

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.281 of 2015
& M.P.No.1 of 2015

Sakkubai

... Petitioner

Vs.

V.U.Mathew

.. Respondent

PRAYER: Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Rules, 1974, against the judgment and decree dated 01.09.2014 made in R.C.A.No.526 of 2013 on the file of the VIII Small Causes Court, Chennai, reversing the order and decree dated 12.08.2013 made in R.C.O.P.No.1722 of 2009 on the file of the XVI Small Causes Court, Chennai.

For Petitioner : Mr.A.D.Janarthanan

For Respondent : Mr.Manoj Sreevalsan

ORDER

The Civil Revision Petition is filed against the judgment and decree dated 01.09.2014 made in R.C.A.No.526 of 2013 on the file of the VIII Small Causes Court, Chennai, reversing the order and decree dated 12.08.2013 made in R.C.O.P.No.1722 of 2009 on the file of the XVI Small Causes Court, Chennai.

2. The petitioner is landlord and respondent is tenant. The petitioner filed R.C.O.P.No.1722 of 2009 on the file of the XVI Small Causes Court, Chennai, for eviction of the respondent, on the ground of wilful default. According to the petitioner, she is the owner of the petition premises and she let out the same to the respondent on a monthly rent of Rs.600/-. The respondent entered into an agreement of lease in November 2003 for residential purpose. As per the agreement, respondent has to pay the electricity charges as per the meter reading and he has to pay the water and conservancy charges. The respondent did not pay the rent from January 2006 for 36 months and arrears of rent comes to Rs.21,600/-. The respondent agreed to vacate and hand over the vacant possession on 30.01.2006. But he did not vacate the petition premises required

by the petitioner for her own occupation. Hence, the petitioner filed the above R.C.O.P.

3. The respondent filed counter and denied all the averments made by the petitioner. The respondent denied landlord-tenant relationship and having entered into lease agreement in November 2003. According to the respondent, he agreed to purchase the petition premises for a total sale consideration of Rs.1,40,000/- and he has paid in instalments a total sum of Rs.1,30,000/-. The respondent in December 2005 offered to pay the balance sum of Rs.10,000/- and demanded for execution of sale deed. The petitioner demanded further sum of Rs.70,000/- and threatened the respondent that if he fails to pay the said amount, she will forcefully evict him. On 07.02.2006, the petitioner and her men tried to evict the respondent. In the circumstances, the respondent filed O.S.No.1299 of 2006 on the file of XVII Assistant City Civil Court, Chennai and obtained decree of injunction.

4. Before the learned Rent Controller, the petitioner examined herself as P.W.1 and examined P.W.2 and P.W.3 and marked eight documents as Exs.P1 to P8. The respondent examined himself as R.W.1 and marked eight documents as Exs.R1 to R8.

5. The learned Rent Controller considering the pleadings and oral and documentary evidence, allowed R.C.O.P. ordering eviction of the respondent on the ground that there is landlord-tenant relationship between the petitioner and respondent and respondent has committed wilful default.

6. Against the said order of eviction dated 12.08.2013 made in R.C.O.P.No.1722 of 2009, the respondent filed R.C.A.No.526 of 2013.

7. The learned Appellate Authority independently considering the pleadings, oral and documentary evidence and order of the learned Rent Controller, allowed R.C.A. holding that the petitioner failed to prove the landlord-tenant relationship.

8. Against the said order dated 01.09.2014 made in R.C.A.No.526 of 2013, the present Civil Revision Petition is filed by the petitioner/landlord.

9. Heard both sides and perused the materials available on record.

10. The contention of the petitioner is that the petitioner let out the petition premises to the respondent in November 2003 and petitioner and respondent entered into lease agreement in November 2003. The respondent did not pay the rent from January 2006 and committed wilful default.

11. On the other hand, the case of the respondent is that the petitioner agreed to sell the property to the respondent for a total sum of Rs.1,40,000/- and she received a sum of Rs.55,000/- as advance from the respondent and he was put in possession of the petition premises as purchaser. He has paid various amounts in instalments amounting to Rs.1,30,000/-. Subsequently, when the respondent offered to pay the balance amount of Rs.10,000/-, the petitioner demanded a further sum of Rs.70,000/-. The petitioner did not produce any document or any independent evidence to substantiate his contention. Similarly, the petitioner did not produce lease agreement entered into between the petitioner and respondent in November 2003. In cross-examination, she has admitted that she received Rs.20,000/- as advance from the respondent.

12. According to the petitioner, the respondent became tenant in November 2003 and the respondent committed default in payment of arrears of rent from January 2006 for 36 months till filing of R.C.O.P., in the month of February 2009 amounting to Rs.21,600/-. The petitioner has not produced any document to show that the respondent paid rent up to January 2006 i.e., from November 2003 to December 2005. The respondent obtained electricity connection by filing W.P.No.16184 of 2009 before this Court. In the said Writ Petition, the respondent's wife has stated that she purchased the property in the year 2001.

13. The learned Rent Controller taking note of the fact that in the counter filed by the respondent, he has stated that he has purchased the property in the year 2003, rejected the contention of the respondent that he is in possession of the petition premises from November 2003 and in view of this contradiction and evidence of the respondent, no rent was paid by the respondent and the learned Rent Controller held that there exist landlord-tenant relationship. On the other hand, the learned Rent Controller failed to consider the evidence in entirety that the respondent has stated that he has not paid any rent from November 2003 onwards and the

contention of the respondent that he is in possession of the petition premises as purchaser is in consonance with the evidence given by the respondent. The learned Rent Controller erred in holding that the respondent admitted that the rent was not paid from January 2006 and failed to consider that the respondent has stated that he has not paid rent from November 2003 onwards. The learned Appellate Authority considering the fact that the petitioner has stated that there is an agreement of lease between the petitioner and respondent in November 2003 and that she has received advance of Rs.20,000/- and having failed to produce the agreement of lease, held that the petitioner failed to prove that there is landlord-tenant relationship.

14. Considering the entire pleadings and evidence let in by the parties, it is seen that the petitioner has not substantiated her case that the respondent is a tenant in the petition premises from November 2003 and failed to pay the rent from January 2006. The learned Appellate Authority has considered all these aspects in proper perspective and allowed R.C.A filed by the respondent. The learned Appellate Authority has not committed any error on facts

and finding of the learned Appellate Authority on facts is not perverse.

15. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

04.12.2017

Index : Yes/No
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To

- 1.VIII Small Causes Court, Chennai.
- 2.XVI Small Causes Court, Chennai.



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V.M.VELUMANI, J.

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