

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	11.04.2019
Pronounced On	04.06.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P (NPD).No.1294 of 2014
and
M.P.No.1 of 2014

S.Murugan

.. Petitioner

vs

S.Kasthuribai

.. Respondent

Prayer: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent) Control Act, 1960 to set aside the order dated 11.02.2014 in R.C.A.No.636 of 2012 on the file of the VIII Judge, Court of Small Causes at Chennai confirming the orders in R.C.O.P.No.1376 of 2011 by the learned Rent Controller, XII Small Causes Court, Chennai dated 03.09.2012 by allowing the Revision Petition.

For Petitioner : Mr.K.J.Parthasarathy

For Respondent : Mr.R.Jayaprakash

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ORDER

The present Civil Revision Petition has been filed by an unsuccessful tenant who has suffered successive adverse order both before the Rent Controller and the Rent Control Appellate Court.

2.The respondent (landlord) had filed R.C.O.P. No. 1376 of 2011 before the Rent Controller against the petitioner under Section 10(2) (iii)- for acts of waste, Section 10(2) (v)- for nuisance and under Section 10 (3) (c)- for additional accommodation under the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (hereinafter referred to as the Act).

3.The petitioner was tenant of the respondent from the 2010 and was paying the monthly rent of Rs.5,500/-in terms of Rental Agreement. The respondent requested the petitioner to vacate the premises for own use stating that her daughter Sweetline was starting a textile retail shop and therefore the rented premises was required her additional accommodation. Two other tenants who were in occupation were also asked to vacate the shops for the aforesaid purpose. However, the petitioner alone refused to vacate and therefore legal notice was issued followed by filing of the R.C.O.P. No. 1376 of 2011 before the Rent Controller.

4.By an order dated 3.9.2012, the Rent Controller ordered eviction of the petitioner accepting the contention of the respondent regarding additional accommodation under Section10(3)(c) of the

Act and for act of waste under 10(2)(ii) holding that the requirement was justified after considering the relative hardship in favour of the respondent landlord.

5.As far as ground under Section 10(2) (iii)-for acts of waste is concerned, the Rent Controller found that the petitioner had removed the plastic fencing with the assistance of commercial association despite an injunction from a civil court to prevent damage from removing plastic fence. As such, the petitioner was found guilty of removing the plastic grill illegally without the previous permission of the respondent.

6.In the proceedings before the Rent Controller, the petitioner had pleaded that he was running the provision shop and that it was not possible for him to vacate the premises immediately as he had allowed credit sales to his customers and there were receivables from many of the customers amounting to Rs.15 lakhs and that he had borrowed Rs.8 lakhs for doing business. However, the petitioner did not produce any evidence in support of the above contention.

7.On behalf of the petitioner, petitioner himself deposed evidence and marked seven documents including that of plaint in

O.S.No. 5408 of 2011. The respondent-landlady and her daughter Sweetline deposed evidence as PW 1 and 2. They marked Exhibit P1 to P8.

8. Aggrieved by the order passed by the Rent Controller, the petitioner preferred R.C.A.No.636 of 2012 before the Rent Control Appellate Court. The Rent Control Appellate Court dismissed the Appeal filed by the petitioner vide impugned order dated 11.02.2014. Aggrieved by the same, the petitioner tenant has filed the present Civil Revision Petition to set aside the same.

9. The petitioner in his deposition during the cross examination has stated that he was not aware any other property that was available in Thangam Colony for him to shift. He has also not made any attempt to find any property in Thangam Colony and instead has suggested that it would be easier for the respondent-landlady and her daughter to identify a space in Thangam Colony to do Saree business. He has also stated that the case of the respondent-landlady that her daughter will not be able to get any other property in Thangam Colony to do saree business was false. He has also stated that he was earning a net income of Rs.20,000/- per month from the sale of provisions, though he would say that there is a

receivable of Rs.15,00,000/- from his customers to whom who he had made credit from sales and that he had borrowed a sum of Rs.8,00,000/- to do business and that the total value of the grocery/provisions stocked was for the amount of Rs.5,00,000/-. He has admitted that the respondent/landlady has kept other two shops vacant and it was remaining under lock.

