacated their respective building, except the petitioner herein. Further the petitioner herein has agreed to pay the rent at the rate of Rs.2,500/- from March 2004 onwards, but he has not paid the same. Thereupon the tenant expressed his willingness to vacate the premises as it is not good for occupation. Thereafter, despite repeated demand made by the landlord, the tenant neither vacated the premise nor paid rent to the landlord. Hence the landlord filed the above R.C.O.P. for eviction against the tenant.

4. Whereas, it is the case of the tenant/revision petitioner that the respondent herein is not the actual landlord of the petition premises and there is no landlord and tenant relationship between the petitioner and respondent. The petitioner herein residing in the ground floor at No.177, Strahans Road, Pattalam, Chennai. The petitioner was a tenant under one Mrs.Vanasatchi, who was the landlord of the petition premise. During the life time of Vanasatchi, one Gajalakshmi claimed that she has purchased the property. However, Vanasatchi refuted the claim and filed a suit against Gajalakshmi in O.S.No.2541 of 1999. At the time of adornment of tenancy, the rent was Rs.200/-. In the mean time the above said Vanasatchi died and after her death, the above property was inherited by her daughter-in-law Mrs.Hemamalini. The petitioner herein continued to be a tenant under the above said Mrs.Hemamalini. Subsequently the rent was increased to Rs.650/- and the tenant paid the rent to Mrs.Hemamalini. Since the above said Gajalakshmi and others threatened the petitioner herein, he lodged a police complaint before P2 Otteri Police Station. Subsequently the petitioner's wife filed a suit against the said Gajalakshmi and other in O.S.No.2377 of 2011 before the learned IV Assistant Judge, City Civil Court, Chennai for permanent injunction and the same was decreed on 17.10.2012. The petitioner herein has not

committed any willful default and he has been regularly paying the rent to his landlord Mrs.Hemamalini. The petitioner denied that he had received any demand from the respondent herein towards payment of rent or for eviction notice of the petition premises. The petition premise is not in dilapidated condition as alleged by the respondent herein/landlord. Hence, he prayed to dismiss the eviction petition.

5.I have heard Mr.Ajoy Kumar Gnanam, learned counsel appearing for the petitioner and Mr.K.Kannan, learned counsel appearing for the respondent and entire available records are perused.

6.It is seen from records that one Vanasatachi was the owner of the petition premises and the petitioner herein was inducted as tenant under her. Subsequently one Gajalakshmi purchased the petition premises from said Vanasatachi and from said Gajalakshmi, the respondent herein has purchased the petition property vide a registered sale deed dated 25.02.2004 (Ex-P4). It is relevant that the petitioner in his evidence has deposed that one Gajalakshmi demanded rent on the premises that she has purchased the petition mentioned property from Vanasatachi, for which the revision petitioner filed a suit against the said Gajalakshmi for permanent injunction. But the fact

remain that the revision petitioner has filed a suit for injunction, not a suit questioning the Title of Gajalakshmi.

7. At this juncture, it is needless to say that the transferee of a land lord, steps into the shoes of land lord will have all rights and liabilities of the transferor land lord in respect of subsisting tenancy. Therefore the findings of both the Courts below that the denial of title by the revision petitioner is not a bonafide one serve good and hence the same does not call for any interference by this Court.

8. It is seen from the records that as per Ex.P4 sale deed, it reveals that the respondent herein is the landlord of the petition premise. Whereas, the contention of the tenant is that respondent is not her landlord has not been proved by producing any reliable documents. Followed by the sale deed, the respondent herein has changed his name in all the land records which could be proved from the Property tax demand card and permanent land register Exs.P5 and P6. The learned Rent Controller after considering the above said documents has come to the conclusion that the tenant/petitioner herein has committed willful default in payment of rent and therefore ordered eviction on that ground and the same was confirmed by the

Learned Rent Control Appellate Authority. The concurrent finding of both the Courts below does not call for any interference by this Court.

9.The learned counsel for the revision petitioner placed reliance upon a decision of this Court reported in **1995 (2) MLJ 282**. The said decision relates to eviction in Rent control proceedings on the ground of demolition and reconstruction. Whereas, in the present case eviction was ordered only on the ground of willful default, but the grounds of demolition and reconstruction was negated by the Learned Rent Controller. As against the same there was no appeal preferred by the respondent/landlord. Therefore, this Court finds the case cited above by the revision petitioner differs in facts and circumstance with that of the revision petitioner's.

