

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2017

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

Civil Revision Petition (NPD) No.407 of 2016
and
C.M.P.No.2171 of 2016

M.K.Shafee

... Petitioner

..Vs..

M.J.Nasreen Banu

... Respondent

Prayer: This Civil Revision Petition has been filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act,1960 as amended by Act 23 of 1973, against the order and decreetal order dated 28.10.2015 on the file of Subordinate Judge, Tirupattur confirming the order and decreetal order passed by the learned District Munsif, Tirupattur dated 19.10.2012 in R.C.O.P.No.14 of 2007.

For petitioner : Mr.V.V.Sairam
For Respondent : Mr.J.M.Hariharan

ORDER

Challenging the order and decreetal order made in R.C.A.No.2 of 2012 dated 28.10.2015 on the file of Subordinate Judge, Tirupattur confirming the order and decreetal order passed by the learned

District Munsif, Tirupattur dated 19.10.2012 in R.C.O.P.No.14 of 2007, the present revision petition has been filed.

2. The learned counsel for the petitioner would submit that the respondent as the landlord has filed the petition in R.C.O.P.No.14 of 2007 for eviction on the ground of willful default. But the tenant/petitioner herein has disputed the tenancy relationship. The Rent Controller after considering the oral and documentary evidence, has come to the conclusion that the respondent/landlord is the owner of the property as per the partition deed. Hence, there is a tenancy agreement, but there is no evidence to show that the tenant has paid the rental amount, who is brother of the landlord. On that basis, eviction has been ordered, against which, the tenant/petitioner preferred R.C.A.No.2 of 2012. The Rent Control Appellate Authority has also confirmed the fair and decreetal order passed by the Rent Controller, against which, the present revision has been preferred.

3. At the time of argument, the learned counsel for the petitioner would submit that the respondent is not a landlord. But both the Courts below have not considered the above aspect. Hence, he prayed for setting aside the order of eviction.

4. The learned counsel for the respondent would submit that the respondent has paid the rent to the brother of landlord. During the partition on 17.11.2006, the demise building is allotted to him. To prove that the rent has been paid to his brother, the petitioner neither examined respondent's brother nor filed any document to show that the petitioner has paid rent to the brother of the landlord. That factum was considered by both the Courts below. Hence, both the Courts below have concurrently ordered for eviction and thus, he prays for dismissal of this revision.

5. Considering the rival submissions made by both counsel and on perusal of typed set of papers, the property is belonging to the respondent/landlord vide document dated 17.11.2006. Even though the petitioner/tenant would submit that he has paid rent to respondent's brother, he has not examined respondent's brother to prove the same. Furthermore, notice has been issued by the respondent. After receipt of notice, the petitioner has not given any reply by disputing the tenancy relationship. So both the Courts below have rightly considered the above aspect and held that the petitioner/tenant has not proved that he has paid the rent periodically from June 2000 and on that basis, eviction has been ordered.

R.MALA,J.,

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So, I do not find any reason to interfere with the findings rendered by both the Courts below and they are hereby confirmed.

6. In the result, this Civil Revision Petition shall stand dismissed by confirming order and decreetal order in R.C.A.No.2 of 2012, dated 28.10.2015 on the file of Subordinate Judge, Tirupattur confirming the order and decreetal order passed by the learned District Munsif, Tirupattur dated 19.10.2012 in R.C.O.P.No.14 of 2007 and three months time is granted for vacating the premises. No costs. Consequently, connected Miscellaneous Petition is closed.

25.01.2017

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To

- 1.The Subordinate Judge, Tirupattur
2. The District Munsif, Tirupattur.

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