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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 06.03.2019

DELIVERED ON : 05.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No. 2256 of 2015

and

M.P. (MD) No. 2 of 2015

and

C.M.P. (MD) No. 2474 of 2016

Subash B Jain

.. Petitioner/Appellant/
Respondent

Vs.

Sheribe Beevi (Died)

1. Syed Abdul Sathar

2. S. Akbar Hussain

3. S. Syed Shajahan

4. S. Basheer Ahmed

.. Respondents/Respondents/
Petitioners

Prayer : This Civil revision petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the fair and decreetal order dated 02.03.2015 made in R.C.A.No.43 of 2014 on the file of the learned Principal Subordinate Judge cum Rent Control Appellate Authority, Madurai confirming the fair and decreetal order dated 21.04.2014 made in R.C.O.P.No.130 of 2010 on the file of the learned Principal District Munsif cum Buildings Rent Controller, Madurai town, by allowing this Revision.

For Petitioner

: Mr.G.Aravinthan

For Respondents

: Mr.S.Ramesh

ORDER

Heard Mr.G.Aravinthan, learned counsel appearing for the petitioner and Mr.S.Ramesh, learned counsel appearing for the respondents.

2.This Civil Revision Petition has been filed against the order passed in R.C.A.No.43 of 2014 dated 02.03.2015 on the file of the learned Principal Subordinate Judge cum Rent Control Appellate Authority, Madurai confirming the fair and decreetal order made in R.C.O.P.No.130 of 2010 dated 21.04.2014 on the file of the learned Principal District Munsif cum Buildings Rent Controller, Madurai town.



3.The respondents have filed R.C.O.P.No.130 of 2010 before the learned Principal District Munsif cum Buildings Rent Controller, Madurai Town seeking a prayer for eviction and the trial Court allowed the petition. Against the order, the petitioner has filed an appeal in R.C.A.No.43 of 2014 before the learned Principal Subordinate Judge cum Rent Control Appellate Authority, Madurai. The learned Principal Subordinate Judge cum Rent Control Appellate Authority, Madurai confirmed the order passed by the trial Court. Against the order, the petitioner has preferred this revision petition.

4.On the side of the petitioner, it is stated that R.C.O.P.No.130 of 2010 was filed by the landlords on two grounds that there is an act of waste by the tenant and that the building is necessary for the own use of the landlords. It is stated that the Trial Court has observed that the act of waste was not proved by the landlords and that the act of waste elicited by the landlords is that the tenant closed the drainage connection and demolished the stair case. Even when the first floor was constructed, the tenant has requested the landlords to demolish the stair case. Only with the permission of the landlords, the tenant has demolished the stair case and the same was admitted by the landlord in his evidence. It is stated that the premises is used only for commercial purpose and there is no necessity for a drainage channel and that with the consent of landlords, the drainage was closed and that the respondents have not filed any appeal against this observation of the trial Court.

5.On the side of the petitioner, it is stated that the landlords in his evidence has admitted that there is a joint family property which was rented to one Malathi and that the landlords are having residential places.

6.On the side of the petitioner, it is stated that the trial Court has passed an order of eviction on the ground that the building is needed for the own use of the landlords and that the respondents have stated that the sons of the respondents were running light and sound business in a rental permise and that the trial Court has wrongly observed that the respondents are not having any other property and that the rental receipts in Exs.P4, P5 and P6 were not issued by the landlords but only by the landlady which is not acceptable.

7.On the side of the respondents, it is stated that the petitioner in his evidence has admitted that the landlords are not running light and sound business in the rental permises. It is further stated that the rental receipts for the permises is marked as Exs.P4, P5 and P6 and that the tenant cannot dictate the landlords and the petitioner has admitted that there is no other commercial building available to the landlords for running the business and no documents are filed to show that the landlords have



some other commercial properties.

8.It is seen that two grounds are raised by the landlords. One of the grounds is that act of waste in which the trial Court has observed that there is no act of waste. The second ground is that the building is needed for the own use of the landlords. It is seen that the tenant has deposed that the three sons of the landlords are running light and sound business in a rental premises at 12th street, Ismayil puram, Munisalai and that the landlords are having residential building and there is no commercial building owned by the landlords. A tenant cannot dictate the landlords and that even if the landlords are having some other commercial building, a tenant cannot insist upon the landlords to run his business in some other place. When the petitioner himself has admitted that the sons of the respondents are running their business in a rental premises there is nothing wrong for the lower Court to pass an order to vacate the petitioner.

9.There is no reason sufficient enough to interfere in the orders passed by the trial Court. The petitioner is hereby directed to vacate the premises within a period of one month from the date of receipt of copy of this order.

10.With the above observation, this Civil Revision Petition is dismissed by confirming the order passed in R.C.A.No.43 of 2014 dated 02.03.2015 on the file of the learned Principal Subordinate Judge cum Rent Control Appellate Authority, Madurai confirming the fair and decreetal order made in R.C.O.P.No.130 of 2010 dated 21.04.2014 on the file of the learned Principal District Munsif cum Buildings Rent Controller, Madurai town. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

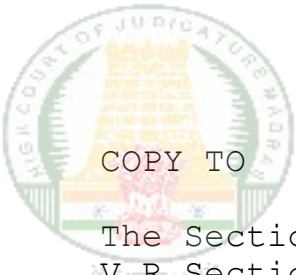
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Sub Assistant Registrar (CS)

Mrn
To

1.The Principal Subordinate Judge
cum Rent Control Appellate Authority,
Madurai.

2.The Principal District Munsif
cum Buildings Rent Controller,
Madurai town.



COPY TO

The Section Officer,
V.R.Section, Madurai Bench of Madras High Court,
Madurai. (2 copies)

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+1CC TO MR.G.ARAVINTHAN, Advocate Sr. No.59178
+1CC TO MR.V.RAGHAVACHARI, Advocate Sr. No.60018

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05.04.2019

TR (25.04.2019) 4P 7C