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C.R.P. (NPD) No.15 of 2020
and CMP No.105 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Revision Petition (NPD) No.15 of 2020
and CMP No.105 of 2020

Umar Parook

.. Petitioner

Vs.

1. Mohammed Husaimul Asif

2. A.Fouzull Ameen

3. Mrs.S.M.T.Rameeza Beevi

.. Respondents

PRAYER: Civil Revision Petition filed under Section 25(1) of the Tamil Nadu Buildings (Lease and Rent Control Act 1960), praying to set aside the judgment and decree passed in RCA No.497 of 2018 dated 12.11.2018 on the file of the XII Small Causes Court, Chennai by confirming the fair and decreetal order passed in RCOP No.1588 of 2013 dated 14.02.2018 on the file of XII Judge, Small Causes Court, Chennai.



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For Petitioner : Mr.V.Manohar

For Respondents : Mr. Ashok Menon

ORDER

The tenant challenges the orders of eviction granted concurrently by the Authorities under the Tamil Nadu Buildings (Lease and Rent Control) Act, on the ground that the tenant has committed acts of waste, within the meaning of Section 10(2)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

2. The landlord sued for eviction contending that the tenant's action in extending the water pipe line by removing the main door of the premises would amount to an act of waste, which has the effect of materially impairing the value and utility of the building. There was also another ground of eviction namely nuisance which has been rejected. The complaint of the landlord was that the tenant without Authority extended the water



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pipe line and removed the door which was in good condition.

3. The tenant resisted the eviction contending that the extension of pipe line was to maintain the water supply that was available and the door was removed only with a view to avoid drilling holes in the wall to take the water pipe line. However, while leading evidence, the tenant deposed that the landlord only did the extension of the water pipe line as well as the removal of the door. However, while cross-examining P.W.1, a suggestion was made to him saying that since he did not maintain the water supply, the tenant was forced to change the pipe line and in order to avoid drilling holes in the wall, the tenant had removed the door.

4. This conflicting evidence was taken into account by the learned Rent Controller to come to the conclusion that the action of the tenant in removing the door amounted to acts of waste, within the meaning of 10(2)(iii) of the Act. Reliance was also placed on the judgment of this Court in **1986 (1) MLJ 363**, in support of the said conclusion.



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5. Aggrieved the tenant preferred an Appeal in RCA No.497 of 2018.

The Appellate Authority on a reconsideration of the evidence concurred with the conclusions of the learned Rent Controller and dismissed the Appeal.

6. I have heard Mr.V.Manohar, learned counsel appearing for the petitioner and Mr.Ashok Menon, learned counsel appearing for the respondents.

7. Mr.V.Manohar, learned counsel appearing for the petitioner/tenant would vehemently contend that the act of the tenant in attempting to maintain an amenity that was available to him cannot be termed as an act of waste within the meaning of Section10(2)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act. He would point out that since the landlord was reluctant or he did not take steps to maintain water supply to the building in his occupation, the tenant was forced to extend the pipe line and in order to avoid drilling of hole in the wall, he had removed the door and taken the pipe line through it. According to him, the said action of the



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tenant would not amount to an act of waste within the meaning of Section 10(2)(iii) namely an act that would materially impair the value and utility of the building.

8. Contending contra, Mr.Ashok Menon, learned counsel appearing for the respondents/landlord would submit that the tenant's case is wholly inconsistent. While cross-examining P.W.1, a suggestion is put to P.W.1 to the effect that because of his failure to maintain the water supply, the tenant was forced to extend the pipe line and also remove the door to enable such extension. But in cross-examination of the tenant, the tenant has deposed that the landlord alone has done it and not himself. This conflicting stand was taken into account by the learned Rent Controller in concluding that the tenant's evidence is not reliable. He would also point out that this Court had in **1986 (1) MLJ 363**, held that removal of a door by itself would amount to an acts of waste, under Section 10(2)(iii) of the Act.



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9. I have considered the rival submissions.

10. No doubt, in order to constitute acts of waste within the meaning of Section 10(2)(iii), the said Act must be one which would impair the value and utility of the building in question. Both the Authorities under the Act have relied upon a judgment of this Court and had come to the conclusion that the act of the tenant of extending the pipe line and also removing the door would amount to an acts of waste, within the meaning of Section 10(2)(iii) of the Act.

11. Though the revisional jurisdiction under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, is a little wider than the revisional Jurisdiction under Section 115 of the Code of Civil Procedure, I do not think that I can re-appreciate the evidence and substitute my own findings in the place of the findings of the Authorities. Section 25 of the Act, of course, authorises the High Court to be satisfied about the regularity of the proceedings. I find that the Authorities under the Act, had analysed the evidence on record independently and have come to a concurrent conclusion.



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Considering the limited scope of a Revision under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, I do not think that I can interfere with the concurrent findings unless it is shown that such concurrent findings are against law or that they are based on no evidence. Despite his best efforts, Mr.Manohar, is unable to make out such a case.

12. Hence, I do not see any ground to interfere with the orders of eviction passed by the Authorities. The Civil Revision Petition fails and it is accordingly **dismissed**. Consequently, the connected miscellaneous petition is closed. No costs.

06.12.2021

jv

Index: No
Internet: Yes
Speaking order



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To

1. The XII Judge
Rent Control Appellate Authority,
Small Causes Court, Chennai.
2. The XII Judge
Small Causes Court, Chennai.
3. The Section Officer,
V.R.Section,
High Court of Madras.



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R.SUBRAMANIAN, J.

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