



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON :19.02.2019

PRONOUNCED ON :19.03.2019

CORAM

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) .No.354 of 2019

and

C.M.P. (MD) .No.1721 of 2019

1.V.G.Manoharan
2.M/s.Jeya Bharathi Corporation,
a partnership firm represented by its partner
V.G.Manoharan,
S/o.V.K.Guruswamy Nadar,
Door No.54, East Masi Street,
Madurai-1. ... Respondents 1-2/Appellants/Revision
Petitioners

Vs.

1.Uma @ Umavathy ... Petitioner/1st Respondent/
1st Respondent
2.M.Savithri
3.M.Murugesan
4.M.Saravanan
5.M.Thiagarajan ... Respondents 3 to 6/Respondents 2-5/
Respondents 2-5

PRAYER: Civil Revision Petition filed under Section 25(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as amended, against the judgment and decree in R.C.A.No.30 of 2016 dated 15.11.2018 on the file of the Principal Subordinate Judge (Learned Rent Control Appellate Authority), Madurai, confirming the order of the eviction in R.C.O.P.No.168 of 2004 dated 14.09.2016 on the file of the learned Principal District Munsif (Principal Rent Controller), Madurai Town.

For Petitioners : Mr.S.Parthasarathy, Senior Counsel
for Mr.G.Thiruvartselvan

For R1 : Mr.H.Lakshminankar
for Mr.P.V.Surendran

O R D E R

This Civil Revision Petition has been preferred against the judgment and decree passed in R.C.A.No.30 of 2016, dated 15.11.2018, on the file of the Principal Subordinate Judge (Learned Rent Control Appellate Authority), Madurai, confirming the order of the eviction passed in R.C.O.P.No.168 of 2004, dated 14.09.2016, on the file of the learned Principal District Munsif (Principal Rent Controller),



Madurai Town.

2.The petitioners herein are the tenants, who have preferred R.C.A.No.30 of 2016 against the judgment and decree passed in R.C.O.P.No.168 of 2004. The said R.C.O.P was filed by the first respondent herein, who is a landlady for evicting the respondents/tenants to vacate and deliver the possession of the schedule mentioned property for the purpose of demolition and reconstruction.

3.The R.C.O.P was filed by the landlady against the respondents 1 and 2, who are the running Candy and Essence Agency Business and they are the tenants in the said property for more than 30 years at the monthly rent of Rs.1,000/-. The averments made by the landlady in the said R.C.O.P., is that the said petition mentioned property was constructed even before 1897 and the age of the building is more than 106 years and the entire building is in a dilapidated condition and it may collapse at any time. Hence, the petitioner/landlady sought the relief of evicting the tenants from the said property for the purpose of demolition and reconstruction in the suit schedule property.

4.The respondents/tenants, in the said R.C.O.P., disputing the ownership of the property and contended that the description of the property itself is not a correct and already the landlady made an attempt with the assistance of the rowdy elements and attempted to demolish a portion of the building with a malafide intention to cause serious damages to the portions under the occupation of the petitioner. Hence, the respondents/tenants contended that there is no real cause of action for filing the petition on the ground of demolition and reconstruction.

5.The Principal Rent Control Authority, Madurai, after analyzing the contentions raised by the petitioner and the respondents, has observed that when the first respondent/tenant has filed several documents with regard to the payment of rent, in respect of the petition mentioned property, the application filed by the landlady is only for the relief of eviction on the ground of demolition and reconstruction. The Principal Rent Control Authority, Madurai, has also observed that the first respondent/tenant has filed a suit for specific performance against the petitioner. Whereas, the other family members have filed a suit in O.S.No.207/2004 before the I Additional District Court, Madurai, in respect of the petition mentioned property. The said suit filed by the respondents/tenants was also dismissed. Against which, the first respondent has preferred a First Appeal in A.S.No.94 of 2012 before this Court and the same is pending. Hence, the Principal Rent Control Authority, Madurai, has considered the request of the petitioner/landlady as a bonafide one and also the financial capacity of the petitioner, has allowed the petition and ordered eviction on the ground of demolition and reconstruction. Aggrieved



against the said order, the petitioners herein, who are the tenants have preferred R.C.A.No.30 of 2016 before the Principal Subordinate Judge (Learned Rent Control Appellate Authority), Madurai.

