



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: **05.11.2020**

CORAM

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

C.R.P. (NPD) (MD)No.808 of 2020

and

C.M.P. (MD)No.5489 of 2020

I.Kalpath : Petitioner/Appellant/Respondents/Tenant

vs.

C.Saroja : Respondent/Respondent/Petitioner/Land Lord

PRAYER :- Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, as amended Act 1 of 1980, praying to set aside the fair order and executable order passed in R.C.A.No.57 of 2018 on the file of Rent Control Appellate Authority - Principal Sub Judge, Madurai, dated 12.09.2019, confirming the orders of Rent Controller, Madurai Town - Principal District Munsif, Madurai Town, in R.C.O.P.No.230 of 2011, dated 24.07.2017 and allow the revision petition with costs and thereby, dismiss R.C.O.P.No.230 of 2011 on the file of the learned Principal District Munsif (Rent Controller), Madurai Town.

For Petitioner : Mr.S.Manohar

For Respondent : Mr.K.Muraleedharan

ORDER

The present revision is directed against the concurrent order passed by the Rent Controller and Rent Control Appellate Authority in an eviction petition on the ground of wilful default.

2. The main contention of the revision petitioner is that there is no landlady - tenant relationship between the revision petitioner and the respondent. The revision petitioner would claim that she was put in possession of the petition premises by the previous owner. Thereafter, by Exs.R.4 and R.5, the previous owner borrowed a sum of Rs.2,00,000/- [Rupees Two Lakhs only] from the revision petitioner and in lieu of interest, she was allowed to reside in the petition premises. Therefore, when there is no agreement between the revision petitioner and the respondent, the respondent has no locus to maintain the Rent Control Eviction Petition. Therefore, the revision



petitioner would seek dismissal of the very eviction petition itself.

3. On the other hand, the learned counsel for the respondent would contend that in 2010, the respondent purchased the property from the erstwhile owner and issued a notice in 2011 to the revision petitioner/tenant for committing default. There was no reply to the legal notice issued by the respondent and hence, she filed a Rent Control Eviction Petition. It is further submitted that the status of the revision petitioner with the erstwhile owner is admitted as a tenant, but, only because there is no agreement entered between the tenant and existing owner, it will not change the character or status of the revision petitioner other than being a tenant. Once a tenant is always a tenant, she is liable to pay rental to the premises in which she resides.

4. I have gone through the orders of both the Courts below.

5. The Rent Controller as well as the Rent Control Appellate Authority have given a categorical finding that the reliance of Exs.R.4 and R.5 by the revision petitioner will not come to her rescue. Admittedly, before execution of Exs.R.4 and R.5, the revision petitioner was residing in the very same property as a tenant. The only arrangement is that instead of paying the interest to the money borrowed by the landlord, rentals to the premises were adjusted. If considered the matter in proper perspective, one could understand that instead of paying rental, interest to the amount lent was adjusted. In one way or other, the rental has been paid to the premises and in that manner, the fact that the revision petitioner is a tenant is affirmed. If the revision petitioner is aggrieved that the previous landlord has sold the property without informing her, the only relief available to her is to collect the interest from the erstwhile owner or in other words, borrower, and pay the rental to the present landlady. It is not disputed that there was a sale of the superstructure by the erstwhile owner to the respondent herein. In such circumstances, I find that the contention of the revision petitioner is not sustainable. The findings of the Courts below that the revision petitioner is a tenant and there is a jural relationship between the revision petitioner and the respondent as a tenant and landlady, are very much correct and justifiable. Hence, I do not find any reason to interfere with the concurrent findings of the Courts below.

6. The Civil Revision Petition stands disposed of on the above lines. No costs. Consequently, the connected miscellaneous petition is closed.

7. However, a representation is made by the learned counsel for the revision petitioner that he will take instructions from his counter part, who appeared before the Rent Control Court, for getting time for vacating and handing over possession of the building. The learned counsel for the respondent is also agreeable



8. Considering the submissions, this Court permits the revision petitioner to file an affidavit of undertaking on 11.11.2020. Further orders will be passed on 11.11.2020.

9. For filing affidavit of undertaking, post the matter on 11.11.2020.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SML

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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

2.The Principal District Munsif, (Rent Controller),
Madurai Town.

Order made in
C.R.P. (NPD) (MD) No.808 of 2020

Dated:
05.11.2020

SGS (CO)
NR (06/11/2020) 3P : 3C