



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.01.2018

Delivered on : 22.03.2018

CORAM :

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (NPD) (MD) No.2064 of 2011

and

M.P. (MD) No.1 of 2013

K.Vishalakshi

...Petitioner/Landlord

vs.

V.Narayanan

... Respondent/Tenant.

PRAYER: Petition filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, against the order and decreetal dated 14.07.2011 in R.C.A.No.4 of 2010 on the file of the Rent Control Appellate Authority cum Assistant Sessions and Sub Judge, Devakottai confirming the order and decreetal order dated 10.08.2010 in R.C.O.P.No.27 of 2009 on the file of the Rent Controller cum District Munsif cum Judicial Magistrate, Karaikudi.

For Petitioner : Mr.C.Jeyaprakash

For Respondent : No Appearance

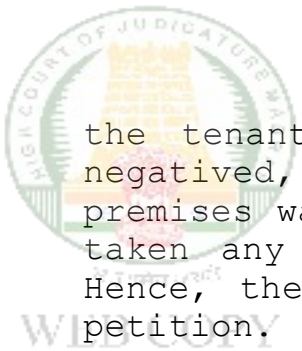
ORDER

This Civil Revision Petition has been preferred against the decreetal order dated 14.07.2011 in R.C.A.No.4 of 2010 confirming the order and decreetal order dated 10.08.2010 in R.C.O.P.No.27 of 2009.

2.R.C.O.P.No.27 of 2009 has been filed by the landlord for eviction under Sections 10(2) (1) and 10(3) (a) (1) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. The grounds for eviction of the premises are wilful default and another for own occupation.

3.The Rent Controller, after analyzing the evidence of both sides and documents placed before him, had given a finding that the respondent tenant is not a defaulter. Another ground for occupation by the aged parents of the landlord is concerned, it is negatived by saying that the intention of the petitioner is not a bonafide one. The appeal filed by the landlord in R.C.A.No.4 of 2010 was also dismissed. The Rent Controller Appellate Authority also confirmed the order of the Rent Controller.

4.Regarding the aspect of the wilful default, the Appellate Authority has found that the respondent tenant has deposited the rent into the Court and there is no wilful default on the side of



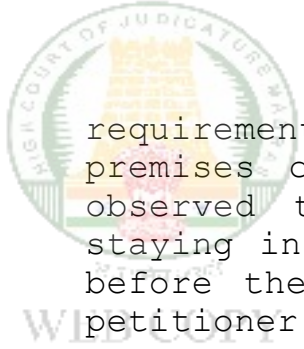
the tenant. The ground of occupation by the parents is also negatived, by saying that even in the earliest time when the premises was leased to the tenant, the petitioner landlord has not taken any steps for using the same for her parents occupation. Hence, the petitioner being landlord has preferred this revision petition.

5. It is argued by the petitioner that the respondent tenant is committing default in paying rent amount and the rent was deposited only at the time of filing the counter. Even for the subsequent months the rent was not deposited on monthly basis and the tenant had deposited only as lumpsum for two months. Regarding the dispute of the advance amount, the rent controller has given a finding that the advance amount is only Rs.5,000/- and the same was admitted by the revision petitioner in the cross examination and the same was admitted by the rent controller. Hence, if the advance amount Rs.5,000/- is with the landlord, the rent amount can be deducted in the advanced amount. This will go to show that the rent for the months of July and August was not paid by the tenant and there is no attempt made by the tenant for sending the rent on any method. Simply it has been stated that when no receipt is issued by the petitioner, the respondent could not prove the payments by documentary evidence. But, regarding the non-receipt of rent, in the absence of petitioner receiving the rent what was the attempt made by the respondent/tenant to pay the rent, was not stated by the respondent.

6. Further regarding the advance amount, the respondent has not proved that is Rs.10,000/- from the cross examination of the petitioner. It is determined that the advance amount paid is only Rs.5,000/-. When the advance amount is with the landlord, it can be adjusted only when the premises is vacated by the tenant and it cannot be adjusted for the rent amount that he has to pay during his stay in the suit premises as tenant. Hence, the respondent has not proved that he has been regular in making rent. I am not inclined to accept the finding that the tenant is not a defaulter.

7. The other ground regarding the occupation of the premises by the parents of the landlord is concerned, the argument advanced by the respondent /tenant is that even at the inception to the rental premises, the parents of the landlord were staying in the rental house. Hence, there is no bona fide intention on the part of the petitioner/landlord regarding the occupation of the rental premises by her parents. It is the argument advanced by the petitioner/landlord that now the necessity arises to accommodate her parents in the premises and also considering her position as a widow cannot be a malafide one.

8. Since it is the convenience and liberty of the petitioner to accommodate the aged parents in the suit premises, a



requirement made by the petitioner for occupation of the rental premises cannot be considered as a malafide one. Since it is observed that the parents are aged people and they are also staying in the rental premises for which rent receipts are marked before the Rent Control Authority, it is for the option of the petitioner to accommodate her parents so as to facilitate her parents to stay in her own house instead of staying somewhere in a rental building.

9. Considering the bonafide intention of the petitioner for the requirement of the premises for the occupation of her parents and also willful default on the part of the tenant, this petition is allowed. No costs. Consequently, M.P.(MD)No.1 of 2013 is closed. The respondent/tenant is directed to vacate and hand over the premises within a period of three months from the date of receipt of a copy of this order, failing which, the petitioner/landlord is permitted to take action against the tenant as per law.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Rent Control Appellate Authority cum
Assistant Sessions and Sub Judge,
Devakottai.
2. The Rent Controller cum District Munsif cum
Judicial Magistrate,
Karaikudi.

Copy to

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court, Madurai(2 Copies)

+1CC to Mr.C.Jeyaprakash, Advocate, SR.No. 57053
+1CC to Mr.V.S.Kumaraguru, Advocate, SR.No. 57022

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VB/SV/MMS/SAR2/29.05.2018/3P/7C

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