10.It is submitted that removal of plastic fence and by putting grill gate did not constitute nuisance. The learned Counsel submits that as per the decision of the Honourable Supreme Court in **Kanniammal vs Chellaram** 2002 (2) CTC 312 and the decision of the Honourable Supreme Court in **Shri.Balaganesan Metals vs M.N.Shanmugham Chetty & Others** 1987 (2) SCC 707, eviction ordered was not sustainable.

11.The learned counsel for the petitioner relied upon the following decisions:-

- i. **Kanniammal vs Chellaram** 2002 (2) CTC 312.
- ii. **C.Shanmugham vs N.S.K.Chokkalingam Pillai** 1992 (1) LW 315.
- iii. **Janab Mohd. Abdulla vs Janab Abdul Sammad** 1957 (1) MLJ SN 20.
- iv. **Hari Rao vs N.Govindachari and others** 2005 (4) CTC 694.
- v. **National Elementary School, Pundarikulam North Bank, Nagapattinam, rep. by its Correspondent vs**

R.M.Sundaram 2004 (3) CTC 712.

12.In **Kanniammal vs Chellaram** 2002 (2) CTC 312 the decision rendered in **Shri.Balaganesan Metals vs M.N.Shanmugham Chetty & Others** 1987 (2) SCC 707 was quoted wherein it was held as follows:-

This Court held that Clause (c) makes provision enabling a landlord to seek the eviction of any tenant occupying the whole or any portion of the remaining part of the building for residential or non-residential purposes for satisfying the additional need of the landlord irrespective of whether the need is for residential or business purpose. The phraseology employed by the Legislature in framing Section 10(3)(c) and the use of non obstante clause therein make it clear that Section 10(3)(c) overrides the provisions of Section 10(3)(a)(i) and (iii). **The latter provisions, i.e. 10(3)(a)(i) and (iii) have two in-built restrictions, viz. the landlord seeking eviction of a tenant thereunder should not be occupying a building of his own, and secondly, the nature of user of the leased property by the tenant must correspond to the nature of the requirement of the landlord. The use of the words "requires additional accommodation", as qualifying "for residential purpose or for purpose of a business which he is carrying on" indicates that under Section 10(3)(c) the requirement for additional accommodation must be for the same purpose for which the part of the building in occupation of the landlord is being used. If a landlord is occupying only a part of a residential building he may seek ejectment of tenant for his requirement of additional**

accommodation for residential purpose though the tenancy premises are being used by tenant for non-residential purpose.

Similarly, a landlord who is occupying only a part of a building for non-residential purpose may have the tenant evicted if he requires additional accommodation for non-residential purpose it being immaterial that the tenant is occupying a part of the premises for residential purpose. Since the requirement of additional accommodation by the landlord is with reference to the manner of his user of that part of the building which is in his occupation it is the nature of that requirement that should prevail over the manner of user of the tenant of the portion leased out to him. In other words, the need for additional accommodation is for extending the user of the building by the landlord to the leased portion for the same purpose for which the portion not leased out is being used. **It is not the requirement of Section 10(3)(c) that the nature of the requirement of the landlord and the nature of the user of the leased portion by the tenant should coalesce.** That being the position of law, Section 10(3)(c) would not cover the present case where the landlady is occupying the not leased out portion of the building for residential purpose and the requirement for additional accommodation in another part of the building is for a non-residential purpose. The appellant- landlady rightly did not seek eviction of the tenant under Section 10(3)(c) and the High Court is not right in forming an opinion that the landlady could have maintained the application for eviction only under Section 10(3)(c) of the Act.