10.The Learned Counsel for the petitioner also relies upon yet another judgment of this Court reported in **2014 (6) CTC 195** and contends that when the tenant has disputed the title of the respondent/landlord, the burden is upon the respondent to prove his title.

11.In the present case the landlord/respondent by filling Ex.P4 to

Ex.P6, has clearly established that she is the owner of the petitioner premises. Hence the above judgments do not help the petitioner in any aspect.

12. On perusal of the order of the Courts below, it reveals that at the time of enquiry conducted by Otteri Police on the complaint of the daughter of the petitioner herein, the respondent herein produced a sale deed and therefore the petitioner herein had the knowledge of the property purchased by the respondent herein. Therefore the petitioner can't now say that the respondent is not the landlord of the petitioner premises. Further, even after filing of the above R.C.O.P. the petitioner herein has not chosen to pay the rent to the respondent herein. From the above, it is clear that the petitioner herein has committed an act of willful default in payment of rent. Therefore, eviction ordered on that ground by the Courts below is perfectly correct and there is no illegality or infirmity attached to it to set aside the same. Therefore, the contention of the learned counsel for the tenant cannot be countenanced.

13. In view of the discussion above, I am of the considered view that the petitioner/tenant has not made out any case to interfere with

the well considered order passed by the Courts below and therefore I confirm the orders of the Courts below.

14.In the result, this civil revision petition is dismissed by confirming the orders of the Courts below. Considering the facts and circumstances of the case, there is no order as to cost. Consequently, connected miscellaneous petitions are closed.

23.10.2017

vs

Speaking Order

Index:Yes

To

1.The IX Judge, Small Causes Court, Chennai.

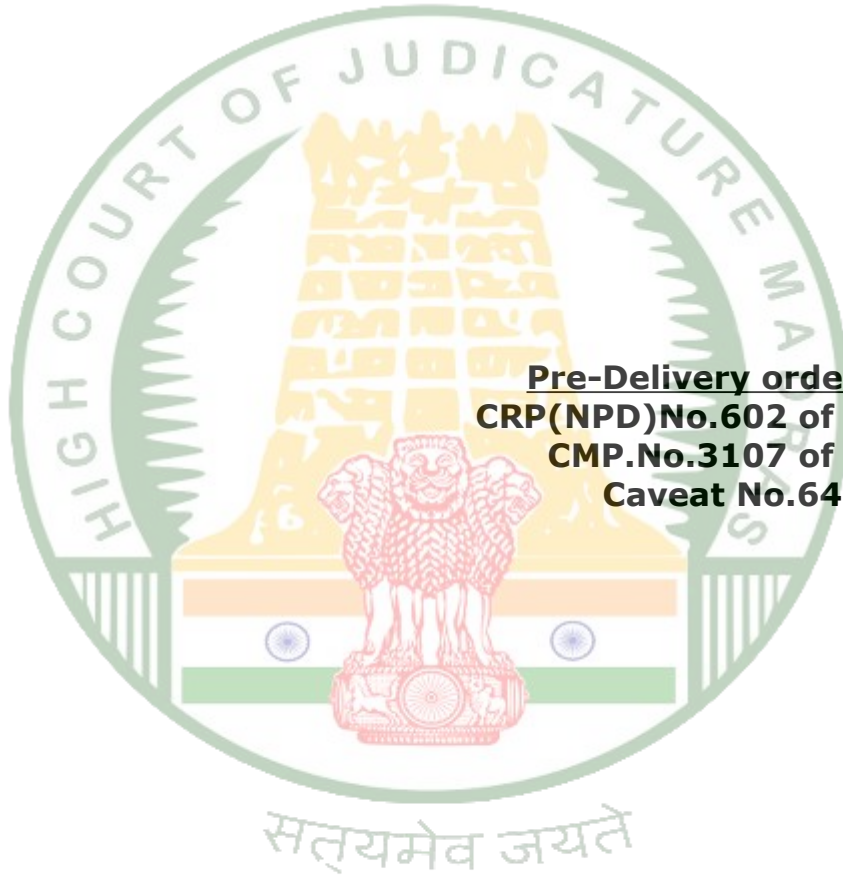
2.The XI Small Causes Court (Rent Controller), Chennai.



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M.V.MURALIDARAN, J.

VS



**Pre-Delivery order made in
CRP(NPD)No.602 of 2017 and
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