



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

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CIVIL REVISION PETITION No.515 of 2019

and

CMP(MD)No.2534 of 2019

Nagarajan

.. Petitioner/Appellant/Tenant

Vs.

Kalyana Sundaram

.. Respondent/Respondent/landlord

Civil Revision Petition has been filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the fair and decreetal order passed by the Court of the Subordinate Judge, Aruppukkottai in R.C.A.No.01/2018 on 07.02.2019 in confirming the fair and decreetal order passed by the learned Rent Controller / District Munsif Court, Aruppukkottai in R.C.O.P.No.02/2016 on 06.02.2018.

For Petitioner : Mr.M.Jothi Basu

For Respondent : Mr.C.Godwin

O R D E R

This Civil Revision Petition has been preferred against the order, dated 07.02.2019, passed in R.C.A.No.1 of 2018, by the learned Subordinate Judge, Aruppukkottai. R.C.A.No.1 of 2018 has been filed against the order, dated 06.02.2018, passed in RCOP.No.2 of 2016 by the learned Rent Controller / District Munsif Court, Aruppukkottai.

2.The said RCOP.No.2 of 2016 was filed by the respondent/landlord stating that as per the lease agreement dated 02.12.2013, the petitioner herein as tenant has to occupy the property for two years on the basis of rent of Rs.5,000/- p.m. to be paid to the respondent/landlord on or before 5th day of every English Calender Month and there was also an advance of Rs.25,000/- and the service charge amount has to be repaid to the petitioner/tenant on the day, when he vacates the petition mentioned premises and after the termination of the lease period, the petitioner/tenant has to hand



over the possession to the landlord.

3. It is contended by the respondent/landlord that he is also ready to repay the amount of Rs.25,000/- to the petitioner/tenant. The requirement of the said premises by the landlord is for his own occupation. The petitioner/tenant denied the purpose required by the respondent/landlord. The petitioner has also contended that he is making all speedy steps for construction of a house in Aruppukkottai and after completion of the said house, he will vacate the petition mentioned premises. The petitioner/tenant further in the counter affidavit stated that he has spent amount for bore-Well to the tune of Rs.40,000/-; for maintaining house and for painting charges Rs.35,000/-; he spent a sum of Rs.45,000/- with regard to wiring work for Air Conditioner and another sum of Rs.15,000/- for cupboard work in the said house. Hence, he incurred huge expenses for the above said house to the tune of Rs.1,25,000/-.

4. The respondent/landlord has denied the above said statement by stating that he alone arranged for fixing of new meter and the amount spent for fixing the cupboard was also deducted from the rent.

5. The Rent Control Appellate Authority, after analysing the contentions raised by both the petitioner and the respondent by way of evidence and documents; the requirement of the respondent/landlord, and also the contentions raised by the petitioner/tenant that after completion of the house at Aruppukkottai, he will vacate the premises, had observed that when the requirement of the landlord is for his own occupation and even as per the admission of the petitioner/tenant himself that after completion of his house at Aruppukkottai, he will vacate the same; the said submission was made on 01.09.2016 and even after a lapse of 14 months, by this time, the said house would have been constructed by the petitioner/tenant, and had directed the petitioner/tenant to vacate the petition mentioned property and hand over possession to the landlord. Aggrieved against the said order, the tenant preferred R.C.A.No.1 of 2018 on the file of the Subordinate Court, Aruppukkottai. The Rent Control Appellate Authority also verified the contentions raised by both the petitioner and the respondent and considered the requirement of the landlord, which is a bona fide one by referring number of decisions relating to the eviction of a tenant for the own use of the landlord. In the case of **S. RAMAKRISHNAN Vs. NAGOOR MEERAL**, dated **21.04.2016**, this Court has held as follows:-

"19. Secondly, the contention of the learned counsel for the respondent that claim of the respondent for owner's occupation is malafide on the ground that claim of wilful default and damages to petition premises were rejected is not acceptable. The respondent proved requirement of owner's occupation and Courts below have held that the



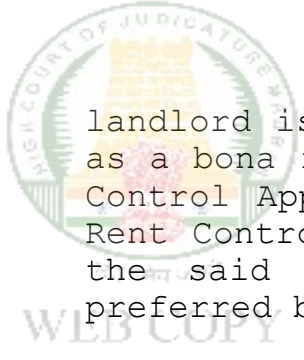
requirement as bonafide requirement. The petitioner before the Courts below contended that respondent has another property next to her property and hence the plea of owner's occupation is malafide. The said contention has been rightly rejected as the tenant cannot dictate terms to the landlord and state that other property is better suited than petition premises.