13. The learned counsel for the petitioner submitted that if at all the respondents wanted to evict the petitioner, she should have satisfied Section 10(3)(a)(iii) and under Section 10(3)(C). There the High Court formed an opinion that the landlady was occupying a part of the same building in which the rented premises was situated, she could have sought for eviction of the tenant only under Section 10(3)(a)(iii) Act, But as the landlady had filed the petition seeking under Section 10(3)(a)(iii) of the Act, it was not maintainable and therefore, the order of eviction was liable to be set aside. After referring to the above mentioned decision, the Court held that the application for an order for recovery of possession filed by the landlady attract applicability of Section 10(3)(a)(iii). The averments have been found substantiated entitling the landlady for an order under Section 10(3)(a)(iii).

14. In the 2nd case, the Court held that the manner in which the Appellate Authority has disposed of the Rent Control Appeal is not at all satisfactory.

15. The learned counsel for the petitioner submitted that there is no case made out for verbal abuse under Section 10(2)(v) of the said Act. In this connection he referred to the head notes in the

judgment of this Court in the case of **Janab Mohd. Abdulla vs Janab Abdul Sammad** 1957 (1) MLJ SN 20. Though the said decision was rendered in the context of Section 7(2) (iv) of the Madras Buildings (Lease and Rent Control) Act, 1947, it was submitted that the provision is pari materia with Section 10(2)(v) of the TamilNadu Buildings (Lease and Rent Control) Act, 1960 and therefore submitted that mere verbal quarrel with the landlord was not sufficient ground for eviction under aforesaid provision of the Madras Buildings (Lease and Rent Control) Act, 1947.

16.The fifth mentioned case the court held that changing of roof by the tenant and replacing the thatched roof with asbestos sheets would not constitute an act of waste. In the fourth mentioned case the court held that fixing racks by making holes in floor, walls and beams for the purpose of trade cannot be said to be commission of acts of waste as are likely to impair materially the value of the utility of the building.

17.The learned counsel for the petitioner submitted that the Rent Control Appellate Authority has merely reiterated the order passed by the Rent Controller without any discussion. Fundamental issue is whether the petitioner was liable to be evicted in terms of

Section 10(3) (c) of the Act was not been considered either by the Rent Controller or by the Rent Control Appellate Court as no findings has been given. Therefore, the learned counsel for the petitioner submitted that the impugned order passed by the Rent Control Appellate Court was liable to be set aside. In this connection he relied upon the decision of this Court in the case of **C.Shanmugham vs N.S.K.Chokkalingam Pillai** 1992 (1) LW 315.

18.In **Amithakumar Amichand, by partner S Mohanlal vs Jawantharaj and others** (1982) 95 LW 625 this Court has held that it is well settled in law that the need for additional accommodation under Section 10 (3) (c) can be invoked only by the landlord and not for the son-in-law of the landlord to set up his clinic."

19.In **N.Jagadeesan vs K.Selvam and others** in C.R.P (NPD). Nos. 1095 to 1097 of 2004 while dealing with the facts are under a somewhat similar circumstances, the where landlord was residing upstairs portion, and the tenant was in occupation of the ground floor shop at No.4 and 5. The landlord in need of the shop No.4 and 5 for commencing an electrical business for his second son moved RCOP. The Court held that the same can be construed only

for additional accommodation in the eye of law and therefore, Section 10(3)(c) of the Act squarely applies and the RCOP petition No.1156 of 2001 was maintainable under Section 10(3)(c) of the Act.

20.The Court has observed that 'carrying on business' does not mean actually carrying on business. As a matter of fact, it will suffice if the landlord takes one significant step or has taken some steps for the purpose of carrying on business. It further held that "carrying on business" does not mean that all steps required for carrying on business should have been taken and it is enough that if one step is taken and established.

