

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.3070 of 2018
and
C.M.P.No.17772 of 2018

1.Annapoorani
2.Kundavi
3.Kaviya

...Petitioners

Vs

1.R.Narayanan
2.R.Srinivasa Ragavan
3.Kothai Nayaki
4.Vaidegi

...Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 18 of 1960 as amended by Act 23 of 1973 and Act 1 of 1980, against the order dated 12.07.2018 made in R.C.A.No.8 of 2017 on the file of the learned Rent Controller Appellate Tribunal, Principal Subordinate Judge, Vellore, confirming the order and decretal order dated 20.02.2017 made in R.C.O.P.No.6 of 2004 on the file of the learned Rent Controller, Principal District Munsif, Vellore.

For Petitioner : Mr.T. Dhanyakumar

ORDER

The above Civil Revision Petition is filed challenging the concurrent order of the Appellate Authority namely, the learned Principal Subordinate Judge, Vellore, in R.C.A.No.8 of 2017 confirming the order of the learned Rent Controller (Principal Distirct Munsif), Vellore, in R.C.O.P.No.6 of 2006 ordering eviction of the revision petitioner/tenant on the ground of demolition and reconstruction for the owner's occupation.

2.The respondents herein, who are the landlords, had filed R.C.O.P.No.6 of 2006 on the file of the learned Rent Controller, (Principal Distirct Munsif), Vellore, for evicting the tenants on the ground that the building had become old and is in a dilapidated condition. The respondents wanted to demolish the same to put up a new construction for the purpose of putting up a shoe upper unit and a showroom. The respondents further contended that

they have no other business premises in the main road to put up the showroom and the suit property is ideally located for the said purpose. Refuting the said petition, the tenants would contend that the building is not in a dilapidated condition and not require demolition. He would further contend that the respondents do not have necessary wherewithal to construct a new building.

3.The learned Rent Controller, after hearing the parties, had come to the conclusion that the building is in a dilapidated condition and further, the landlord had wanted the same to put up a shoe upper unit and a showroom for their livelihood. It is also seen that the landlord are possessed of sufficient funds for undertaking the said construction work. The learned Rent Controller therefore held that the petitioners/landlords have proved their bonafides for seeking for demolition of the buildings for putting up a new construction which ultimately the landlords required for running their business. The said order has been taken up on appeal by the revision petitioners in R.C.A.No.8 of

2017 before the learned Principal Subordinate Judge, (Appellate Authority), Vellore, in R.C.A.No.8 of 2017. The learned Judge has also confirmed the findings of the learned Rent Controller, Vellore. The said concurrent order is the subject matter of the present Civil Revision Petition.

4.Mr.T. Dhanyakumar, learned counsel appearing for the revision petitioners would contend that the petitioners cannot file a single petition for owner's occupation as well demolition and reconstruction. He would further argue that the building is not in such a state that it requires demolition and further, the landlords have not proved the fact that they are going to conduct their business in the petition premises and the very petition lacks bonafides and this factor has not been adverted to by both the authorities below.

WEB COPY

5.Heard the learned counsel appearing for the revision petitioners and perused the material on record.

6.As regards the first argument of the learned counsel appearing for the revision petitioners, from a reading of the petition, it is seen that the landlords are seeking to demolish and reconstruct the demised premises and on such reconstruction, the landlord intends to use the house as showroom for the shoe upper unit. Therefore, the relief of owner's occupation is only consequent and after the demolition and reconstruction of the structure. It is seen that the landlords have filed sufficient proof to show that they have necessary wherewithal for putting up new construction and the Plan has not been submitted. The Advocate Commissioner who has inspected the petition premises has also opined that the building is old and in a dilapidated condition and that the building is over 70 years of age and from Ex.A.2, it is seen that the demised premises was in existence even at that point of time. Therefore, it can be safely concluded that the building is old and to some extent dilapidated and therefore, the bonafides of the landlord is proved. That apart, sitting in revision

under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 18 of 1960 as amended by Act 23 of 1973 and Act 1 of 1980, this Court cannot reappraise evidence unless it is demonstrated that the findings are so perverse that it requires reconsideration. The instant order under challenge does not suffer from such perversity and I therefore find no infirmity in the order passed by the Authorities below.

This Civil Revision Petition is therefore dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

05.03.2019

Index : Yes/No

Internet : Yes/No

mps

To

1.The Rent Controller Appellate Tribunal,
Principal Subordinate Judge,
Vellore.

2.The Rent Controller,
Principal District Munsif,
Vellore.

WEB COPY

P.T. ASHA, J,

mps



C.R.P.(PD).No.3070 of 2018
and
C.M.P.No.17772 of 2018

WEB COPY **05.03.2019**