

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(NPD).No.5026 of 2014

and

M.P.No.1 of 2014

V.Rajeswari

... Petitioner/Tenant

Versus

P.Shantha

... Respondent/Land lord

This Civil Revision Petition has been filed under Rule 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1974, to set aside the order dated 25.09.2014, passed in RCA.No.71 of 2013, on the file of the Small Cause Court at Chennai and confirming the order dated 31.01.2013, passed in RCOP.No1177 of 2010, on the file of the X Small Cause Court at Chennai.

For Petitioner : Mr.M.Vivekanandan

For Respondent : Mr.S.Udhayakumar

J U D G M E N T

The tenant is the revision petitioner. Challenging the order passed in RCA.No.71 of 2013 in RCOP.No.1177 of 2010, on the file of the IX Court of Small Causes, Chennai.

2 The respondent herein/land lord has filed RCOP.No.1177 of 2010 before the X Small Cause Court, Chennai, to direct the revision petitioner/tenant to vacate and hand over the vacant possession of the premises, on the premise that the land belongs to the Arulmigu Parthasarathy Swami Thirukkcoil, Triplicane, Chennai, was leased out to her and she put up the superstructure and thereafter, the petitioner herein was inducted into the possession as a tenant from the month of December, 2002, with monthly rent Rs.3,000/- and that the revision petitioner has paid Rs.30,000/- as advance.

3 The petition premises is door No.9, old No.5, Arulmigu Parthasarathy Swami Thirukkcoil, Triplicane, Chennai – 5.

4 The learned counsel for the respondent/ landlady would contend that the respondent has taken temple land outside on lease and put up the super structure and given for rent to the revision petitioner herein. As her son viz., R.K.Visesh Kumar, got married and they are now residing at Thiruvanmiyur, with his wife in a small place and hence, she required petition premises for her own occupation, filed the petition under Section 10(3) of the Building and Lease Control Act for owner's occupation.

5 The tenant, who is the respondent before the Rent Controller has filed counter statement disputing the ownership of the landlady with regard to the building and further contended that both land as well as the building was actually belonged to the Arulmigu Parthasarathy Swami Thirukkoil, Triplicane, Chennai - 5 and the same was not disclosed by her at the time of induction into the tenancy and hence, the building belongs to the temple and hence, exempted from the purview of the Building Lease and Rent Control Act and further stated that the working place of the son of the landlady is far away from the petition premises and hence, plea is not bonafide.

6 Before the learned Rent Controller PW1 and PW2 examined, namely, landlady and his son and Exs.P1 to P7 were marked. On behalf of the respondent, respondent herself was examined as RW1 and Exs.R1 and R2 were marked.

7 After going though the evidence of PW1 and RW1 and documents filed therein, the learned Rent Controller had come to the conclusion that the land belongs to Arulmigu Parthasarathy Swami Thirukkoil and building/super structure was constructed by

the landlady/respondent herein and the revision petitioner/tenant was inducted into possession on the monthly rent and requirement of the landlady for the personal use and occupation, in view of the enlargement of the family size, on marriage of her son appears to be a bonafide and rendered a factual finding and accordingly granted order of eviction.

8 Aggrieved against the said order of eviction, RCA.No. 81 of 2013 was filed and the same was dismissed and hence, the Civil Revision Petition.

9 The learned counsel for the tenant/revision petitioner would contend that both the Courts below under the Rent Control Authorities have not properly appreciated the facts on the proper prospective, as to the ownership of building and rendered erroneous finding and furthermore, the alleged requirements by the landlady, is not bonafide and draw my attention to the pleadings.

10 The learned counsel for the respondent/landlady made his submission by pointing out the findings in the judgment of the Trial Court and the cross examination of RW1 as extracted by the both the Courts below.

11 It is submitted that the revision petitioner was inducted into possession as a tenant by the landlady and the claim of the revision petitioner is that the building belongs to the temple. According to the revision petitioner, except the original possession of the building by the landlady, no other documents or supporting evidence has been let in by her before the Rent Controller, to substantiate the plea taken by her.

