



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.01.2018

Delivered on : 27.03.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (NPD) (MD) No.2074 of 2013
and M.P. (MD) No.1 of 2013

Murugesan Nadar ... Petitioner/Appellant/Respondent

Vs.

K.Sivakumar ... Respondent/Respondent/Petitioner

PRAYER: Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as amended by Act 1 of 1980), to call for records and set aside the order dated 18.07.2013 passed in R.C.A.No.8 of 2011 by the Principal Subordinate Judge cum Rent Control Appellate Authority, Nagercoil confirming the order dated 16.06.2011 passed in R.C.O.P.No.15 of 2008 on the file of the Principal District Munsif cum Rent Controller of Nagercoil.

For Petitioner : Mr.T.R.Jeyapalam

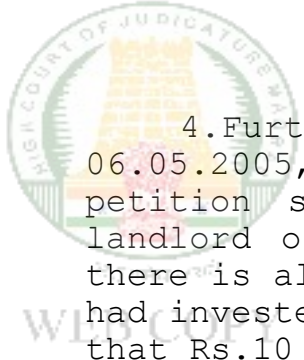
For Respondent : Mr.K.Vamanan

O R D E R

This Civil Revision Petition has been preferred against the fair and executable order passed in R.C.A.No.8 of 2011 on the file of the learned Principal Subordinate Judge cum Rent Control Appellate Authority, Nagercoil, confirming the fair and executable order passed in R.C.O.P.No.15 of 2008 on the file of the learned Principal District Munsif cum Rent Controller of Nagercoil.

2.The petitioner/landlord has filed R.C.O.P.No.15 of 2008 before the learned Principal District Munsif cum Rent Controller, Nagercoil, for eviction of the scheduled building by directing the respondent to vacate and hand over the possession. The Rent Controller has gone through the evidence and documents especially, the lease agreement, which was marked as Ex.R.2 dated 05.06.2005. The requirement of the landlord was considered and the petition was allowed and the tenant was directed to vacate petition mentioned building and hand over the vacant possession within a period of three months. Against which, the petitioner/ tenant has filed R.C.A.No.8 of 2011.

3. In the appeal, the respondent/landlord submitted that the tenant cannot dictate the landlord and the landlord has liberty to choose anyone of the building as his wish for own occupation and the landlord has no other building in Nagecoil Town.



4. Further, even as per the rent agreement Ex.R.2 dated 06.05.2005, it is found that the tenant can be demanded to evict the petition scheduled premises for the purpose of own use by the landlord or his legal heirs. It is also to be pointed out that there is also no evidence on the side of the tenant to prove that he had invested Rs.20 lakhs worth in the petition schedule premises and that Rs.10 lakhs are due to be received from his customers. So, the comparative hardship goes only against the respondent/tenant. After perusing the oral and documentary evidence, the Rent Control Appellate Authority held that there is no evidence to show that the respondent/landlord owns some other building in Nagercoil City and the requirement of the landlord is a bonafide one and hence, confirmed the order of the Rent Controller. Against which, the tenant has come forward with this Civil Revision Petition.

5. The learned counsel appearing for the petitioner/tenant would mainly argue that the courts below have failed to note that the respondent/landlord has not produced any documentary evidence to show that he has sufficient funds to invest in jewelry business.

6. The learned counsel for the respondent/landlord has submitted that the courts below have rightly viewed the matter and there is no error in the orders of the courts below.

7. Heard the learned counsel for the petitioner and learned counsel for the respondent and perused the materials available on record.

8. The averments of the landlord is that the tenancy agreement was entered with his father in the year 2005 and he was in his brother's shop and now his brother is demanding to vacate the shop. But the case of the tenant is that he is in the rented building for nearly 31 years and the rent at the time of inception is Rs.200/- and now enhanced to Rs.25,000/- and further, the averment of the landlord that now he is running the business in his brother's shop is not true. But, P.W.1 states that as per the Will executed by his father, the petition schedule building is allotted to the petitioner and at present, he is running business in his brother's place. Hence, the ownership or title of the petitioner cannot be disputed.

9. Further, there is no evidence on the part of the petitioner/tenant to prove that he has invested lakhs of amount in the business and the lakhs of amount is due from his customers. It is also not proved by the petitioner that the landlord/respondent has some other non-residential building in the same locality.

10. The Rent Control Authority has analyzed the comparative hardship faced by the landlord and the tenant. When the landlord is in a position to vacate the premises which belongs to his brother and now the petition schedule property has become the property of the petitioner, he is entitled to occupy the same and the Rent Control Authority has allowed the petition. The difficulty, that



would be faced by the landlord in getting another rented non-residential building in the same area, is also observed. It is also observed from the evidence that the tenant has his own property in the Meenakshi Puram Area, where he can run his business. Hence, in view of the necessity as stated by the petitioner, the claim of the respondent/landlord is a bonafide one.

11. The Rent Control Appellate Authority has relied on the decision reported in 2010 (6) CTC page 135, wherein it is held as follows:

"Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (T.N. Act 18 of 1960), Section 10(3)(a)(iii)- It is not for Tenant to dictate as to how Landlord has to shape or size, control and contain his own desire in seeking shelter- Retired official living in a rented place wanting to occupy his own premises cannot be faulted".

12. Upon considering the submissions made by both sides and on perusing the materials available on record, I am of the view that the finding of the rent control appellate authority in confirming the order of the rent control authority needs no interference by this Court. The petitioner/tenant is directed to vacate the premises within a period of three months from the date of receipt of a copy of this order, failing which, the landlord is permitted to take action in accordance with law.

13. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Principal, Subordinate Judge cum Rent Control Appellate Authority, Nagercoil.

2. The Principal District Munsif cum Rent Controller, Nagercoil.

Copy to:

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

+1CC to Mr. T.R. Jeyapalam, Advocate, SR.No. 58534

+1CC to Mr. K. Vamanan, Advocate, SR.No. 58231

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

27.03.2018