

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.06.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(NPD).No.833 of 2017

and C.M.P.No.4122 of 2017

V.J.Parthasarathy (Died)

1. P.Vasanth Bai

2. V.P.Saravanan

... Petitioners

Vs.

R.N.Sundararajan

... Respondent

Prayer: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, praying to set aside the order and Decree dated 03.12.2016 made in R.C.A.No.30 of 2015, on the file of learned Subordinate Judge, Vellore (Rent Control Appellate Authority) confirming the Order and Decree dated 04.12.2015 made in R.C.O.P.No.34 of 2009 on the file of learned Principal District Munsif, Vellore (Rent Control Authority).

For Petitioner : Mr.R.Venkata Varathan

For Respondent : Mr.V.Raghavachari
for Mr.C.Thilagaraj

ORDER

The relief sought for in this revision is to set aside the fair and decretal order dated 03.12.2016 made in R.C.A.No.30 of 2015, on the file of the learned Subordinate Judge, Vellore (Rent Control Appellate Authority) confirming the

Order and Decree dated 04.12.2015 made in R.C.O.P.No.34 of 2009 on the file of the learned Principal District Munsif, Vellore (Rent Controller).

2. The revision petitioners are the tenants in the schedule mentioned property. The respondent is the land lord. Admittedly, the respondent has purchased the property by a registered Sale Deed dated 21.02.2008. Subsequently, the purchaser of property/ respondent filed a petition before the Rent Controller/Principal District Munsif, Vellore in R.C.O.P.No.34 of 2009 to vacate and deliver the vacant possession of the schedule mentioned property for demolition and reconstruction of the schedule property. The trial Court after elaborate enquiry, passed an order of eviction in favour of the respondent.

3. Aggrieved against the order passed by the learned Rent controller on 4.12.2015, the Revision petitioner filed a Rent Control appeal under Section 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent control), Act, 1960 before the learned Rent Control Appellate Authority, Vellore District in R.C.A.No.30 of 2015 on the file of the Subordinate Judge, Vellore.

4. The learned Rent Control Appellate Authority after giving opportunity, confirmed the order passed by the Rent Controller and dismissed the Rent Control appeal.

5. Aggrieved against the said order dated 03.12.2016, the Revision petitioners/ tenants are before this Court by way of this Revision petition.

6. Heard both sides and perused the available records.

7. According to the learned counsel for the Revision petitioner when the landlord filed a petition for Demolition and reconstruction of the building, without any approval from the authorities concerned, the building cannot be demolished even by the owner of the building, by violating the provisions of Section 14 (i)(b) of the Rent Control Act.

8. During the pendency of the proceedings, the respondent demolished the entire property excluding the portion which is occupied by Revision petitioners and reconstructed the building. Admittedly, the portion which is occupied by the tenant is left without any alteration, under the circumstances, the relief sought for in the application for demolition and reconstruction has

become infructuous. The very same facts has not been accepted by the Rent Control Appellate Authority and confirmed the order of the Rent Controller, which is under challenge. Revision petitioner filed second appeal before this Court in A.S.No.331 of 2013, the same is pending in case, in the event of the second petitioner succeeding in his claim for specific performance of the agreement, he would not much prejudiced.

9. The learned counsel for the respondent would submit that the revision petitioners had not entered into an agreement with the person who was having valid title over the property and also has not entered into an agreement with the vendor of the respondent. Therefore, the appeal filed by the revision petitioners which is pending before this Court is no way connected with the present revision petition. During the pendency of the Rent control proceedings, the respondent herein demolished the entire portions excluding the portion occupied by the tenant and completed the construction process leaving the building situated in the main street which is occupied by the tenant. After vacating the portion, the same will be used as entrance for main building.

10. It is not in dispute that the respondent purchased the property from V.N.Chandrasekaran and V.N.Dhanasekaran sons of Natarajan on 21.02.2008 by a registered Sale Deed and after purchasing the property applied for planning and construction approval. After getting sanction of the planning permission from the authorities concerned, he filed the application before the Rent Controller on the ground for demolition and reconstruction of the property. Admittedly, the Rent Controller has passed the order of eviction. The Appellate Authority also confirmed the Order passed by the Rent Controller.

