



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2019
(Reserved on 16.04.2019)

WEB COPY

CO RAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANUC.R.P(NPD) (MD)No.239 of 2011

A.M.Mohemed Kasim

... Petitioner/Respondent/Tenant

vs.

1) S.Gunasekaran

2) A.Baskar

... Respondents/Appellants/landlord

Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the fair and decreetal order dated 03.12.2010 in RCA.No.8 of 2007 passed by the Rent Control Appellate Authority (Principal Sub Court), Dindigul, confirming the order dated 14.08.2007 in RCOP.No.3 of 2002 on the file of the Rent Controller (District Munsif cum Judicial Magistrate Court), Vedasandur.

For Petitioner

: Mr.S.Anand Chandrasekar for
M/s.Sarvabhauman Associates

For Respondents

: Mr.J.Alaguram Jothi

ORDER

This revision petition is filed against the fair and decreetal order dated 03.12.2010 made in RCA.No.8 of 2007 passed by the Rent Control Appellate Authority, Principal Sub Court, Dindigul, confirming the order dated 14.08.2007 in RCOP.No.3 of 2002 on the file of the Rent Controller, District Munsif cum Judicial Magistrate Court, Vedasandur.

2.The revision petitioner is the landlord and the respondents are tenants. The case of the petitioner is that he is the owner of the demised premises and the respondents were inducted as tenants in the demised premises for running a hotel business on a monthly rent of Rs.1,200/-. According to the petitioner, he is running a footwear shop opposite to Vedasandur bus stand in a rented premises and his landlord demanded him to vacate the premises. Therefore, the petitioner approached the respondents to vacate the demised premises, but the respondents did not do so. Hence, the petitioner filed RCOP.No.3 of 2002 for eviction of the respondents/tenants on the ground of wilful default in payment of rent and own use and occupation, contending that the respondents had paid the rent only upto September 1999 and the petitioner requires the demised premises

for running his footwear shop.

3.The case of the respondents is that from October 1999, the petitioner purposely refused to receive the rent and therefore, they filed RCOP.No.1/2000 for deposit of rent into the Court which was allowed. The respondents further contended that the petitioner owns 43 shops near to the demised premises and therefore, the requirement of the petitioner is not genuine and prayed for dismissal of the RCOP.

4.After considering the oral and documentary evidence, the rent controller dismissed the RCOP on the ground of wilful default and allowed the RCOP on the ground of owner's occupation, against which, the respondents/tenants filed RCA.No.8 of 2007 before the Principal Sub Court, Dindigul, contending that without properly considering the genuinity of the petitioner's requirement, the rent controller allowed the RCOP, against which, the respondents/tenants filed appeal. The appellate authority after considering the evidence on both sides, allowed the appeal dismissing the RCOP, against which, the petitioner/landlord has filed this revision petition.

5.Learned counsel for the petitioner would contend that the appellate authority failed to note that the respondents did not prove that the petitioner owned shops at the time of filing of the RCOP and a mere discrepancy in the testimony of the petitioner in a rental deposit proceeding ought not to have been given weightage for allowing the appeal. The learned counsel further contended that the appellate authority without considering the settled law that the landlord is the best judge to choose the place of his choice and the tenant cannot dictate him to choose the place, has mechanically allowed the appeal. Thus, he prayed for allowing this revision. In support of his contention, he relied on the following decisions:-

i)Nathella Sampathu Chetty vs. Sha Vajingjee Bapulal, 1967-1-MLJ-289.

ii)Sankaranarayanan vs. Palaniswami, 1995-II-MLJ-649

iii)Ragavendra Kumar vs. Firm Prem Machinery & Co., (2000) 1 SCC 679.

iv)Ravichandran vs. Natarajan Nadar (2004) 1 MLJ 458.

6.Learned counsel for the respondents/tenants would contend that as per Section 10(3)(e) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, if the rent controller is satisfied with the claim of the landlord as bona fide, can order for eviction of the tenant. However, in the circumstances of the present case, the appellate authority finding that the petitioner owns many shops near the demised premises held that his requirement is not genuine, and rightly allowed the appeal which does not require interference by this Court. The learned counsel relied on a judgment in Gillanders Arbuthnot & Co.Ltd., vs. Mrs.V.R.Badhrunnissa, 1982 1 MLJ 437.

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7.Heard the learned counsel for the petitioner as well as the



respondents.

8. The contention of the petitioner is that he is the best person for choosing the place of his business and the respondents/tenants cannot dictate him in this regard and argued that relying upon his evidence in another RCOP proceeding for deposit of rent, the appellate authority ought not to have allowed the appeal dismissing the RCOP on the ground of owner's occupation. Perusal of record shows that in RCOP.No.1/2000, the petitioner himself has admitted in his cross examination that near to the demised premises, he owns 5 shops and 2 shops remained vacant. Even assuming that the above evidence in the rental deposit proceeding should not be taken into consideration, in the present RCOP, the petitioner has not proved his requirement for owner's occupation and he has simply stated that he does not own any other shop except the demised premises. Thus, the intention of the petitioner does not reflect bonafide and his intention is to evict the respondents in any way. Even for the ground of wilful default, the petitioner did not produce any documents to prove the same, but when he refused to receive the rent from October 1999, the respondents took steps by filing RCOP.No.1/2000, to deposit the rent into the Court. Though the petitioner cited above judgments for the proposition that mere non mentioning of some other buildings which the landlord owns, would not affect his bonafide requirement and the landlord is the best judge for choosing the place of his choice and the tenant cannot dictate him to choose the place, in this case, the petitioner has not proved why he is in requirement of the demised premises while other shops owned by him are available near to it. In the present RCOP, the petitioner himself has stated that he does not own any other shop except the demised premises which is not correct. Thus, there is suppression of facts. It is well settled that a person who approaches the Court with unclean hands, is not entitled to equity from this Court. Therefore, the above judgments are not applicable to the peculiar circumstances of the present case. There is no infirmity in the order passed by the rent control appellate authority.

Accordingly, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

To

1) The Principal Sub Judge,
<https://hcservices.ecourts.gov.in/hcservices/>
Rent Control Appellate Authority,
Dindigul.



2) The District Munsif cum Judicial Magistrate
Rent Controller,
Vedasandur.

+1 CC to M/s.SARVABHAUMAN ASSOCIATES, Advocate (SR-78437[F] dated
30/07/2019)

C.R.P (NPD) (MD) No.239 of 2011
30.07.2019

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