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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2019

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THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) .No.675 of 2018 (PD)

and

C.M.P. (MD) .No.2940 of 2018

S.Kumar

... Petitioner/Appellant/Respondent/
Tenant

Vs.

1.AD.Rajendran

2.D.Kannaki

... Respondents/Respondents/Petitioners
/Landlords

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960, against the fair and decreetal order dated 08.11.2017 made in RCA No.2 of 2017 on the file of the Sub Court, Devakottai, confirming the order dated 31.01.2017 made in R.C.O.P.No.19 of 2014 on the file of the Rent Controller/District Munsif/Judicial Magistrate, Karaikudi.

For Petitioner : Mr.S.Srinivasaragavan
For R1 and R2 : Mrs.P.Kalaiyarasi Bharathi

O R D E R

This Civil Revision Petition has been preferred against the fair and decreetal order dated 08.11.2017 made in RCA No.2 of 2017 on the file of the Sub Court, Devakottai, confirming the order dated 31.01.2017 made in R.C.O.P.No.19 of 2014 on the file of the Rent Controller/District Munsif/Judicial Magistrate, Karaikudi.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3.The revision petitioner, who is the tenant has filed I.A.No.97 of 2017 in R.C.A.No.2 of 2017 to receive the documents. R.C.O.P.No.19 of 2014 was filed by the landlords for taking the petition mentioned property on the ground of wilful default and also for the bonafide requirement of the building for his own occupation.

4.In the said R.C.O.P., the landlords contended that the respondent is the tenant in the petition mentioned building for a monthly rent of Rs.1,500/- and the said rent has to be paid on or before 5th of every calendar month. The landlords also admitted that a sum of Rs.50,000/- was paid by the respondent/tenant towards security deposit to ensure the proper vacating of the premises in the same condition, as it was let out without damage, which shall be



refundable by the landlords to the tenant only at the time of vacating and delivering vacant possession of the building, without interest. He further contended that the tenant wilfully defaulted to pay the rents and the rents are due from May 2013 to June 2014 and the total defaulted are 14 months. Thereafter, the landlords asked the tenant to vacate the premises for the first petitioner/first landlord's business carried on in a rented premises and hence, the owner of the said building issued legal notice for vacating the said premises. The tenant, who initially agreed to vacate the same and thereafter he issued a false notice dated 11.09.2013 wherein the landlords have stopped supply of water to the latrine and also locked the said latrine and therefore, the requirement of the landlords is a false one. The maintenance of the building by the tenant is also observed by the landlords is unsatisfied one.

5.The respondent/tenant has filed his counter statement stating that he denied the huge arrear of rent and contended that the landlords, who refused to receive the rent from the month of June 2013 and whenever he paid the rent in person, it was refused by the landlords.

6.The Rent Controller observed the contention raised by the landlords and also the requirement of the building for their own use and the contention raised by the tenant that the first petitioner is running a sweet stall in a rented building and the owner of the said building has also initiated the action against the first petitioner to vacate the said building by filing R.C.O.P.No.39 of 2013 and the same is pending.

7.The grievance of the landlords is that the petitioners are not in occupation of any non-residential building of their own in Karaikudi and hence, the bonafide requirement of the petitioners has to be considered.

8.The Rent Controller, after observing the contention raised by both sides, has allowed the said R.C.O.P. Aggrieved against the said order, the tenant has filed R.C.A before the Rent Control Appellate Authority.

9.In the R.C.A., the Rent Control Appellate Authority has observed the fact that the R.C.O.P has been filed for eviction on the ground of wilful default and also on the ground of own occupation that there is huge arrear of rent and the tenant has not deposited the same and that the landlord is running a shop in a rented building and he has also facing a litigation and the maintenance of the tenant in using the rented building in a nuisance and un-hygienic way and the Rent Control Appellate Authority has observed the attitude of the petitioner that especially inspite of sufficient opportunity was given to the appellant/tenant for cross examination of P.W.1 on 17.03.2016, 30.03.2016 and 07.04.2016, P.W.1 was not cross examined by the appellant/tenant and hence, the



observation made by the Rent Control Appellate Authority is that petitioner is adopting delay in tactics, without vacating the building. Hence, the said R.C.A was dismissed. Aggrieved against the said order, the Civil Revision Petition has been filed.

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10. In the grounds, it is contended that the Rent Controller as well as the Rent Control Appellate Authority ought not to have decided the issue against the petitioner/tenant without appreciating the evidence available on record. It is further contended that the Rent Controller as well as the Rent Control Appellate Authority were not justified in upholding the judgment of the Rent Controller without appreciating the points for consideration on the basis of the material available on record and also failed to appreciate the defence of the petitioner/tenant in the proper perspective.

11. From the order passed by the Rent Controller and the judgment and decree of the Rent Control Appellate Authority it is seen that the decree is very much on law and facts as well as the attitude of the revision petitioner. In spite of sufficient opportunity was given to cross-examine the landlord/P.W.1, the revision petitioner/tenant has not let in any oral evidence, which shows that he has no valid defence in the said case. Further, the arrears of rent also on the higher side and also the necessity and the need of landlords for delivery of vacant possession on the ground of wilful default and for their own use was very much proved.

12. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

sd/
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Sub Judge ,
Devakottai.
2. The Rent Controller/District Munsif/
Judicial Magistrate,
Karaikudi.

Copy to:

The Record Keeper,
Vernacular Section, (2 copies)
Madurai Bench of Madras High Court,
Madurai.



+1 CC to Mr.S.SRINIVASA RAGHAVAN, Advocate (SR-61670[F] dated
23/04/2019)
+1 CC to M/s.P.KALAIYARASI BHARATHI, Advocate (SR-61687[F] dated
23/04/2019)

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