21.However on facts it was held that one cannot expect that the revision petitioner/landlord's second son to resign his job as semiskilled Khalasi for starting the electrical business, as it concerns not only with his employment (which is said to be temporary) but also with his bread and butter. In fact, the need for commencement of electrical business has arisen and it cannot be pleaded that the revision petitioner should wait till his second son Kirupakaran resigns his job in Railways and then only can file a petition and therefore, the contrary view taken by the learned Rent Controller

and the learned Appellate Authority are not correct. However, one has to see whether the civil revision petitioner/landlord has made out a case for evicting the respondent/tenant on account of comparative hardship or relative hardship. Strictly speaking, relative hardship can be well established by evidence, even though there may not be pleading in this regard either by the landlord or the tenant, in the considered view of this Court. On the aspect of comparative hardship, the duty is caused on the authorities under the TN Buildings (Lease and Rent Control) Act to render a finding. It is a sine-qua-non that unless the landlord deserves to get possession, the eviction cannot be ordered. Certainly, it is not open to the tenant to dictate as to the requirement of the landlord and as to where he shall carry on business. To put it differently, it is not for the tenant to find out to what is the nature of the business which the landlord desires to do.

22.The Court there found on facts shop No.1 and 2 which were vacant and under lock and key of the revision petitioner/landlord. The shops No.1 and 2 being adjacent ones and why they are not to be made use of by the revision petitioner and there was no satisfactory explanation on his side. Considering the fact that the shop No.1 and 2 which are vacant and adjacent ones,

<http://www.judis.nic.in> wherein the revision petitioner/landlord can start the electrical

business of his second son Kirupakaran and viewed in that perspective, the relative hardship of the respondent in the event of eviction will be more and will outweigh the advantage to revision petitioner/landlord and therefore, the Court took the view that eviction of the respondent/ tenant cannot be ordered in the eye of law and the same was not bonafide and resultantly, the civil revision petition was dismissed.

23. Per contra, the learned counsel for the respondent landlord submitted that the order passed by the Rent Controller and the Rent Control Appellate Court requires no interference and that the orders is well reasoned. He further submitted that the landlord is in occupation of the 1st floor of the building which has three shops in the ground floor out of which shops which two shops were also vacated at the request of the respondent-landlady. It was submitted that the respondent can do business in the two shops alone and considering relative hard ship of the respondent, the orders requires no interference.

24. The learned counsel for the respondent relied upon the following decisions:-

- i. **R.V.Dharmalinga Mudaliar vs K.Annamalai** AIR 1981 Mad 312.

- ii. **Joginder Pal vs Naval Kishore Behal** (2002) 5 SCC 397.
- iii. **Batco Roadways, rep. by its Partner, Mr.M.H.Patni vs A.Radhammal** 2009 (2) CTC 705.
- iv. **Bhagwan Chand & Co., rep. by its Proprietor, Mr.B.Chandanmull vs Uttam Chand and others** 2007 (5) CTC 151.
- v. **Shamshad Ahmad and Others vs Tilak Raj Bajaj (Deceased) Through Lrs** (2008) 9 SCC 1.
- vi. **Boorugu Mahadev and Sons and Another vs Sirigiri Narasing Rao and Others** (2016) 3 SCC 343.
- vii. **Mehmooda Gulshan vs Javaid Hussain Mungaloo** (2017) 5 SCC 683.
- viii. **Narapatchand A. Bhandari vs Shantilal Moolshankar Jan and Another** (1993) 3 SCC 351.
- ix. **Hindustan Petroleum Corporation Limited vs Dilbahar Singh** (2014) 9 SCC 78.

25.In **R.V.Dharmalinga Mudaliar vs the court K.Annamalai** AIR 1981 Mad 312 the court referred to the decision rendered in **K.G Davasay versus The State of Madras, 1971 MLJ 433** wherein it was held that though the daughter was not specifically included within the definition "for his own occupation or for the occupation of son", yet as a matter of interpretation, it was held that the legislature intended daughter also to be included in the definition of Section 10 (3) (a) (i) of the Act. The court held as follows:-

