

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[ORDERS RESERVED ON : 06.10.2020]

[ORDERS PRONOUNCED ON : 03.11.2020]

CORAM :

THE HONOURABLE MR. JUSTICE **RMT.TEEKAA RAMAN**

C.R.P. [NPD] No.1706 of 2020

and

C.M.P.No.10737 of 2020

K.Rajeevan

... Petitioner / Tenant

.. Vs ..

K.R.Krishnamurthy

... Respondent / Landlord

Prayer:- Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960, against the judgment and decree dated 28.02.2020 made in R.C.A.No.86 of 2016 on the file of the VIII Small Causes Court at Chennai reversing the judgment and decree dated 21.11.2015 passed in R.C.O.P.No.1125 of 2013 on the file of the XII Small Causes Court, Chennai.

For Petitioner : Mr.S.Hari Prasad

For Respondent : Mr.B.Manimaran

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ORDER

This Civil Revision Petition is filed by the petitioner against the judgment and decree dated 28.02.2020 made in R.C.A.No.86 of 2016 on the file of the VIII Small Causes Court at Chennai, reversing the judgment and decree dated 21.11.2015 passed in R.C.O.P.No.1125 of 2013 on the file of the XII Small Causes Court, Chennai.

2. The tenant is the revision petitioner. The respondent herein/landlord has filed a petition in R.C.O.P.No.1125 of 2013 for own use and occupation on the ground that the respondent therein is a tenant and using the petition premises as non-residential purpose and paying the monthly rent of Rs.4,900/-. The respondent/landlord was in need of the petition premises for doing business of his son, who is already running his business in a rental premises for monthly rent of Rs.12,000/-. After issuing legal notice, the respondent herein/landlord has filed the R.C.O.P. for eviction of the revision petitioner herein/tenant. The bonafideness of the requirement of the petition premises by the landlord

is disputed by the tenant in the counter affidavit. The learned Rent Controller / XII Judge, Small Causes Court, Chennai, has accepted the case of the tenant and dismissed the R.C.O.P. As against the order of dismissal passed by the learned Rent Controller, the landlord has filed an appeal in R.C.A.No.86 of 2016. The learned Rent Control Appellate Authority / VIII Judge, Small Causes Court, Chennai, after reconsidering the evidence of P.W.1 and P.W.2, allowed the said appeal. As against the said order passed by the learned Rent Control Appellate Authority, the present Civil Revision Petition is filed by the tenant.

3. The learned counsel for the petitioner/tenant would contend that the relevant hardship caused to the tenant was not considered by the learned Rent Control Appellate Authority and hence, the learned counsel prayed for restoration of the order passed by the learned Rent Controller.

4. This Court has considered the submissions made by the learned counsel for the petitioner and perused the oral evidence of P.W.1 and P.W.2 coupled with the documentary evidence of Exs.P.4, P.6, P.7, P.8 and P.9.

5. On a perusal of the order passed by the learned Rent Control Appellate Authority, it seen that the learned Rent Control Appellate Authority has taken a right decision to hold that the requirement of the landlord is bona fide.

6. The R.C.O.P. was filed for eviction on the ground of own use and occupation. The landlord was examined as P.W.1 and his son was examined as P.W.2 and documents Exs.P.1 to P.9 were marked. From the oral evidence of P.W.2 and documentary evidence of Exs.P.4, P.5, P.7 and P.8, it is clear that P.W.1 and P.W.2 have clearly demonstrated before the Court below that the son of the landlord viz., P.W.2 is running a business in a rental premises after obtaining necessary permission from the Government and necessary documents were also marked as Ex.P.7- Partnership Certificate and Ex.P.8-Certificate of Registration. Ex.P.5 is the supplementary agreement and therefore, taking into consideration the oral evidence of P.W.2 coupled with the above documentary evidence, the learned Rent Control Appellate Authority has rightly come to the conclusion that the requirement of the landlord is *bona fide*. There is

nothing in the cross-examination of P.W.2 to discredit his evidence. The *bona fide* requirement of the petition premises by the son of the landlord viz., P.W.2 was proved by both oral and documentary evidence.

