



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.07.2018

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (NPD) (MD) No.2321 of 2016
and C.M.P. (MD) No.10705 of 2016

1.Petchaimmal
2.Madasamy

... Petitioners/Appellants/Tenants

-vs-

Vasanthamalliga

... Respondent/Respondent/Landlady

PRAYER: Civil Revision Petition filed under Sec 25 of the TamilNadu Buildings Lease and Rent Control Act 18/1960 praying to set aside the Fair and Decreetal order dated 14.10.2015 passed in R.C.A.No.19 of 2012 on the file of the Rent Control Appellate Authority, Principal Subordinate Judge at Tirunelveli, confirming the Fair and Decreetal order passed in R.C.O.P.No.49 of 2010 on the file of the Rent Controller-cum-District Munsif, Tirunelveli dated 15.02.2012.

For Petitioners: Mr.T.Lajapathi Roy

For Respondent : Mr.G.Prabhu Rajadurai

O R D E R

The revision petitioners (Tenants) have filed this petition against the respondent (Landlady) herein, seeking to set aside the order passed in R.C.A.No.19 of 2012 on the file of the Rent Control Appellate Authority at Tirunelveli dated 14.10.2015, by which the order of eviction dated 15.02.2012 passed by the learned Rent Controller-cum-District Munsif, Tirunelveli in R.C.O.P.No.49 of 2010 was confirmed. R.C.O.P.No.49 of 2010 was filed by the Landlady for evicting the Tenants so as to give vacant possession of the property to her, which was allowed by the learned Rent Controller-cum-District Munsif, Tirunelveli. Aggrieved by the same, the Tenants had filed R.C.A.No.19 of 2012 before the learned Rent Control Appellate Authority at Tirunelveli, in which, the order of the learned Rent Controller was confirmed. Challenging both the orders, revision petitioners / Tenants are before this Court.

2. It is the case of the revision petitioners that there was no wilful default on their part in remitting the monthly rent and it was the Landlady, who denied to receive monthly rents from them. Though the landlady had stated that since she is going to renovate the building, the vacant possession is required, she had not filed two separate petitions, namely, one for eviction and another for demolition and without doing so, she had clubbed both the prayer in one petition. It is the further case of the petitioners that the Landlady had borrowed a sum of Rs.1,25,000/- as loan from the 2nd petitioner with an undertaking that they need not pay any rent till



the return of the said amount. But, contrary to the same, the plea was taken that the petitioners defaulted in payment of rent and contending that the Landlady did not approach the learned Rent Controller with clean hand while filing RCOP, it is prayed that both the orders of the Courts below are liable to be set aside.

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3. Per contra, learned counsel for the respondent / Landlady has contended that that originally, she rented out her property to the 1st petitioner by fixing a sum of Rs.500/- per month and thereafter, it was gradually increased to Rs.1,000/-. While so, the 1st petitioner had sublet the property to her son-in-law / 2nd petitioner without obtaining any permission from the respondent and the 2nd petitioner had also committed wilful default in payment of rent for about 80 months. She has further contended that as per the oral agreement, the 1st petitioners was not supposed to sublet the premises to any person and in contrary to the same, the 1st petitioner had sublet the property to the 2nd petitioner, thereby violated the conditions of the lease agreement. Moreover, she is in need of the property for demolition and reconstruction and therefore, the tenants are liable to be evicted from the petition mentioned property. Contending that both the learned Rent Controller and the learned Rent Control Appellate Authority had appraised her case in proper perspective, it is prayed that there is no interference warranted in both orders by this Court.

4. Heard the learned counsel on either side and also perused the material documents available on record.

5. A careful analysis of the order of the learned Rent Controller-cum-District Munsif, Tirunelveli dated 14.10.2015 would disclose that all the points have been briefly discussed in the order and therefore, the said order was duly confirmed by the learned Rent Control Appellate Authority, Tirunelveli. It was the main plea raised by the petitioners that the landlady borrowed a sum of Rs.1,25,000/- from the 2nd petitioner for her urgent need, but no documentary evidence was produced by the petitioners to prove the factum of said payment. As per the settled dictum, the burden is on the part of the petitioners to prove the same by producing documents, such as promissory note, agreement etc. It was the case of the Landlady that since the building is in a dilapidated condition, she obtained necessary approval from the Corporation for its renovation and in support of the same, she had also furnished necessary documents in Ex.As.4 and 5.

6. In the case on hand, the Landlady had duly followed the requirements as adumbrated under Law for eviction of her Tenants and therefore, this Court is of the view that both the orders of the learned Rent Control Appellate Authority, Tirunelveli dated 14.10.2015 and also the learned Rent Controller-cum-District Munsif, Tirunelveli dated 15.02.2012, are liable to be upheld.

7. In the result,



a) this Civil Revision Petition is dismissed, thereby confirming the order dated 14.10.2015 passed in R.C.A.No.19 of 2012 by the learned Rent Control Appellate Authority at Tirunelveli and also the order dated 15.02.2012 passed in R.C.O.P.No.49 of 2010 by the learned Rent Controller-cum-District Munsif, Tirunelveli;

b) the petitioners / Tenants are directed to vacate the premises and hand over the vacant possession to the respondent / landlady, within a period of two months from the date of receipt of a copy of this order, failing which, the respondent/Landlady is at liberty to proceed against the petitioners in the manner known to law.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To:

- 1.The Principal Subordinate Judge,
Rent Control Appellate Authority,
Tirunelveli.
2. The Rent Controller
(District Munsif),
Tirunelveli.
3. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1CC TO MR.G.PRABHU RAJADURAI ADVOCATE IN S.R.NO.73300.
+1CC TO MR.T.LAJAPATHI ROY, ADVOCATE IN SR.NO.73444.

AR

DS SV SAR-4:20.09.2018: 3P/7C

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