



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 09.10.2018

Delivered on:
01.11.2018

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P (NPD) .No.1748 of 2012

and

M.P. (MD) No.1 of 2012

Gopal ... Petitioner/Appellant/
Respondent (tenant)
Vs.

1.Nagarajan

2.C.Paramasivam

3.C.Mariyappan ... Respondents/Respondents/
Petitioners (Landlords)

PRAYER : Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the order dated 22.11.2011, made in R.C.A.No.06 of 2007, by the learned Rent Control Appellate Authority (Principal Sub Judge), Tiruchirappalli, confirming the order dated 08.09.2006, made in RCOP.No.164 of 2004 by the learned Rent Controller (III Additional District Munsif), Tiruchirappalli.

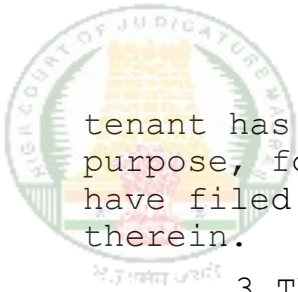
For Petitioner : Mr.A.Arumugam
for Ajmal Associates
For Respondents : Mr.A.V.Rajasekaran

O R D E R

This Civil Revision Petition has been filed as against the order, dated 22.11.2011, passed in R.C.A.No.06 of 2007, by the learned Rent Control Appellate Authority (Principal Sub Judge), Tiruchirappalli, confirming the order dated 08.09.2006, passed in RCOP.No.164 of 2004 by the learned Rent Controller (III Additional District Munsif), Tiruchirappalli.

2. The brief facts of the case are as follows:-

2.1.The respondents herein are the landlords of the petition mentioned property, in which the petitioner herein is a tenant. The respondents herein as petitioners have filed RCOP.No.164 of 2004 by the learned Rent Controller (III Additional District Munsif), Tiruchirappalli, for eviction and delivery of possession of the building in question on the ground that they *bonafidely* required the premises for the purpose of running a grocery shop. Further, the



tenant has been using the property for different use other than the purpose, for which, it was leased out. Therefore, the Landlords have filed the above RCOP.No.164 of 2004 for the relief stated therein.

3.The tenant filed his written statement in RCOP.No.164 of 2004 stating that there was no restriction that he should not run any other business other than the laundry business. The Public Telephone booth is in existence for more than several years and that the landlords have not objected to that till now. The tenant is very regular and prompt in paying the rent. The requirement of the demised premises is *mala fide* and selling the two shops on either sides of the petition mentioned property proves *mala fide* and hence, prays for dismissal of the petition with costs.

4.The petitioners in the RCOP filed petitions for the purpose of eviction and delivery of possession before the Rent Control Tribunal. On behalf of the petitioners side Pws.1 & 2 were examined and Exs.A1 to Ex.A4 were marked and on behalf of the respondents side Rw.1 was examined and Exs.B1 and B2 were marked. After hearing the arguments of parties and examining the pleadings the learned Rent Controller allowed RCOP.No.164 of 2004. Aggrieved by the above order, the petitioner herein preferred the RCA.No.06 of 2007 before the Rent Control Appellate Authority (Principal Sub Judge), Tiruchirappalli. The Appellate Authority has passed an order on 22.11.2011 dismissing the RCA.No.06 of 2007 and confirming the order passed by the Rent Controller in RCOP. As against the order passed by the Appellate Authority, the petitioner herein preferred the present Revision before this Court.

5.Heard, Mr.A.Arumugam, learned counsel on behalf of the petitioner and Mr.A.V.Rajasekaran, learned counsel on behalf of the respondents.

6.The learned counsel appearing for the revision petitioner/tenant has submitted that the petitioner is not entitled to an order of eviction on the ground that he has put the property to different user. As the building is let out for non-residential use, the tenant is entitled to commence any business provided it does not reduce the value and utility of the building. When the laundry business of the petitioner is being carried on continuously, a mere installation of an insignificant public telephone through coin box will not amount to different user.

7.The learned counsel further submitted that the claim under Section 10(3)(a)(iii) of the Act, is not *bona fide* on the ground that the landlord obtained possession of the similar buildings and they are sufficient to carry on his business; that the landlords have also sold some other buildings, which would show that the alleged requirement is absolutely *mala fide* and even if the present building is surrendered, the same would have been sold. Therefore the concurrent orders of eviction passed by the authorities below are liable to be set aside.



8. The learned counsel for the respondents/landlords contended that both the Rent Controller and the appellate authority have considered the facts and on law properly and reasoning given by both the authorities are valid and legal and this CRP is devoid on merits and prayed for dismissal of the CRP.

9. Under these circumstances, this Court finds that in this present Revision the following issues arises for consideration:-

1) Whether the petitioner/tenant can be evicted on the ground of different user of the subject premises, other than, for which it was leased out?

2) Whether the requirement of the respondents/landlords, for owner's occupation is *bona fide* or not?

10. Point No : 1

10.1. Admittedly, the petition mentioned property was let out for carrying on laundry business. The tenant himself has admitted that he put the building for different use by selling lottery tickets and also by running public telephone booth, without the written consent of the landlords. No doubt, installing telephone booth and running laundry business are in no way connected to the laundry business, for which it was leased out. When the tenancy agreement between the parties is for a specific purpose and if the tenant uses the premises for some other purpose without the consent of the landlord, the tenant is presumed to be using the property for a different use. As the evidence on record makes it clear that the property was put to different user, the Court below are right in holding that the respondents/landlords had proved the ground of different user and hence, the finding of the Courts below do not warrant any interference. The Point No.1 is answered accordingly.

11. Point No.2:

11.1. According to the respondents/landlords, the petition mentioned property is required for the purpose of setting up a Grocery shop. According to the petitioner/tenant, the respondents/landlords are not *bona fide* in requiring the premises for the purpose of setting up the grocery business, because the landlords have already sold the shops situated on the either side of the petition mentioned property.

11.2. Under such circumstances, this Court is of the view that merely because of the reason that the landlord had sold the adjacent shops situated on the either side of the demised premises, it cannot be said that the respondent/landlord is not *bona fide* in requiring the premises. Both the Courts below have discussed in detail as to whether the Respondents/Landlords have proved their *bona fides* and concluded that the Respondents/Landlords have pleaded and proved their requirement. Therefore, such a well considered decision of the



Courts below is not required to be interfered with by this Court. Accordingly, Point No.2 is answered.

12. In view of the above facts and circumstances of the case, this Court has not found any force in the contention urged on the side of the revision petitioner/tenant and altogether the present Civil Revision Petition deserved to be dismissed.

13. In fine, this Civil Revision Petition deserves dismissal and accordingly is dismissed without costs and the concurrent orders passed by the authorities below are confirmed. However, the revision petitioner/tenant is given three months time to vacate the demised building. Consequently connected Miscellaneous Petition is dismissed.

Sd/
Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar (CS-III)

To

1. The Rent Control Appellate Authority
(Principal Sub Judge), Tiruchirappalli.

2. The Rent Controller (III Additional District Munsif),
Tiruchirappalli.

Copy to:
The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1cc to M/S.AJMAL ASSOCIATES, Advocate, SR.No.94126
+1cc to Mr.A.V.RAJASEKARAN, Advocate, SR.No. 94024

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and
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RJ2
KK/RSK/SAR-3/13.12.2018/4P-7C