

Comp. A.Nos.718 and 720 of 2018

in
C.P.No.15 of 2014

DR.G.JAYACHANDRAN,J.

The landlord, who has let out the premises to the 2nd respondent Company, which is facing several financial crisis and company petition No.15 of 2014 filed and pending against it before this Court is the applicant in Comp. A.Nos.718 and 720 of 2018.

2. The grievance of the applicant is that the company, which has given possession of the premises for rent has defaulted in paying the rent and therefore, R.C.O.P.No.267 of 2015 was filed for eviction under Section 10(2)(i), (ii)(a), (iii), (v), 10(3)(a)(i) of Tamil Nadu Buildings(Lease and Rent Control) Act, Act XVIII of 1960. Though the eviction order was passed in the said R.C.O.P. in the year 2018, till date, he could not get possession, despite filing Execution Petition, which is pending in E.P.No.64 of 2018.

3. It is stated that the person representing the company has made certain objections before the Execution Court that pending C.P.No.15 of 2014, the portion of the property, which is now under

occupation of the company, cannot be parted away and further the Administrator appointed by this Court in the said Company petition, has to be heard and his consent for handing over the possession is essential.

4. In the said circumstances, the landlord has taken out these Comp. application No.718 and 720 of 2018 for the following prayer:

Comp. A.No.718 of 2018 is filed to issue suitable direction to the learned Administrator to deliver possession of the premises to him at the earliest either directly so that the delivery could be recorded in the execution proceedings.

Comp. A.No.720 of 2018 is filed to direct the learned Administrator to pay the rent arrears up-to-date in accordance with law and to award costs of this application.

5. Mr.R.Subramanian claiming as a Director of M/s Viswapriya (India) limited has filed a common Preliminary counter affidavit in the application Nos.718 and 720 of 2018 wherein he has stated that the applications are not maintainable. The first respondent, namely,

Administrator, is neither a tenant nor vested with the management of the 2nd respondent company. The applications are filed to over reach the authority of the competent Court and an abuse of process of law. The relief sought for in these applications have no nexus with the scope of the powers exercised by the Company Judge. The applications are wholly *mala fide* and bound to be dismissed with exemplary costs.

6. Mr.R.Subramanian is present today and made his submission to a pointed question, whether he is in occupation of the subject property, he answered in affirmative. Next, when this Court questioned him, whether he is paying the rent for use and occupation of the premises, he answered in negative.

7. This Court proceeds with the prayer sought for in these comp.application Nos.718 and 720 of 2018.

8. The applicant is the third party to the proceedings. There is no dispute regarding his title over the property, which is presently occupied by the 2nd respondent company. C.P.No.15 of 2014 filed by the 3rd respondent company against the 2nd respondent company is pending. Sensing foul play and abuse of process of Court by initially proposing a scheme and later, reverting from the proposal, this Court

has appointed an Administrator to find out the resources of the company scattered. The Administrator has filed his report that despite his best effort, money swindled could not be traced.

9. In such circumstances, the landlord, who has let out his premises for the rent is before this Court. In view of the objection made by the person, who is in occupation of the premises without paying rent and arrears of rent as on date, which has reached nearly Rs.2 crores, these applications are filed to direct the Administrator to hand over the possession and pay the arrears of rent. Whereas, the Administrator reports that he is not able to trace any assets of the company. The person, who is in occupation of the land, appeared before this Court and oppose the applications on the ground that the company Court has no jurisdiction to entertain these applications. Whereas before the Execution Court for eviction, the very same person objected the petitions and had represented that pending C.P.No.15 of 2014 and on appointment of Administrator, the Rent Control Tribunal cannot entertain the eviction petition.

10. It is a clear case of misusing and abusing the Court process by a defaulter under different garbs. Hence, it is the bounden duty of the Court to mitigate the suffering of the landlord, who has

been deprived of his rent and property for nearly five years. Hence, Application Nos.718 and 720 of 2018 are partly allowed to the effect that the Execution Court hearing E.P.No.64 of 2018 shall ensure to evict and hand over the vacant possession of the premises to the landlord/applicant within 30 days from today. The Court records in E.P.No.64 of 2018 (on the file of the XII Small Causes Court, Chennai) which has been called for and received by this Court shall be sent to the said Court by the High Court Registry forthwith and report to this Court on 13.02.2020.

11. As far as the arrears of rent is concerned, since the Administrator has expressed that he is not in a position to trace any money of the company and he has no objection for eviction and handing over the possession to the landlord pursuant to the E.P.No.64 of 2018, he shall ensure the handing over of the vacant possession to the landlord is carried on as per the order of this Court. The Execution Court shall order police protection in case of necessity.

11.02.2020

Note:Issue order copy on 12.02.2020

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