12 Even in the present petition, the landlady has fairly stated that the land belongs to the temple and she had put up superstructure, inducted the revision petitioner herein as a tenant. The said factum was admitted by RW1 in the cross examination.

13 In so far as the burden of proof regarding ownership of the building, tenant also has not let in any evidence either oral or documentary to substantiate her version.

14 Further more the requirements appear to be a bonafide one viz., on the marriage of her son and she also be got a grand child as could be seen from Ex.P6/Birth Certificate of V.S.Jenardan (Visesh Kumar's son) & Ex.P7/Birth Certificate of

R.K.Harini(Rajesh Kumar's Daughter) and hence, both the Courts below have concurrently given a factual finding as to the ownership of the building and bonafide requirements of the the landlady. Further more, in the city of Chennai, it cannot be said that travelling 20 kms per day could be easy one as it is only far off place and hence, the other contention raised by the revision petitioner also does not disclose the challenge in respect of bonafide of the landlady, in respect of her day to day activities.

15 In this view of the matter, I do not find any infirmity in the concurrent finding rendered by the authorities below.

16 In the result, the Civil Revision petition stands dismissed and the order dated 25.09.2014, passed in RCA.No.71 of 2013, on the file of the Small Cause Court at Chennai is confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

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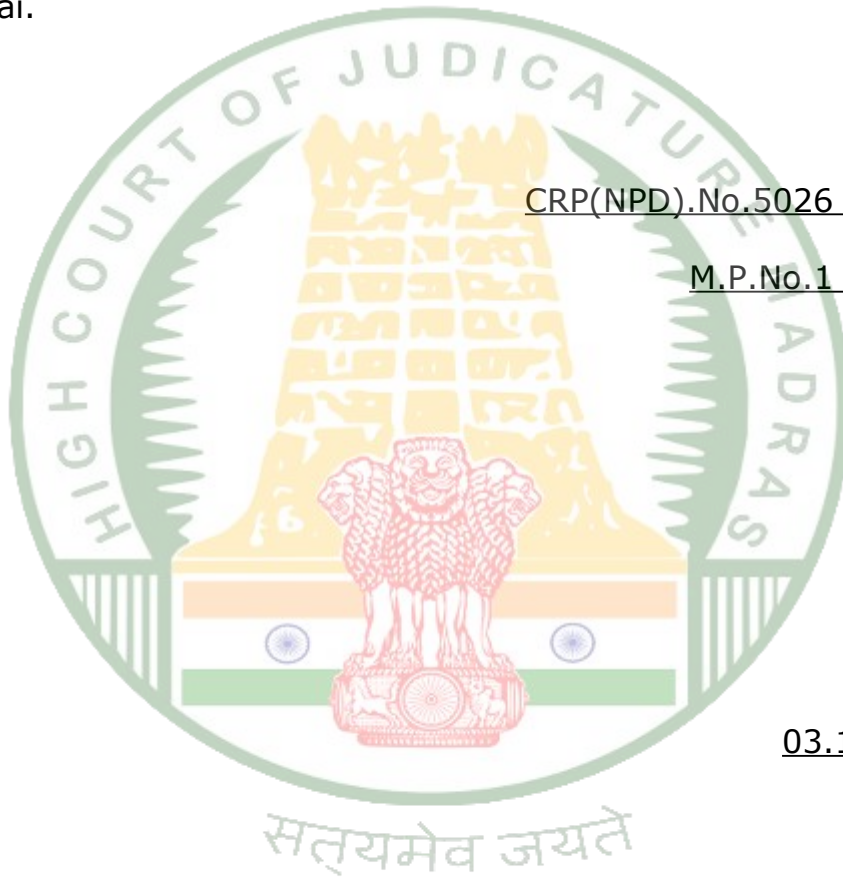
Speaking Order:Yes/No

RMT.TEEKAA RAMAN., J.

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To

- 1.The Small Cause Court,
Chennai.
- 2.The X Small Cause Court,
Chennai.



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