26.In **Joginder Pal vs Naval Kishore Behal** (2002) 5 SCC 397 the court held that Section 10 (3) (c) of the Act provides for the

tenant placing the landlord in possession "if he requires additional accommodation for residential purpose or for purpose of business which he is carrying on". The consistent view of this court has been to give wider interpretation that not only the landlord but also included includes his family members and such an approach was held stands to reason, justice, equity and good conscience. The requirement of the landlords first wife's son working independently so as to set up him and his family was held covered by the aforesaid provision in **RV Dharmalinga versus Parameswari Devi** (1977) 2 RCJ 529. The Honourable Supreme Court concluded as follows:-

33. Our conclusions are crystalised as under:

- i. the words 'for his own use' as occurring in Section 13(3)(a)(ii) of the East Punjab Urban Rent Restriction Act, 1949 must receive a wide, liberal and useful meaning rather than a strict or narrow construction.
- ii. The expression ___ landlord requires for 'his own use', is not confined in its meaning to actual physical user by the landlord personally. The requirement not only of the landlord himself but also of the normal 'emanations' of the landlord is included therein. All the cases and circumstances in which actual physical occupation or user by someone else, would amount to occupation or user by the landlord himself, cannot be exhaustively enumerated. It will depend on a variety of factors such as inter-relationship and inter-dependence ___ economic or otherwise, between the landlord and such person in the background of social, socio-religious and local customs and obligations of the society or region to which they belong.
- iii. The tests to be applied are : (i) whether the

requirement pleaded and proved may properly be regarded as the landlord's own requirement? and, (ii) Whether on the facts and in the circumstances of a given case actual occupation and user by a person other than the landlord would be deemed by the landlord as 'his own' occupation or user? The answer would, in its turn, depend on (i) the nature and degree of relationship and/or dependence between the landlord pleading the requirement as 'his own' and the person who would actually use the premises; (ii) the circumstances in which the claim arises and is put forward, and (iii) the intrinsic tenability of the claim. The Court on being satisfied of the reasonability and genuineness of claim, as distinguished from a mere ruse to get rid of the tenant, will uphold the landlord's claim.

- iv. While casting its judicial verdict, the Court shall adopt a practical and meaningful approach guided by the realities of life.
- v. In the present case, the requirement of landlord of the suit premises for user as office of his chartered accountant son is the requirement of landlord 'for his own use' within the meaning of [Section 13\(3\)\(a\)\(ii\)](#).

27.The decision in **Batco Roadways, rep. by its Partner, Mr.M.H.Patni vs A.Radhammal** 2009 (2) CTC 705 was cited to show the comparative hardship faced by the respondent landlord. It is submitted that the respondent had shown the comparative hardship she faced.

28.In **Bhagwan Chand & Co., rep. by its Proprietor, Mr.B.Chandanmull vs Uttam Chand and others** 2007 (5) CTC

<http://www.judis.nic.in> 151., this court referred to a series of decision rendered by the

Honourable Supreme Court on the issue of comparative hardship. If the landlord has clearly stated in the application that if eviction is ordered, the advantage to them will not outweigh the disadvantage that may be caused to the landlord eviction should be orderd. There the tenant was doing stationery business for more than 30 years and even if evicted he could get another shop in the same vicinity. A similar view was taken in **Shamshad Ahmad and Others vs Tilak Raj Bajaj (Deceased) Through Lrs** (2008) 9 SCC 1.

29.In **Boorugu Mahadev and Sons and Another vs Sirigiri Narasing Rao and Others** (2016) 3 SCC 343 & **Hindustan Petroleum Corporation Limited vs Dilbahar Singh** (2014) 9 SCC 78, it was held that interference in absence of jurisdictional error by the lower Court is not contemplated under the Rent control Acts.