6. In the R.C.A., the Rent Control Appellate Authority, Madurai, has observed the facts stated by both the tenants as well as the landlady and also observed the fact that the respondent is the landlady of the said property, in which, the first and the second respondents are the tenants in the said property for nearly 30 years ago and the said schedule property is also in a very dilapidated and dangerous condition and the respondent/landlady has also obtained permission from the Municipality on 16.04.2004 for making a new construction. Hence, the respondent/landlady has sought for possession of the vacant property for the purpose of demolition and reconstruction of the same. Whereas, the petitioners/tenants are very much questioning the ownership of the landlady regarding the rented building and in the appeal, the petitioners, who are the tenants is very much disputing the relationship between the tenants and landlord and the said petition is filed only with the malafide intention.

7. In the appeal, the petitioners, who are the tenants herein has contended that the Rent Control Authority, Madurai, has wrongly given a finding that the age of the petition mentioned property is nearly 106 years. Further, the entire building has been entered into a sale agreement by the landlady and the Commissioner report was not filed before the Principal Rent Control Authority, Madurai, regarding the status of the property. The Rent Control Authority has also observed that already a suit in O.S.No.207 of 2004 was filed by the tenants against the landlady and the said suit was dismissed, against which, First Appeal was preferred before this Court in A.S. (MD)No.94 of 2012 by the first respondent and the same is pending. It is also observed that there is a dispute over the ownership of the property among the landlady and other parties. The Rent Control authority has also observed that the landlady has become the person, who is entitled for the suit property as per the 'Will' and the settlement deed. Hence, the Rent Control authority as well as the Rent Control Appellate Authority have not very much discussed about the owner-ship of the property, since the only relationship between the petitioner herein and the respondents as owner and tenants of the property. The rental receipts were marked before the Principal Rent Control Authority, Madurai, as Ex.R.4 to Ex.R.25. The petitioner, who also claiming right in the said property, has filed Ex.P.1 and Ex.P.2 are the documents relating to the property tax receipts, which stands in the name of the petitioner. The other respondents before the Principal Rent Controller Authority, Madurai, have admitted that the suit schedule property belongs to the landlady and they are also tenants in the suit property. Hence, it is also proved before the Rent Control Appellate Authority that the appellants/tenants, who are already tenants under the father of the first respondent/landlady. Hence, the owner ship of the property is



very much proved. The other aspect regarding the condition of the building is that even in the objections raised by the tenants, the first respondent/landlady admitted that they are the tenants in the suit property for nearly 30 years and the age of the building is more than 106 years, which is also in a very dilapidated condition.

8.The only contention raised by the petitioners/tenants herein is that no Commissioner has been appointed to assess the condition and age of the building. It is also observed that the landlady at present is residing in a small house and in future, she needs a house for her son and daughter-in-law for their better accommodation, since the present one is not suitable for a big family. Further, it is contended that the landlady has sufficient means to construct a new house. In view of the admissions made in her evidence regarding the requirement of the property, she needs the said building for demolition and reconstruction and the age of the building is also found to be 106 years, the Rent Control Appellate Authority confirmed the order of the Rent Control Authority and dismissed the said R.C.A. Aggrieved against the order passed in the R.C.A., the petitioners/tenants herein have preferred this Civil Revision Petition.

9.In the grounds, the petitioners/tenants have stated that the Court below has not appreciated the fact that the first respondent had not produced any Engineers Report or seek for appointment of an commissioner to assess the condition and age of the building. The period of tenancy is also not considered by the Court below whether the building needs any demolition and reconstruction is also not properly assessed by the Rent Control Authority and hence, the dismissal of the said petition is not a proper one. The financial capacity of the first respondent/landlady is also not appreciated by the Rent Controller in a proper way. The Court below has also not considered the fact that the landlady is not the absolute owner of the entire property for filing such an eviction petition. The other ground is relating to the sale agreement entered into between the petitioners/tenants and the first respondent/landlady.

