



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2020

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (MD) No.913 of 2020
and C.M.P(MD) No.5980 of 2020

M/s.T.M's Textiles
Regd. Partnership Firm Business,
Rep. by its Partner Hamid Ahmed,
S/o.Ahmed Tayub,
Door No.126-A, South Masi Street,
Madurai 625 001.

... Petitioner/Appellant/
Respondent/Tenant

Vs.

A.S.Mahadevan(died)

1.A.S.M.Maheswari

... Respondents 1-2/Respondents 1-2/
Petitioners 1-2/Landlords

2.A.M.Ratish Bapu

3.A.M.Jaisree Muralidhar

... Respondents 3-4/Respondents 3-4/
Petitioners 3-4/Landlords

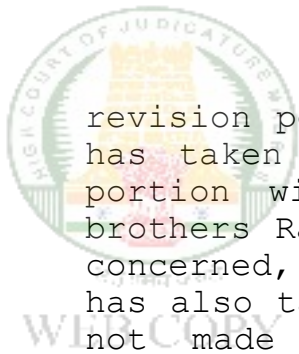
PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Judgment and Decree dated 13.09.2019 made in RCA No.47 of 2014 on the file of Rent Control Appellate Authority(Principal Subordinate Judge), Madurai, confirming the order and decree dated 23.06.2014 made in RCOP.No.217 of 2002 on the file of learned Additional Rent Controller(Additional District Munsif), Madurai Town.

For Petitioner : Mr.S.Srinivasa Raghavan
For Respondents : Mr.J.Bharathan

O R D E R

This Civil Revision Petition is preferred by the tenant in RCOP.No.47 of 2014.

2.The landlord of a certain building premises has laid RCOP.No.217 of 2002 against the revision petitioner herein under Section 4(1)(B) of the Tamil Nadu Buildings (Lease and Rent Control) Act on the ground that the building is dilapidated and requires immediate demolition and reconstruction. This was resisted by the



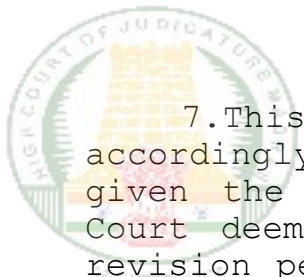
revision petitioner/tenant. In his counter, the revision petitioner has taken out a plea that the present premises along with other portion with that originally belong to the petitioner and his brothers Rajappa and Ramarathinam. So far as the other portions are concerned, Ramarathinam has renewed the tenancy till 31.03.2006. He has also taken up a plea that the petition is vague, in that, it is not made clear whether the building requires demolition and reconstruction or whether the building is required for the personal use and occupation of the landlord.

3.The matter went to trial. The learned Rent Controller has appointed a Advocate Commissioner to be assisted by a qualified Engineer. Their combined effort has made available Exts.C.1 and C.2 before the Rent Controller. In his report, the Engineer has indicated that the building could be more than 80 years old at the relevant time, that there is a leakage of pest control chemical at the south west corner of the beam which are supported by the wooden pillars and that the joints have sagged. This Engineer was examined as P.W.2 wherein he stated that the building can be demolished and reconstructed. The Rent Controller noticed that the tenant in his cross-examination has admitted that the building would have come into existence in 1930 but, added that it is not possible to demolish the portion of the building belonging to the respondent landlord alone and finally, it allowed the petition and ordered eviction of the tenant. This came to be confirmed in R.C.O.P.47 pf 2014 filed by the revision petitioner before the Rent Controller. After carefully considering the materials before it and also order passed by the Rent Controller, the Rent Controller/Principle Sub Judge, Madurai dismissed the petition. Hence, this Civil Revision Petition.

4.Heard both sides.

5.This Court perused the materials made available on record. The pointed contention taken by the revision petitioner is that the building belonging to the present respondent alone cannot be demolished as it is part of the other portion of the building belonging to another brother of the respondent and the tenancy for their portion subsists.

6.In response, the learned counsel for the respondent landlord would argue that the entire building originally belonged to four brothers. On partition, their respective portions were divided by a dividing log and two of the buildings were sold by two brothers of the respondent and they were demolished and reconstructed by certain business concern and added that the present building involved in this case too can be demolished without dismissing the portion of the building belonging to the respondent's brother. He had also filed a affidavit dated 30.11.2020.



7.This Court does not find any merit in this petition and accordingly, the Civil Revision Petition is dismissed. However, given the Covid-19 times and difficulty faced by citizens, this Court deems it appropriate to grant such reasonable time to the revision petitioner to deliver vacant possession. Accordingly, this Court directs the revision petitioner/tenant deliver vacant possession of the property on or before 30.04.2021. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

// True Copy //

/ /2021
Sub Assistant Registrar(CS-)

To

1. The Rent Control Appellate Authority,
Principal Subordinate Judge, Madurai.
 2. The Additional Rent Controller,
Additional District Munsif, Madurai Town.
 3. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.
- + 2 CC TO Mr.T.R.JEYAPALAM, ADVOCATE IN SR No. 25378

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