

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2018

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).No.393 of 2005
& M.P.Nos.2362 of 2005 & 2462 of 2007

V. Balan @ Balasubramanian

... Petitioner /Appellant/3rd Respondent

Vs

1. Sumathi Devaraj

2. Revathi Devaraj

3. Mrs.R.D.Ramaswamy

4. Nanjammal

5. Ram Kumar

6. Prem Kumar

... Respondents

PRAYER: Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, praying against the order and decretal order dated 17.11.2004 in R.C.A.No.49 of 2000 on the file of Principal Subordinate Judge-cum-Rent Control Appellate Authority, Coimbatore confirming the fair and final order dated 20.10.2000 in R.C.O.P.No.331 of 1983 on the file of Principal District Munsif-cum-Rent Controller, Coimbatore.

For Petitioner : Mr.A.Muthu Kumar

For R1 & R2 : Notice Dispensed with

For R3 : Notice Dispensed with

For R4 to R6 : No appearance

O R D E R

The Civil Revision Petition is filed against the order dated 17.11.2004 in R.C.A.No.49 of 2000 of the Principal Subordinate Judge-cum-Rent Control Appellate Authority, Coimbatore confirming the order of eviction passed by the Principal District Munsif-cum-Rent Controller, Coimbatore in R.C.O.P.No.331 of 1983.

2. The husband of the 4th respondent and the father of the respondents 5 and 6 one R.S.Rajan had initiated eviction proceedings against the revision petitioner on the grounds of wilful default and demolition and reconstruction.

3. The case of the said R.S.Rajan, is as follows:

He had purchased the demised premises from one Mrs.T.A.Ramasamy, under the sale deed dated 30.08.1978. The respondents 1 & 2 herein and the revision petitioner, are tenants in respect of this property under the lease deed dated 25.07.1971 under the vendor of the said Mr.R.S.Rajan. After his purchase, the tenant had paid rent only for one month i.e., for September 1978 and from October 1978, till the date of the filing of the Rent Control Petition, no rent whatsoever is paid. Therefore, the tenant is liable to be evicted on the ground of wilful default. The said R.S.Rajan also contended that the building is in a very old and dilapidated condition and that for the last 3 years, the tenant was not carrying on any business in the petition premises since there was a litigation pending in the High Court between the tenant and the vendor of R.S.Rajan and R.S.Rajan. He further contended that his brother had purchased the adjacent property and therefore they wanted to demolish this property and join the two properties and put up a building thereupon.

4. The Revision Petitioner had filed a detailed counter wherein he would contend that the respondents 1 & 2 had no interest in the business and that it was only he who was the lessee. He would further contend that he had entered into an oral agreement of sale with the Mrs.Ramasamy and had also given her an advance but she had alienated the property to this R.S.Rajan. He had instituted the suit in O.S.No.543 of 1983, for specific performance on the file of Learned Principal Special Judge, Coimbatore. He would submit that he has been depositing the rent as per the permission of the High Court in A.S.No.343 of 1977 and therefore there was no arrears of rent.

5. The revision petitioner further contended that the building is in a good condition and does not require to be demolished. Before the Rent Controller, the landlord had

examined 3 witnesses and marked 47 exhibits and the appellant had examined 2 witnesses and marked 42 exhibits.

6. The Rent Controller had allowed the eviction petition on both grounds. Challenging the said order, the revision petitioner had filed R.C.A.No.49 of 2000 on the file of Learned Principal Subordinate Judge-cum-Rent Control Appellate Authority, Coimbatore. The main ground of the appeal was the failure to implead Sri Murugan Corporation, the oral agreement between the revision petitioner and the erstwhile owner whereby the relationship of landlord and tenant had snapped and that the revision petitioner was not in arrears as he had paid the rent by depositing the same into the bank and the requirement for demolition and reconstruction was not bonafide. The appellate authority, after a detailed enquiry confirmed the order of the Rent Controller.

7. Challenging this order, the revision petitioner is before this Court. Both the authorities below have held that there is a wilful default since both the Rent Controller and the Appellate Authority had held that though the revision petitioner was depositing the rent the same was not being done regularly and was done with a delay this clearly amounted to a wilful default. The authorities have held that the revision petitioner has shown supine indifference in the payment of the rent and sitting in revision under Section 25 of the Tamil Nadu Buildings [Lease and Rent Control] Act, this court cannot re-appreciate the evidence.

8. As regards the eviction on the ground that the demolition and reconstruction of the building, the Authorities below have held that the building is over 60 years of age and having Mangalore tiles. The demised premises is located in a prime locality where the neighbourhood has hotels & Commercial building and the demised premises stands out like a sore thumb. The eviction was also ordered on this count and I find no infirmity in the order passed by the learned Principal Subordinate Judge-cum-Appellate Authority, Coimbatore.

9. In the result, the Civil Revision Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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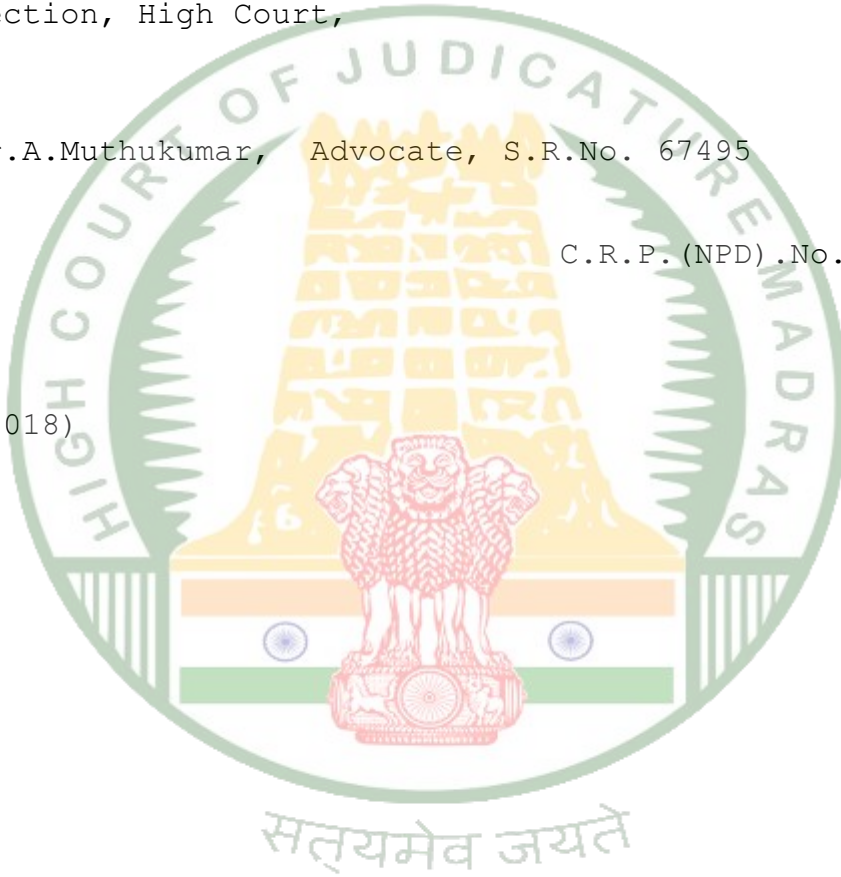
To

1. The Learned Principal Subordinate Judge-cum
Rent Control Appellate Authority,
Coimbatore.
2. The Learned Principal District Munsif-cum
Rent Controller,
Coimbatore.
3. The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr.A.Muthukumar, Advocate, S.R.No. 67495

C.R.P. (NPD) .No.393 of 2005

GMR (CO)
GN (25/10/2018)



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