30.In **Mehmooda Gulshan vs Javaid Hussain Mungaloo** (2017) 5 SCC 683 whild dealing with Section 11(1) (h) of the Jammu and Kashmir Houses and Shops Rent Control Act, the Hon'ble Supreme Court in paragraph 20 held as under:-

20.Thus, the question is whether there is a reasonable requirement by the landlord of the premises. This would depend on whether the landlord has been able to

establish a genuine element of need for the premises. What is a genuine need would depend on the facts and circumstances of each case. Merely because the landlord has not examined the member of the family who intends to do business in the premises, he cannot be non-suited in case he has otherwise established a genuine need. The need is a matter of appreciation of evidence, and once there is no perversity in the appreciation of evidence on the need, the said finding of fact cannot be reopened. It may be crucially relevant to note that the eviction is not sought on the last limb of Section 11(1)(h) of the Act, namely, "for the occupation of any person for whose benefit the house or shop is held". The premises sought to be evicted is not held for the benefit of the son alone, but the whole family. It is for the own occupation of the landlord. It has been established in the facts of this case that the landlord was not happy and content with the paltry rent received from the premises. The landlord intended to engage her son in the business at the premises. It is for the landlord to decide as to the best use the premises should be put to. There is nothing wrong on the part of a landlord in making plans for a better living by doing business engaging her son. Having regard to the background of the son who is unemployed and undereducated, the appellant was able to establish that business was the available option and the tenanted premises was the only space available. Thus, the genuine need for the premises has been established. Unfortunately, the High Court has missed these crucial aspects.

31. In **Narapatchand A. Bhandari vs Shantilal**

Moolshankar Jan and Another (1993) 3 SCC 351, the court in 15

observed as under:-

15. There are no statutory definitions of 'nuisance' or 'annoyance' which under Section 13(1)(c) of the Act constitute a ground for recovery of possession by landlord of a premises in the occupation of a tenant. In the case with which we are concerned, the acts of nuisance or annoyance complained of are committed by the tenant and persons residing with him in the premises which is a tenement (flat) lying amidst other tenements (flats) of the one and same storeyed building. The acts of the defendant or persons residing with him in the tenanted premises which are found as acts causing nuisance or annoyance to adjoining or neighbouring occupiers, cannot fall short of being acts of nuisance or annoyance if regard is had to their nature, intensity and duration and the consequential ill-effects which might have been produced by them on the normal living of such occupiers. Further, when the particular acts of the defendant or persons residing with him in the premises (flat) of a storeyed building, said to have caused nuisance or annoyance to the occupiers of adjoining or neighbouring occupiers of tenements (flats) in the very same storeyed building are seen, they cannot make us think that they were not clear acts of nuisance or annoyance envisaged under Section 13(1)(c) of the Act because of the intolerable inconveniences, sufferings, humiliations which must have been caused to the adjoining or neighbouring occupiers, due regard being given to the locality of the storeyed building, the class of people living in the tenements of the storeyed building and the nature of living to which they were accustomed. Even otherwise, the acts, said to have been committed by the defendant and persons residing with him in the premises when are, as stated, found by the fact-finding courts to have amounted to acts of nuisance or annoyance entitling the plaintiff under Section 13(1)(c) of the Act to recover

possession of the premises from the defendant and when the High Court has refused to interfere with such finding in exercise of its writ jurisdiction there could be no justification whatever for us to interfere with the same in this appeal under Article 136 of the Constitution.

32. The defence of the petitioner before the Rent Controller was that the respondent was demanding higher rent at the expiry of the lease period and was pressurising the petitioner to pay the same. Since the petitioner was not amenable, the respondent landlord had resorted to use of rowdy elements and hence the petitioner was constrained to file O.S.No 5408 of 2011.

33. The respondent thereafter filed O.S.No. 60 85 of 2011. The requirement was for the respondent's daughter to set up a saree business. According to the petitioner the saree business could be carried out with the other two vacant shops alone and that the petitioner was in occupation of only one shop measuring 225 ft² and that the requirement for carrying on the saree business was not true.

34. The issue as to whether the respondent should have invoked the provisions of Section 10 (3) (a) (i) *albeit* that is in case of a residential building, if the landlord requires for his own

occupation or for the purpose any member of his family and if he or any member of his family is not occupying residential building offers own in the city, town or village concerned or under Section 10 (3) (c) *albeit* that is in case of the landlord occupying only a part of the building whether residential or non-residential, for additional accommodation for residential purpose or for the purpose of business *which he is carrying on* as the case has to be judged from the attendant facts and circumstances of the case.

