

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

CRP.(NPD).No.2181 of 2018

and

C.M.P No.13709 of 2018

1.O.S.Rajendran
2.R.Bhagyavathi

... Petitioners

Vs.

R.M.A.Ramanatha Chettiar

... Respondent

PRAYER: Civil Revision Petition filed under Article 25 of the Tamil Nadu Building Lease & Rent Control Act, to set aside the fair and decreetal order dated 14.02.2018 made in R.C.A No.364 of 2015 on the file of the IX Small Causes Court at Chennai confirming the fair and decreetal order dated 30.03.2015 passed in R.C.O.P No.1243 of 2013 on the file of the XVI Judge, Small Causes Court at Chennai.

For Petitioner

: Mr.A.Prabhakaran

For Respondent

: Mrs.A.L.Gandhimathi

ORDER

This Civil Revision Petition has been filed challenging the fair and decreetal order dated 14.02.2018 made in R.C.A No.364 of 2015 on the file of the IX Small Causes Court at Chennai, confirming the fair and decreetal order dated 30.03.2015 passed in R.C.O.P No.1243 of 2013 on the file of the XVI Judge, Small Causes Court at Chennai.

2. The original petition was filed by the landlord under Section 10(2)(ii) and Section 10(3) (a)(i) of the Tamil Nadu Buildings (Lease and Rent) Control Act 1969 on the ground of willful default and owner's occupation.

3. The case of the landlord is that the tenants came into possession of the property on a monthly rent of Rs.5,000/- and paid a sum of Rs.10,000/- as advance. It is also contended that the tenants have not paid the rent from March 2010 onwards and hence, he requested the tenants to vacate and hand over vacant possession. But, on account of the long occupation of the property as tenants, they demanded a sum of Rs.2,00,000/- as Goodwill and the said sum was duly paid by the landlord by way of cheque bearing No.952149 drawn on ICICI Bank and the said cheque was en-cashed by the tenants. Even thereafter, they did

not vacate the premises as promised. Since they did not vacate and deliver possession, the landlord has come forward with the present petition the landlord also claimed that he required the premises for his own occupation.

4. The tenants resisted the claim for eviction contending that they had entered into the premises under an agreement of sale dated 31.10.1983 and the said sale agreement was renewed on 17.02.2000, wherein the landlord acknowledged the payment of Rs.50,000/- and agreed to sell the property for a sum of Rs.10,00,000/-. It is also claimed that the landlord received a further sum of Rs.2,00,000/- by way of advance. Therefore, according to the tenants there was no relationship of landlord and tenant so as to enable the landlord to invoke the Tamil Nadu Buildings (Lease and Rent Control) Act. The receipt of Rs.2,00,000/- as pagadi was also denied by the tenants. It was claimed that the landlord had only returned the further advance.

5. The learned Rent Controller upon consideration of the evidence concluded that there is a relationship of landlord-tenant between the parties and the claim of the tenants that they came into possession of the

property under the agreement of sale is false. The Learned Rent Controller also concluded that the non-payment of the rent amounts to willful default and ordered eviction. Aggrieved, the tenants preferred an appeal in R.C.A No.364 of 2015. The appellate authority concurred with the findings of the Rent Controller and confirmed the order of eviction. Hence this Revision.

6. Heard Mr.A.Prabhakaran, the learned counsel appearing for the petitioners and Mrs.A.L.Gandhimathi, the learned counsel appearing for the respondent.

7. The learned counsel for the petitioners vehemently contended that there is no subsisting jural relationship of landlord and tenant between the petitioners and the respondent. The Rent Controller ought not to have ordered for eviction. He would also submit that there is no proof of tenancy.

8. Per contra, the learned counsel for the respondent would point out that the findings of the authorities is that the tenant has not denied the claim of tenancy in the reply notice. Hence the denial of relationship of tenancy is not acceptable.