7. Learned counsel for the respondent/landlord would contend that there is a relevant hardship and the petition was filed for own use and occupation and not as an additional accommodation. Furthermore, whether the extent that is available with the tenant is small or big, it is for the landlord to choose the land of his choice. The tenant cannot dictate that the extent of the scheduled property is too small for running a business. Admittedly, the documents Exs.P.4-Angel Broking Xerox copy, P.5-Supplementary agreement, P.6-Boarding pass, P.7-Partnership certificate and P.9-Rent receipts would go to show that the son of the landlord is running his business in a rental premises.

8. The only point that has been raised by the tenant is that the petition scheduled premises is not suitable for running the business of P.W.2. There are other portions also available in the very same building but the landlord has chosen the petition scheduled premises with *mala*

fide intention only to get rid of the tenant. Admittedly, the tenant cannot dictate the terms to the landlord as observed earlier.

9. In view of the clear and categorical pleading and the necessary evidence adduced before the Courts below and also the documentary evidence placed before the Court, the learned Rent Control Appellate Authority has rightly come to the conclusion that it is open to the landlord to choose the building which he requires for his son and the tenant cannot dictate or compel such a business being run in a small or insufficient portion. Furthermore, on the material evidence, the learned Rent Control Appellate Authority has rightly come to the conclusion that the requirement of the landlord is *bona fide* and hence, I do not find any error in the order dated 28.02.2020 passed by the learned Rent Control Appellate Authority / VIII Judge, Small Causes Court, Chennai, in R.C.A.No.86 of 2016. There is no reason to interfere with the well considered order passed by the learned Rent Control Appellate Authority. Accordingly, the civil revision petition is liable to be dismissed.

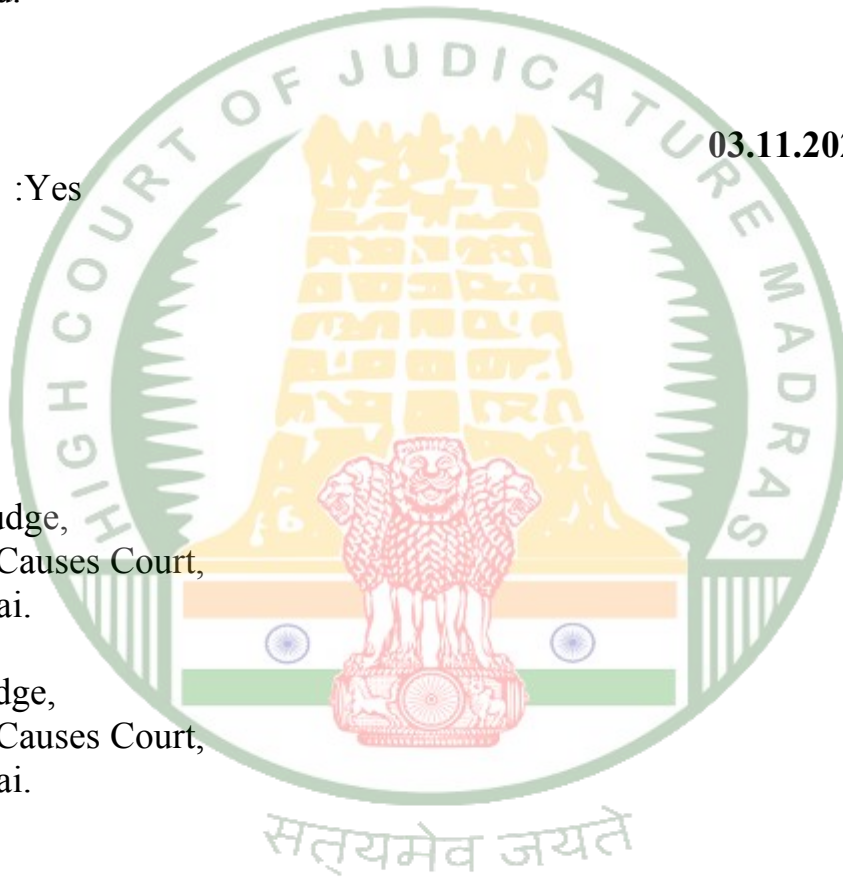
10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Internet :Yes
Jrl

03.11.2020

To

1. VIII Judge,
Small Causes Court,
Chennai.
2. XII Judge,
Small Causes Court,
Chennai.



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RMT.TEEKAA RAMAN, J.

Jrl



**Order made in
C.R.P. [NPD] No.1706 of 2020**

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03.11.2020