

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P(NPD)No.1719 of 2013
and
M.P.No.1 of 2013

1.K.Swaminathan
2. S.Amutha

... Petitioners/Tenants

Vs.

Oliraje Benjamin Djody

... Respondent/Landlord

PRAYER: Civil Revision Petition filed under Section 25 of the Pondicherry Buildings Lease and Rent Control Act, 1969 to set aside the Fair and Final Order dated 06.03.2013 made in R.C.A.No.7 of 2012 on the file of the II Additional District Judge, Pondicherry confirming the Fair and Final Order dated 03.01.2012 made in H.R.C.O.P.No.34 of 2008 on the file of the Rent Controller, Pondicherry.

For Petitioners : Mr.K.S.Karthik Raja

For Respondent : Mr.Naveen
For M/s.T.P.Manoharan

ORDER

This Civil Revision Petition has been filed against the Order dated 06.03.2013 made in R.C.A.No.7 of 2012 on the file of the II Additional District Judge, Pondicherry confirming the Fair and Final Order dated 03.01.2012 made in H.R.C.O.P.No.34 of 2008 on the file of the Rent Controller, Pondicherry. Aggrieved over the concurrent finding of the courts below ordering eviction on the ground that demolition and reconstruction and the present Civil Revision Petition has been filed.

2. The petition has been originally filed for eviction of the respondent on the ground that they committed willfull default and also building is in dilapidated condition. However, the courts below ordered the eviction on the ground of demolition and reconstruction as against which the present Civil Revision Petition has been filed.

3. It is the contention of the respondent that though the revision petitioner stated that the petitioner building is aged about 75 years, R.W.1, K.Swaminathan, in his evidence had stated that the building is 40 years. The building is not in dilapidated condition, require immediate demolition and reconstruction. The trial Court and the First Appellate Court having found that the revision petitioners are paying rent regularly, dismissed the application for willful default, and ordered

eviction, on the ground that the building require immediate demolition and reconstruction.

4. On the side of the petitioner, the petitioner examined himself as P.W.1 and exhibits Ex.B1 to Ex.B4 were marked and on the side of the respondent R.W.1 was examined and exhibits Ex.R1 to Ex.R7 were marked.

5. The trial Court considering the fact, that the respondent is working in France and she has a sufficient means for demolition and reconstruction and considered the entire aspects and allowed the application. When the land lord has sufficient means to raise funds and building is also require immediate demolition and reconstruction, when the evidence of the party has also clearly indicate that the building is more than 40 years and require immediate demolition and reconstruction. The land lord is certainly entitled the order of eviction unless tenant establishes the fact that requirement of land lord is not bonafide.

6. It is now well submitted that the order eviction on that ground the building need not be in dilapidated condition. From the evidence

adduced on both sides, this Court found that the requirement of the landlord is a bonafide one. Hence, the Order passed by the Court below does not require any interference hence, this court does not find any infirmity or illegality in the order passed by the trial Court.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

14.02.2019

Index: Yes/No

Speaking/Non-Speaking

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To

1. The II Additional District Judge, Pondicherry.
2. The Rent Controller, Pondicherry.
3. The Section Officer, VR Section, Madras High Court.

N.SATHISH KUMAR, J.

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