11. In this revision, it is very short point which is arising for consideration that whether both the Rent Controller and Appellate Authority are correct in passing an order on the ground of demolition and reconstruction. Admittedly, during the pendency of the proceedings the building was also demolished and reconstructed leaving the portion which is occupied by the revision petitioner. Therefore, The following questions are necessary to decide the issue on hand:

- i) Whether after completion of demolition and construction of the building, the portion reoccupied by the revision petitioners is still necessary?
- ii) Whether the requirement of the landlord has become infructuous.

12. On a perusal of the entire records and documents, there is no dispute with regard to relationship with the land lord and tenants. The respondent demolished the area and reconstructed the schedule mentioned property except the portion occupied by the tenants/the revision petitioners. On a perusal of structure of the property and building, since it is located in main street as stated by the respondent it can be utilized for access to the main building. Therefore, the portion occupied by the tenants /revision petitioners is still necessary and requirement of the landlord is still existing and does not become infructuous. The Rent Control Appellate Authority is fact finding authority and appreciated the oral and documentary evidence and has given the finding.

13. Under these circumstances, there is no reason to interfere with the order passed by the Rent control Appellate Authority and there is no illegality or perversity in the order passed by the Rent control Appellate Authority and this court finds no merits in this revision petition.

14. The Revision petitioners are directed to vacate the building and hand over possession to the respondent within a period of two months from the

date of receipt of a copy of this order and also directed to file an affidavit of undertaking in accordance with law.

15. With the above direction, this Civil Revision petition is dismissed.

Consequently, the connected Miscellaneous petition is closed. No costs.

13.06.2018

Index:Yes/No
Speaking order / Non speaking order
vum

To

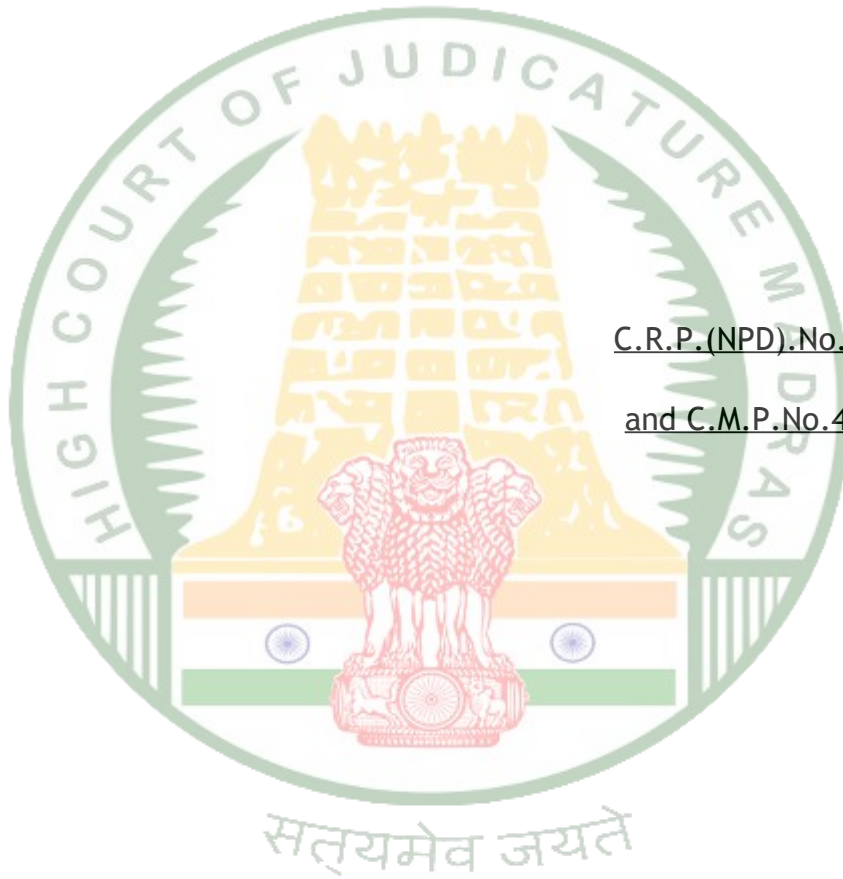
1. The Rent Controller/
District Munsif,
Vellore.
2. Subordinate Judge/
The Rent control Appellate Authority,
Sub Court, Vellore.



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P.VELMURUGAN, J.,

vum



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