20. The learned counsel for the petitioner relied on the Judgments and referred to above and contended that respondent failed to plead and furnish details with regard to owner's occupation and therefore, Courts below erred in ordering eviction. On the other hand, the learned counsel for the respondent relied on the Judgments and contended that petitioner aware of the issue with regard to claim of respondent that petition premises is required for her own occupation for establishing tailoring business of her son and daughter and both the parties have let in evidence. Therefore, the Courts below have rightly considered this issue on merits and decided the same in favour of the respondent and there is no error in the said finding. This contention of the learned counsel for the respondent has considerable force.

21. The petitioner as well as respondent let in evidence with regard to claim of owner's occupation. The petitioner has alleged that respondent owns another vacant site next to her house which is more suitable to the business of the son and daughter of respondent rather than petition premises. It is well settled that quoting wrong provision of law or not quoting provisions of law or not furnishing the details of claim in rent control proceedings will not be fatal to the claim of petitioner. The Judgments relied on by the counsel for the petitioner do not advance the case of the petitioner. On the other hand, the Judgments relied on by the learned counsel for the respondent are squarely applicable to the facts of the present case.

22. The Courts below have considered all the materials and the law in the proper perspective and ordered eviction. There is no reason or circumstances warranting interference by this Court. In the result, the Civil Revision Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

6. Regarding the expenses incurred by the petitioner/tenant, he has filed documents before the Courts below, but the said documents were not proved before the Courts below. Further, the plea of the



landlord is also identified by the Rent Control Appellate authority as a bona fide one based on the evidence and documents and the Rent Control Appellate Authority also confirmed the order passed by the Rent Controller and dismissed R.C.A.No.1 of 2018. Aggrieved against the said order, the present Civil Revision Petition has been preferred by the tenant herein.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

8. In the grounds of revision, the petitioner contended that the Courts below ought to have seen that the landlord has filed a petition for eviction under Section 10(3)(a)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. The Courts below failed to note the expenses incurred by the petitioner to the tune of Rs.1,25,000/- and the supportive documents to prove the same. The petitioner is also entitled to claim the advance amount as well as the amount spent for repairing work. Hence, on the whole, the petitioner/tenant sought for setting aside the fair and decreetal order passed by the Courts below.

9. The learned counsel for the petitioner would submit that the petitioner/tenant has paid a sum of Rs.25,000/- as advance and he has also incurred a huge amount of Rs.1,25,000/-. He would further submit that if the respondent/landlord repay the advance amount, the petitioner/tenant is ready to vacate the premises.

10. On the other hand, the respondent/landlord would submit that there is an arrears of rent of Rs.8,500/- and after adjusting the said amount from the advance, he is always ready to repay a sum of Rs.16,500/- to the petitioner/tenant at the time, when he is vacating the premises and hand over the same.

11. When the expenses incurred by the petitioner was not proved before the Courts below and only the advance of Rs.25,000/- is admitted by both the petitioner and the respondent, this Court is of the opinion that the respondent/landlord is liable to pay only a sum of Rs.16,500/-. Based on the evidence and documents, the Courts below has considered the bona fide requirement of the respondent/landlord and hence, ordered for eviction. Even before this Court also, the petitioner/tenant has relied on the same version that he spent a sum of Rs.1,25,000/-, which would not clearly proved before the Courts below and hence, the petitioner/tenant is not entitled for the same. Hence, the order of the Courts below do no warrant any interference and the same are confirmed.



12. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

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Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Subordinate Judge, Aruppukkottai.

2. The Rent Controller / District Munsif Court,
Aruppukkottai.

Copy to: The Section Officer,
V.R. Section,

Madurai Bench of Madras High Court, Madurai. (2 COPIES)

+1cc to Mr. C. GODWIN, Advocate, SR.No.59348

+1cc to M/S. G. M. LAW OFFICE, Advocate, SR.No.59327

C.R.P (MD) No. 515 of 2019

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KK/SAR/09.04.2019/ 5P- 7C