9. I have considered the rival submissions and perused the records.

10. Both the authorities have concurrently concluded that the landlord has established the relationship of landlord-tenant. The claim of the tenants is that they are in possession of the property as per the sale agreement dated 31.10.1983 and the same was renewed in the year 2000. None of these claims have been projected in the reply notice. Therefore, it is clear that only after initiation of the eviction proceedings the tenants have projected a totally new case of denial of tenancy. Both the authorities constituted under the Act have analysed the evidence and reached a factual conclusion that there is no proof for the tenants having been put in possession under the of sale agreement and that the landlord has proved the tenancy in exercise of their jurisdiction under Section 25 of the said Act. Those findings have not been shown bereft of any evidence or that the conclusion reached is against the evidence. Therefore, I do not see any error in the order passed by the Rent Controller and the rejection of the appeal by the appellate authority. This revision therefore fails and is liable to be dismissed.

11. Accordingly, this Civil Revision Petition is dismissed. Considering the fact that the tenants are in possession of the property for a long time they are granted 6 months time to vacate and hand over the possession of the property subject to their filing an affidavit of undertaking agreeing to vacate and handover possession to the land lord on or before 30-03-2021. The affidavit shall be filed on or before 28.09.2020. If the affidavit is not filed by 28.09.2020, the landlord is entitled to execute the decree as if no time is granted. No costs. Consequently, connected Miscellaneous Petition is closed.

14.09.2020

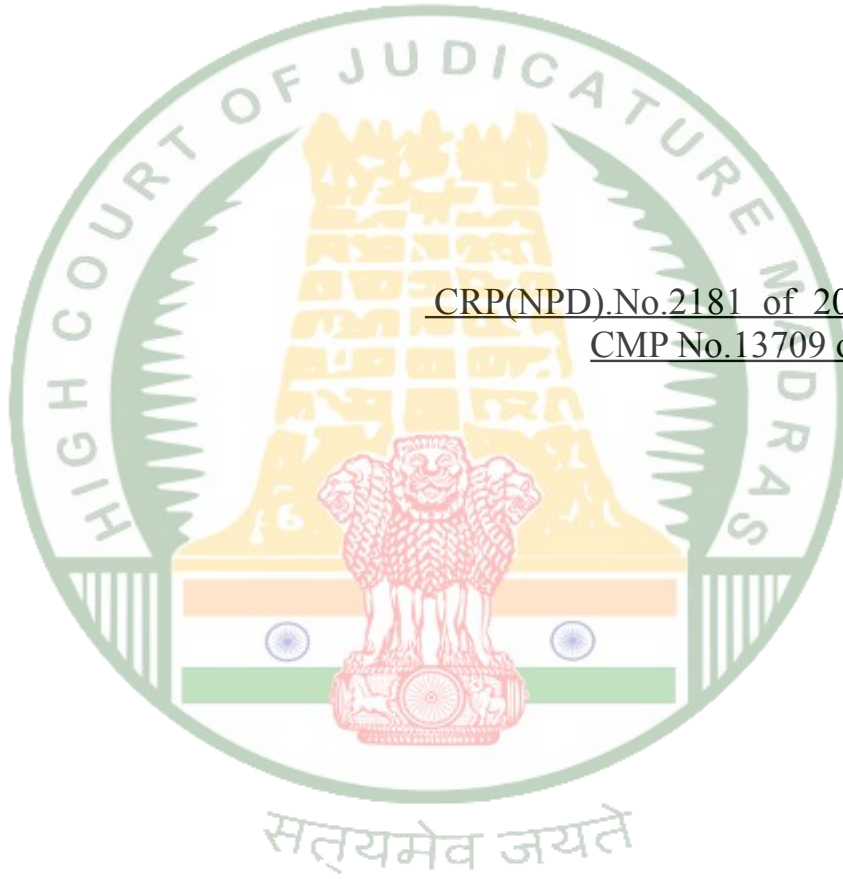
Internet : Yes/No
Speaking Order/Non Speaking Order
Index : Yes / No
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To

1. XVI Judge, Small Causes Court at Chennai.
2. The Section Officer, V.R.Section, High Court, Madras.

R.SUBRAMANIAN,J
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