



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.03.2018

Delivered on : 28.04.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (NPD) (MD) No.2044 of 2017

S.Visvanathan : Petitioner/7th Respondent/7th Respondent

Vs.

1.Kalpana : 1st Respondent/Petitioner/ Petitioner
Subramanian (died)
2.Shanmugam
3.Murugesan
4.Balu
5.Muruganantham
6.Kumar
7.Pandiyarajan : Respondents 2 to 7/ Respondents 2 to 6 & 8/
Respondents 2 to 6 & 8

PRAYER : Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the fair and decreetal order dated 05.09.2017 made in E.P.No.105 of 2016 in RCOP.No.1 of 2008, on the file of the Principal District Munsif, Dindigul (Rent Controller).

For Petitioner : Mr.G.Gomathi Sankar
For Respondents : Mr.A.Hariharan - for R.1
: No Appearance for R.2 to R.7

ORDER

The petitioner, who is the seventh respondent in RCOP.No.1 of 2008 and in E.P.No.105 of 2016 on the file of Principal District Munsif, Dindigul (Rent Controller), has filed the above Civil Revision Petition, challenging the fair and decreetal order made in E.P.No.105 of 2016 in RCOP.No.1 of 2008, dated 05.09.2017.

2. The 1st respondent/landlord herein initiated eviction proceedings against the petitioner and respondents 2 to 7 herein / tenants in RCOP No.1 of 2008 under Sections 10(2)(1) and 10(3A) (iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 on the ground of wilful default in payment of rents. The



Rent Controller (Principal District Munsif), Dindigul, after considering the facts and circumstances, had allowed RCOP.No.1 of 2008, on 04.06.2014. Subsequently, the landlady filed Execution Petition in E.P.No.105 of 2016 for delivery of possession and thereafter, delivery was ordered on 05.09.2017. Aggrieved over the same, the petitioner has preferred this Civil Revision Petition.

3. The petitioner /tenant would submit that he is running a jewellery shop in the petition mentioned property for the past 70 years and the landlady's contention that she wants the petition mentioned property for her use is absolutely false. The landlady offered to sell the property at the rate of Rs.1,500/- per square feet and the tenant also accepts for the same. Whenever the tenant went to pay the rent, the landlady refused to receive the rent stating that at the time of completion of sale process, the rent can be adjusted. Thereafter, the landlady issued notice to the tenant to vacate the property and the tenant has issued a reply on 20.12.2017 stating that the landlady's husband was running a shop in another place and therefore, the landlady is not in urgent requirement of the petition mentioned property for own use. It is the contention of the tenant that since the landlady wanted to sell the same to some other third party for higher amount, she has initiated the proceedings. The landlady was under the impression that if the tenants are evicted then she would sell the property for higher rates. But the landlady had made false allegations and had obtained an order in her favour.

4. Heard the learned Counsel on either side and perused the materials available on record.

5. Admittedly, the rent control proceedings is of the year 2008 and the decree has been obtained by the landlady in her favour as early as on 04.06.2014. Admittedly, there is no appeal filed by the petitioner/tenant. Since the petitioner has not vacated the premises, the landlady filed Execution Petition in E.P.No.105 of 2018 and the Executing Court cannot go beyond the decree passed in RCOP No.1 of 2008 and therefore, in my considered opinion, there is no infirmity in the order passed by the learned Trial Judge.

6. In the result, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CSIII)



To

The Principal District Munsif,
(Rent Controller)
Dindigul.

+1 CC TO Mr.A.HARIHARAN , Advocate, Sr.No. 64297
+1 CC TO Mr. G.GOMATHI SANKAR , Advocate, Sr.No. 64616

JAM/23/05/2018/ JC/ SAR 3/ 3P-4C

Pre-delivery order made in

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28.04.2018