



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRP(MD)No.411 of 2020**and****CMP(MD)No.2360 of 2020**

WEB COPY

P.Balasubramanian

... Petitioner / Tenant

versus

P.Jeyaprakash

... Respondent / Landlord

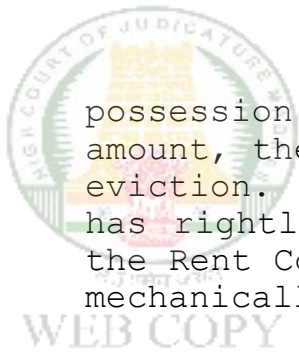
Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the order dated 23.09.2019, made in RCA.No.49 of 2017 on the file of the learned Rent Control Appellate Authority (Principal Sub Judge), Madurai filed against the fair and executable order passed in R.C.O.P.No.27/2014 on the file of the Additional Rent Controller Cum Additional District Munsif, Madurai Town, dated 15.06.2017

For Petitioner	:	M/s.S.Pramasivam
For Respondent	:	Mr.M.Rajaraman

ORDER

The revision petitioner is the tenant. The respondent herein is the landlord. The landlord filed a petition in R.C.O.P.No.27 of 2014 before the Rent Controller cum Additional District Munsif, Madurai, for eviction on the ground of willful default and own use and occupation. After the enquiry, the learned Additional District Munsif, Madurai, vide order dated 15.06.2017, dismissed the petition. Aggrieved over the same, the landlord filed an appeal in R.C.A.No.49 of 2017 before the Rent Control Appellate Authority (Principal Sub Judge), Madurai. After hearing both sides, the Rent Control Appellate Authority, vide order dated 23.09.2019, reversed the findings of the Rent Controller and ordered for eviction. Aggrieved over the said order, the tenant has come to this Court by way of filing this Civil Revision Petition.

2. Learned counsel appearing for the revision petitioner/tenant submitted that originally, the tenant had entered into an agreement with the landlord and on receipt of Rs.6,00,000/-, the revision petitioner/tenant put into possession for three years in the 2007. But, in the year 2013, the respondent/landlord repaid only a sum of Rs.3,00,000/- and not paid the balance amount, therefore, the revision petitioner/tenant was continuing in



possession of the building. Further, without paying the said amount, the landlord filed a petition before the Rent Controller for eviction. Therefore, the Rent Controller, by considering all facts, has rightly dismissed the petition filed by the landlord, however, the Rent Control Appellate Authority failed to consider the same and mechanically ordered for eviction which warrants interference.

3. The learned counsel appearing for the respondent submitted that the revision petitioner has not filed any counter affidavit and hence, he remained ex parte. Therefore, the respondent herein filed proof affidavit and marked the documents. Even though the Rent Controller failed to appreciate the documents filed by the respondent herein and dismissed the petition, the Rent Control Appellate Authority has rightly appreciated the entire evidence and reversed the order of the Rent Controller. Therefore, without any pleadings and without any documents, the learned counsel for the revision petitioner cannot argue on hearsay and there is no merit in the Civil Revision Petition and therefore, the same is liable to be dismissed.

4. Heard both sides and perused the records.

5. Originally, the respondent herein received a sum of Rs.6,00,000/- from the revision petitioner/tenant and allowed him to occupy the premises as tenant for interest. Subsequently, in the year 2013, the respondent/landlord paid Rs.3,00,000/- out of Rs.6,00,000/-. Since the respondent/landlord has not paid the balance amount, the revision petitioner/tenant had continued in possession of the premises. But, admittedly, as of now, the respondent herein has not repaid a sum of Rs.3,00,000/-.

6. Admittedly, the revision petitioner/tenant was allowed to continue in possession for the interest amount of Rs.6,00,000/-. But, in the year 2013, the landlord repaid a sum of Rs.3,00,000/- and for the interest of the remaining amount of Rs.3,00,000/-, he was allowed to continue in possession. Subsequently, there is no document to show that what was the rent. Therefore, as far as the willful default is concerned, the landlord has not proved that there was a willful default.

7. So far as the ground of own use and occupation is concerned, the respondent herein submitted that he is in a rented premises, hence, he requires the petition premises for his own use and occupation.

8. On a careful perusal of the records, it is seen that the revision petitioner/tenant has not filed any counter affidavit and any documents before the Rent Controller and he remained ex parte. Therefore, the evidence of the respondent/landlord can be taken into consideration and the requirement of the landlord is bona fide. Therefore, the order of eviction is set aside on the ground of



willful default, however, the same is confirmed on the ground of own use and occupation.

9. Accordingly, the Civil Revision Petition is allowed on the ground of own use and occupation and the same is dismissed on ground of willful default. The revision petitioner/tenant is directed to vacate the premises and hand over the same to the landlord within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The Rent Control Appellate Authority
(Principal Sub Judge),
Madurai.

2. The Rent Controller (Additional District Munsif),
Madurai

+1 CC to M/s.S.PARAMASIVAM, Advocate (SR-12728[F] dated 20/03/2020)

+1 CC to M/s.M.RAJARAMAN, Advocate (SR-12729[F] dated 20/03/2020)

CRP(MD)No.411 of 2020

19.03.2020

svs(CO)

TR(23.03.2020) 3P 5C