

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. NPD 319 of 2020

and

C.M.P. 1649 of 2020

1. R.Malarvizhi

2. R.Parameswaran

... Petitioners

Versus

1. R.Subramaniam

2. S.Kamala

3. S.Sadasivam

4. B.Kavitha

rep. by their Power Agent

N.Vasudevan

... Respondents

PRAYER : Civil Revision Petition is filed under Sec. 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, to set aside the fair and final order dated 29.11.2019 passed in R.C.A. 1/2017 by the Rent Control Appellate Authority cum Principal Sub-Judge, Erode confirming the order and decretal order dated 20.01.2017 passed in R.C.O.P. 16/2015 by the Rent Controller cum 1st Addl. District Munsif, Erode District.

For Petitioner

: Mr.T.Dhanasekar

For Respondents

: Mr.T.Murugamanickam

Senior Advocate for

Ms.Zeenath Begum

ORDER

This Civil Revision Petition has been filed against the order of eviction passed against the petitioner tenant.

2. The respondent is a power agent of landlords. He has filed a petition for eviction on the ground of willful default in payment of rent, and also demolition and reconstruction of the demised premises. The learned Rent Controller has allowed the application in respect of demolition and reconstruction of the building, however, rejected on the ground of willful default. Against which, the petitioners filed an appeal in R.C.A. 1 of 2017, on the file of Rent Control Appellate Authority cum Principal Sub-Judge, Erode. The learned Rent Control Appellate Authority has also concurred with the findings of Rent Controller, dismissed the appeal, thereby confirmed the order passed by the Rent Controller. Challenging the same, the present Civil Revision Petition has been filed. सत्यमेव जयते

3. Mr.T.Dhanasekar, learned counsel appearing for petitioners would submit that, absolutely there is no evidence in respect of the condition of the building. That apart, the landlords did not come forward to give evidence, and the eviction petition

has been filed only by the power of attorney agent, and the power of attorney agent has no personal knowledge about the condition of the building, and not competent to give evidence on that aspect. Since the landlords did not come forward to give evidence regarding the condition of building, only adverse inference has been raised against the respondents, and failed to prove that the building is dilapidated and requires demolition, absolutely there is no evidence, and even the Commissioner was not appointed to prove the age and condition of building. Without considering the same, the Trial Court has ordered eviction.

4. I have heard and considered the rival submissions made by learned counsel appearing for petitioners as well as learned counsels appearing for respondents and perused the records carefully.

5. On perusal of the order passed by both the authorities below, it could be seen that, eviction has been passed holding that the building requires demolition and reconstruction to prove the bonafide of landlord, already they have got plan approval from the local body for demolition and construction of building,

So far as the age of building is concerned, on perusal of records, the petitioner/tenant has admitted in his cross-examination that, the building is a very old building, more than 82 years. In the above circumstances, when the petitioner himself admitted that, the building is a very old building, there is no necessity for the landlords to prove the same. Considering the above facts and circumstances, both the courts below have rightly come to a conclusion that, the intention of landlord is bonafide and ordered eviction. I find no illegality or irregularity in the order passed by the court below, and I find no merit in this Civil Revision Petition. Accordingly, the present Civil Revision Petition stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

10.02.2020

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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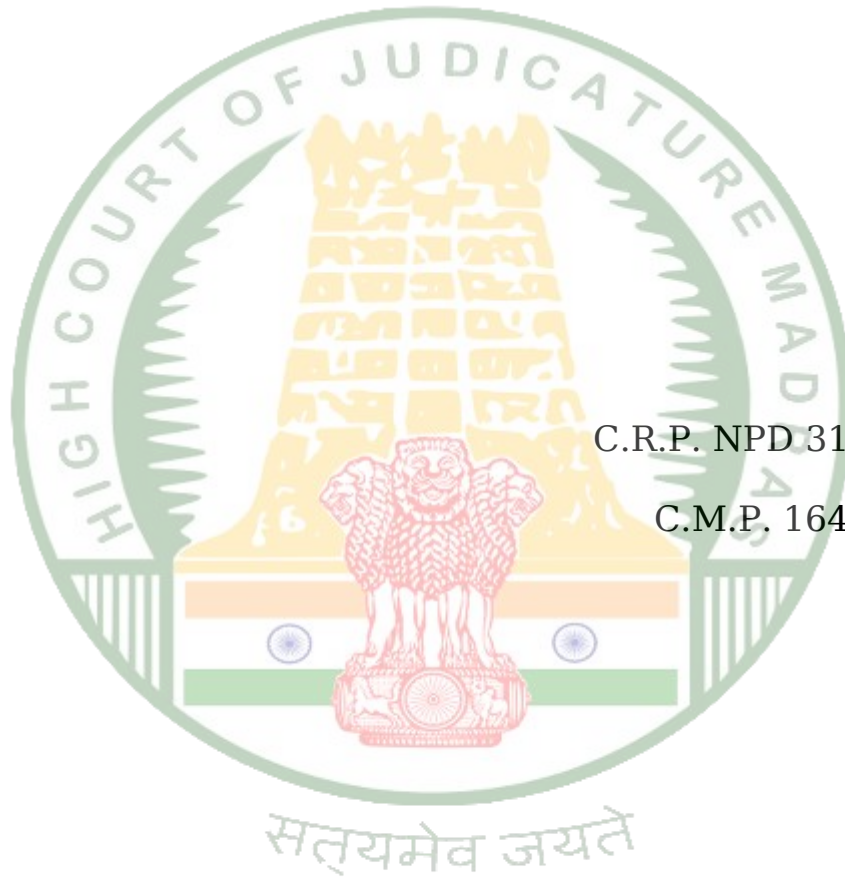
To

Rent Control Appellate Authority
cum Principal Sub-Judge,
Erode.

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V.BHARATHIDASAN,J.

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