



CRP(NPD)No.736 of 2016

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A.A.NAKKIRAN, J.

1. The above Civil Revision Petition had been dismissed, by the order of this Court, dated, 10.12.2020. It is posted today for being mentioned.
2. It is submitted by the learned counsel for the Respondent that in the said order dated, 10.12.2020, in the Prayer portion and in the first paragraph of the order, the year of the RCOP has been wrongly typed as “2013” instead of “2012” and hence, the same may be corrected and fresh copies may be issued accordingly.
3. Considering the said submissions, in the Prayer Portion and in the first paragraph of the order, dated, 10.12.2020, made in CRP.No.736 of 2016, the year of the RCOP, namely, “2013” should be replaced with “2012”. The registry is directed to issue fresh copies accordingly.

01.04.2022

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CRP(NPD)No.736 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.12.2020

PRONOUNCED ON : 10.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(NPD)No.736 of 2016
CMP.No.3994 of 2016
(Through Video Conferencing)

Balabadrinarayanagupta

Petitioner

Vs

S.Ramasubramanian

Respondent

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the order dated, 22.06.2015, made in RCA.No.2 of 2015, by the Principal Sub Court, Salem, reversing the fair and final order dated, 04.09.2014, made in RCOP.No.48 of 2013, by the I Additional District Munsif Court, Salem.

For Petitioner : Mr.K.Ponmani for Ms.Zeenath Begum

For Respondent : Mr.D.Shivakumaran

ORDER

1. This Civil Revision Petition has been filed, to set aside the order dated, 22.06.2015, made in RCA.No.2 of 2015, by the Principal Sub Court, Salem, reversing the fair and final order dated, 04.09.2014, made in RCOP.No.48 of 2013, by the I Additional District Munsif Court, Salem.
2. The facts of the case, in a nutshell, leading to filing of this Civil Revision



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Petition are as follows:-

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(a) The Petitioner herein is the tenant and the Respondent herein is the landlord. The tenanted premises is a tiled shop, wherein, a cool drink shop is being run, on monthly rental basis. The rent was not properly paid from 1999. Since the rent was not paid, in spite of several demands and as the tenanted premises is in a dilapidated condition, the landlord has filed RCOP.No.48 of 2012 before the I Additional District Munsif Court, Salem, for eviction of the tenant, on the ground of wilful default in payment of rent and demolition and reconstruction. In and by the impugned order dated, 04.09.2014, the Trial Court has dismissed the said RCOP on the ground that the landlord did not prove the case. As against the dismissal of the said RCOP, the landlord has filed RCA.No.2 of 2015 before the Principal Sub Court, Salem. By the impugned judgement dated, 22.06.2015, the Rent Control Appellate Authority, while setting aside the order of the Rent Controller, has allowed the RCA and ordered for eviction of the tenant on the ground of wilful default and demolition and reconstruction, giving two months time for vacating the tenanted premises. As against the said eviction order, the tenant has preferred this Civil Revision Petition.

3. This court heard the learned counsel on either side.

4. The learned counsel for the Petitioner/tenant has contended that the tenanted



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premises is in a good condition and that there was no default in payment of rent and that there was no arrears of rent and that the landlord has taken the handbook, wherein, the payment of rent has been recorded and hence, he is not able to prove the payment of rent and that there is no bona fide requirement of the tenanted premises by the landlord and that as the petition mentioned property is a Trust property and the ownership of the tenanted premises was not proved by valid materials and evidence, this Civil Revision Petition is maintainable. He has further contended that the order of the Rent Control Appellate Authority suffers from material irregularities, as there is no factual finding given by it and in such circumstances, this Civil Revision Petition is liable to be allowed.

5. On the other hand, the learned counsel for the Respondent/landlord has contended that the monthly rent for the tenanted premises is Rs.5,800/- p.m. and the rent was not properly paid since 1999 and that there is no single material produced by the tenant to show the monthly rent for the tenanted premises being paid. He has further contended that denial of title itself is a ground for eviction and that since there was default in payment of rent on the part of the tenant and the tenanted premises is in a dilapidated condition, the tenant is liable to be evicted apart from to pay the arrears of rent.

6. This Court has given its anxious consideration to the submissions of the learned counsel on either side and also carefully perused the materials placed



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on record.

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7. In this case, the tenant, in the counter filed before the Trial Court, has stated

“At the outset it is submitted that the privity of contract and contractual relationship between the parties is landlord and tenant is not disputed.” and he has also stated, “The petition property is a trust property under the name and style of “S.Ramasubramanian Trust and the Petitioner is a Trustee, managing the Trust”. Having stated so, the tenant cannot raise the question of ownership. Hence, the said contention raised by the tenant is not sustainable.

8. Though the tenant has stated in his counter filed before the Trial Court that he is not in arrears of payment of rent and there is no default or wilful default, he has not produced any document to prove the said contention. Even assuming that the rent is Rs.2,200/-, even for such an amount of rent, the tenant did not file any document to show that such rent was paid. In the absence of any such document being filed to prove the payment of rent by the tenant, the Rent Control Appellate Authority has arrived at the right conclusion that the tenant has defaulted in payment of rent and he is a wilful defaulter.

9. Now coming to the question of demolition and reconstruction, the landlord has stated that the building is in a dilapidated condition and hence, it requires demolition and reconstruction. This court finds that there is no document produced by the landlord to show that the building is in a dilapidated



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condition. Therefore, this Court comes to the conclusion that the landlord has not proved the said ground of demolition and reconstruction.

10. Though the Rent Control Appellate Authority has ordered for eviction on those two grounds, this Court finds that the eviction and payment of arrears as ordered by the Appellate Authority can be ordered only on the ground of wilful default, as it has been established by the landlord.

11. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed. This Court, while setting aside the finding of the Principal Sub Court, Salem, in its order dated, 22.06.2015, made in RCA.No.2 of 2015, with regard to the ground of dilapidated condition, confirms, in all other respects, the order dated, 22.06.2015 made in RCA.No.2 of 2015, confirming the eviction and payment of arrears as ordered by the Rent Control Appellate Authority. Three months time is given to the tenant for vacating the tenanted premises.

10.12.2020

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
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To

1. The Principal Sub Court, Salem
2. The I Additional District Munsif Court, Salem



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Pre-Delivery Order in
CRP(NPD)No.736 of 2016

10.12.2020