10.The grievance raised by the petitioners herein is that any order of reversal in A.S.No.94 of 2012 would completely vitiates the entire appeal, when the appeal is pending against the same subject property and any orders from this Court will not be fruitful when there is no existence of building. The Court below has also failed to see that there is no need for the first respondent to evict the petitioners on the ground of demolition and reconstruction and no document has been produced by the landlady to prove the fact that the building is more than 106 years old. It is further contended that he is paying the rent regularly and also produced various documents to prove that there is no wilful default on the part of the petitioners/tenants. The description of the property mentioned in the petition is also incorrect. Further, the stand taken by the



landlady in RCOP as well as the suit in O.S.No.207 of 204, are different. Hence, on the whole, the petitioners, who are the tenants have preferred the Civil Revision Petition to set aside the judgment and decree passed in R.C.A.No.30 of 2016 dated 15.11.2018. The Rent Control Authority also observed the same that there is a clear admission by the landlady that the petitioners are the tenants in the suit property for nearly 30 years and they have also tenants under the father of the first respondent/landlady and they are also making regular payment, which proves that the petitioners are tenants under the first respondent/landlady. Though the petitioners herein have stated regarding the right of the landlady in the property, it is very well proved before the Rent Controller Authority that the petitioners herein are the tenants under the landlady for number of years and that is also proved by paying the rent regularly to the respondent/landlady.

11.The other grievance raised by the petitioners/tenants herein is that no commissioner was appointed to assess the age of the building or the condition of the building, when it is stated by the first respondent/landlady that the age of the building is 106 years and it is for the petitioners herein to disprove the fact that they could have taken any steps for the said appointment of an Advocate Commissioner regarding the condition of the property. When the landlady assessed the age of the building and required the same for demolition and reconstruction, it has to be denied by the petitioners/tenants that they have taken steps for assessing the condition of the property by approaching the Court by way of appointment of an Advocate commissioner. Hence, the averments of the first respondent/landlady stands that it is an age-old building, which required demolition and reconstruction. Regarding the financial capacity of the landlady also very much questioned by the petitioners/tenants, for which, the petitioners state that she has also obtained permission from the Municipality and regarding the financial status of the landlady are to be proved before the Court. There are number of decisions which would show that the person, who is the owner of the building, who requires the building for demolition and reconstruction have to prove his financial capacity before the Court. Further, the financial requirements of the landlady regarding the occupation of the building for the convenience of his son and daughter-in-law is very much considered by the Rent Control Authority. These aspects of requirement made by the petitioner has not been denied by the tenants.

12.Once the petitioners/tenants admitted their tenancy under the first respondent/landlady and in the absence of disproving the fact that the petition mentioned property requires demolition and reconstruction, the genuine requirements as stated by the landlady has to be accepted. The landlady, who is the first respondent has also deposited before the Rent Control Tribunal that the building is in a very damaged condition and during rainy season water is laying



in the building and there are number of cracks and it is very much dangerous for the public cause on the existence of a very dangerous building. The permission was granted by the Madurai Corporation on 16.04.2004 for demolition of the said construction. Hence, there is no interference is required in the order of the Rent Control Appellate Authority, which confirms the order of the Rent Control Authority wherein, the relationship of the petitioners and the first respondent is as owner and tenants and the requirement of the first respondent is also found to be a genuine and fair one. While considering the condition of the petition mentioned property, for which, the landlady seeks for eviction for the purpose of demolition and reconstruction.

13.Hence, the civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Principal Subordinate Judge
(Learned Rent Control Appellate Authority),
Madurai.

2.The Principal District Munsif
(Principal Rent Controller),
Madurai Town.

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

+1cc to Mr.P.V.Surendran Advocate, SR.No.55104

+1cc to Mr.G.Thiruvavutselvan Advocate, SR.No.55101

+4cc to Mr.P.V.SURENDRAN, Advocate, SR.No. 55046

**CRP (MD) .No.354 of 2019
and**

**C.M.P. (MD) .No.1721 of 2019
19.03.2019**

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