



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2018

CORAM :

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (NPD) (MD) No.2239 of 2013

and

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

D.Dhanabakkiya Lakshmi

:Petitioner

vs.

K.N.Ramachandran

:Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control), Act, 1960, against the fair and decreetal order dated 28.06.2013, made in R.C.A.No.2 of 2011, on the file of the Rent Control Appellate Authority (Principal Subordinate Judge), Karur, confirming the fair and decreetal order dated 28.07.2010, made in R.C.O.P.No.15 of 2007, on the file of the Rent Controller (Principal District Munsif Court) Karur.

For Petitioner

: Mr.P.Athimoolapandian

For Respondent

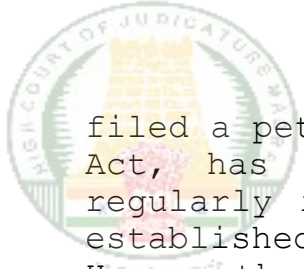
: Mr.P.Chandrasekar
for Mr.E.K.Kumaresan

ORDER

The tenant is the revision petitioner in this case. The respondent / landlord has filed a petition for eviction in R.C.O.P.No.15 of 2007, before the Rent Controller (Principal District Munsif Court) Karur, on the grounds of wilful default, own use and occupation.

2.With regard to the wilful default, it is the contention of the tenant that he has earlier filed a petition in R.C.O.P.No.17 of 2001, under Section 8(5) of the Act and the same was allowed. Since the money is being deposited regularly in Court, it is contended that there is no wilful default.

3.With regard to own use and occupation, it is the contention of the tenant that the respondent / landlord owns some other buildings and that therefore, the petition filed under Section 10(3)(1) is not maintainable. The Rent Controller after going through the records, found that the tenant, though, had earlier



filed a petition in R.C.O.P.No.17 of 2001, under Section 8(5) of the Act, has not established the fact that he has paid the rent regularly in Court. As a matter of fact, from the records, it was established that the tenant is not regular in payment of rent. Hence, the Rent Controller found that the default committed by the tenant is wilful. As regards, own use and occupation, though the tenant has stated that the landlord owns some other property in the same town, there was no document or evidence adduced to support and to prove the contention. Hence, the Rent Controller has given a specific finding that the contention of the tenant that the landlord owns some other buildings in the same town has not been established.

4. With regard to the bona fides of the landlord, the Court has also given a finding that the landlord has established that the premises is required for his own use. In tune with the findings of the Rent Controller the petition for eviction was allowed. The revision petitioner has preferred an appeal in R.C.A.No.2 of 2011, before the Rent Control Appellate Authority (Principal Subordinate Judge), Karur. The appellate authority also concurred with the findings of the Rent Controller and dismissed the appeal. As against the order passed by the Rent Control Appellate Authority in R.C.A.No.2 of 2001, the above civil revision petition has been filed.

5. The learned Counsel for the petitioner though referred to the order passed by the Rent Controller as well as the Rent Control Appellate Authority, is not able to satisfy this Court that the findings of the Rent Controller as well as the Rent Control Appellate Authority are vitiated for any valid ground. The fact that the tenant has not produced any documents to show that the landlord is in occupation of any other building on his own in the town, is admitted before the Courts below. As regards bona fides of the landlord in seeking eviction on the ground of own use, the evidence of landlord has been appreciated and the findings of the Courts below are well founded.

6. Regarding wilful default, the Rent Controller, after analysing the ledger that were produced before the Court has given its findings that the tenant has committed default and irregular in payment of rent, even while depositing rent in Court pursuant to order in the petitioner under Section 8(5) of the Act. As a matter of fact, the monthly rent is only Rs.300/- and the tenant deposited a sum of Rs.4,500/- on 14.11.2007. Having regard to the conduct of the tenant in neglecting the payment of rent, even after filing a petition under Section 8(5) of the Act, the Authorities have rightly concluded that the tenant has committed wilful default in payment of rent. Since the findings of the Rent Controller as well as the Rent Control Appellate Authority are based on the materials and reasons, this Court is not inclined to interfere with the findings of the authorities below which exercising power under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control), Act, 1960.



7.As a result, this civil revision petition is dismissed. However, there is no order as to costs. Consequently, the connected miscellaneous petition is closed.

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/True Copy/

Sd/-

Assistant Registrar (T&P)

Sub Assistant Registrar

To

1. The Rent Control Appellate Authority
(Principal Subordinate Judge), Karur.
2. The Rent Controller (Principal District Munsif Court) Karur.
3. The Section Officer,
Vernacular Records, (2 Copies)
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.E.K.Kumaresan, Advocate in SR.No.63806.

CMR

DS/SV/MMS/SAR-3 :17.05.2018: 3P/6C

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