35.The requirement was not asked for residential purpose and therefore Section 10 (3) (a) (i) of the Act could not have been invoked by the respondent-land lady.

36.Strictly Section 10 (3) (c) can be invoked only where the landlord is doing business by himself or herself. In this case respondent-landlady was admittedly not carrying on any business when the request was made to the petitioner. On the date of the petition no business was also carried on by her daughter. It appears it was in anticipation of the business to be started by the daughter of the respondent, a request was made to the petitioner to vacate the rented premise. As per the decisions cited by the learned counsel in **R.V.Dharmalinga Mudaliar vs K.Annamalai** AIR 1981

(2017) 5 SCC 683 and in **Narapatchand A. Bhandari vs Shantilal Moolshankar Jan and Another** (1993) 3 SCC 351 supra have held that requirement by the members of the family member was sufficient to uphold eviction.

37. Even as per the decision rendered in **N. Jagadeesan vs K. Selvam and others** in C.R.P (NPD). Nos. 1095 to 1097 of 2004 it was held that though the landlady was in need of the rented premises, however on an examination of comparative hardship, the needs of the tenant out weighted the need of the landlady.

38. The petitioner-tenant in the present case is also not without remedy. Under Section 10(5) of the Act if the tenant is wrongly evicted pursuant to the order sub-section (3) or sub-section (3-A) and if the owner does not himself occupy the building within one month of the date of obtaining possession or having so occupied it, vacates it without reasonable cause, such a tenant may within six months of such date, may apply for re-possession to the Rent Controller.

39. If any loss is suffered by a petitioner-tenant on account of shifting from the rented premises pursuant to an order under

Section 10(3) and (3-A) of the TamilNadu Buildings (Lease and Rent Control) Act where restoration is ordered under Section 10(5), the petitioner-tenant can always apply to a Civil Court for appropriate compensation for the loss incurred by him. Therefore, the interest of the petitioner-tenant is sub-servient to the interest of the respondent-landlady and therefore the petitioner-tenant cannot insist he should not be evicted. The Act has factored all the eventuality and therefore the tenant cannot insist that he should not be evicted.

40. In the present case, the two shops were vacated in anticipation of grant plan to start a saree business in all the three shops. The petitioner has also not stated that the other two shops were rented out to the third parties and that the requirement of the respondent-landlady and her daughter were not bonafide and that the proceedings were a mere ruse to evict the petitioner to get higher rent from others.

41. The petitioner has also not made any attempt to shift out.

He has also not demonstrated how the respondent-landlady and her daughter can fragment the saree business partially in their own building in the two vacant shops and partially in another shop in the locality to justify his continuance with the tenancy. The comparative

respondent-landlady and her daughter. Further, both the Rent Controller and the Rent Control Appellate Court have held that the respondent-landlady were entitled to evict the petitioner. The

42.The petitioner has admittedly overstayed on the property despite the order passed by the Rent Controller as early as on 03.09.2012 in R.C.O.P.No.1376 of 2011 which was filed as early as on 16.08.2011. The jurisdiction has been properly exercised.

43.In view of the above observations the present Civil Revision Petition is dismissed. The petitioner is directed to vacate the rented premises within a period of four weeks from the date of receipt of a copy of this order.

44.The present Civil Revision Petition is dismissed. No cost. Consequently, connected Miscellaneous Petition is also closed.

04.06.2019

Index :Yes/No
Internet :Yes/No

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To

- 1.The VIII Judge,
Small Causes Court,
Chennai.
- 2.The XII Judge,
Small Causes Court,
Chennai
- 3.The Section Officer,
V.R.Section, High Court, Madras.



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C.SARAVANAN, J.

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Pre-delivery order in

C.R.P (NPD).No.1294 of 2014
and
M.P.No.1 of 2014

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