



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2020

CORAM:

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THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD)No.751 of 2020

and

C.M.P(MD) No.5009 of 2020

Parakkath Ali

... Petitioner/Appellant/Respondent

Vs.

1.Arunachalam

2.Velayutham

3.Sankaralingam

....Respondents/Respondents/Petitioners

PRAYER: The Civil Revision Petition is filed under Section 25 of the Tamil Nadu Building (Lease and Rent Control) Act against the fair order and decretl order dted 30.07.2020 made in R.C.A.No.2 of 2016 on the file of the Rent Control Appellate Tribunal/Principal Sub Court, Tenkasi, Tenkasi District and confirming the fair order and decretal order dted 14.09.2015 made in R.C.O.P.No. 3 of 2008 on the file of the Rent Controller/District Munsif Cum Judicial Magistrate, Shencottah, Tenkasi District.

For Petitioner : Mr.S.Saravanakumar

ORDER

The tenant, in RCOP No.3 of 2008 having suffered an order of eviction before the rent controller and also before the rent control appellate authority in R.C.A. No. 2 of 2016, has preferred this revision.

2. The respondent herein has filed R.C.O.P. 3 of 2008 on the file of the Rent Controller/District Munsif Cum Judicial Magistrate, Shencottah, Tenkasi District for eviction of the revision petitioner from a non-residential building on grounds of willful default, for own use and for demolition and re-construction of the same.

3. The contention of the respondent has been that only the site has been leased to him and the construction of the building belonged to him.

4. The trial court has passed an order of eviction on the grounds of willful default under Section 10(2)(i) of the Tamilnadu Buildings (Lease and Rent Control)Act (hereinafter referred to as 'the Act') and for demolition and re-construction. The Rent Control Appellate Authority too has confirmed the same.



5. Heard the learned counsel for the revision petitioner.

6. The learned counsel for the petitioner argued that on the fundamental pleading of the revision petitioner that the superstructure, or rather a building of which he said to be the tenant, was put up by him.

7. The learned counsel however, could not produce a shred of evidence to show that the revision petitioner has put up the construction. Necessarily, he could not also show any pointed infirmity in the approach of the Rent Control Appellate Authority. It has to be stated that where the tenant takes up a plea under Section 10(2)(i) of the Act and attempts to challenge the jurisdiction of the Rent Controller on the ground of disputed title to the building of which he is the tenant and fails, then he can be vacated forthwith under Section 10(2)(vii) of the Act, Technically both the Tribunals below ought to have invoked Section 10(2) of the Act rather than probing into grounds of eviction.

8. This Court does not find any merit in the revision and the same is liable to be dismissed. However, since the revision petitioner is carrying on some business and since this is pandemic period some leniency may have to be shown to the revision petitioner and he is directed to deliver vacant possession to the respondent on or before 30.04.2021.

9. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Cm

To

1.The District Munsif Cum Judicial Magistrate,
Rent Controller,
Shencottah, Tenkasi District.

2.The Principal Sub Judge,
Rent Control Appellate Tribunal,
Tenkasi, Tenkasi District.



3. The Section Officer (2 copies)
V.R.Section, Madurai Bench of Madras High Court,
Madurai.

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