



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 12.02.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. (NPD) Nos.1000, 1054 & 1086 of 2020  
and  
C.M.P.Nos.5425, 5770 & 5918 of 2020

Saravanan ...Petitioner in CRP.No.1000/2020/ Tenant  
Meenakshi ...Petitioner in CRP.No.1054/2020/ Tenant  
S.A.Raju ...Petitioner in CRP.No.1086/2020/ Tenant

Vs

M.J.Sivasachidanandam ...Respondent in all cases/ Land Lord

Prayer in CRP.No.1000 of 2020: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control Act) to set aside the fair and decreetal order dated 29.11.2019 made in R.C.A.No.138 of 2013, on the file of the IX Court, Court of Small Causes, Chennai confirming the fair and decreetal order passed in R.C.O.P.No.2240 of 2008 on 27.02.2013 passed by the learned XV Judge, Court of Small Causes, Chennai.

Prayer in CRP.No.1054 of 2020: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control Act) to set aside the fair and decreetal order dated 29.11.2019 made in R.C.A.No.137 of 2013, on the file of the IX Court, Court of Small Causes, Chennai confirming the fair and decreetal order passed in R.C.O.P.No.2239 of 2008 on 27.02.2013 passed by the learned XV Judge, Court of Small Causes, Chennai.

Prayer in CRP.No.1086 of 2020: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control Act) to set aside the fair and decreetal order dated 29.11.2019 made in R.C.A.No.140 of 2013, on the file of the IX Court, Court of Small Causes, Chennai confirming the fair and decreetal order passed in R.C.O.P.No.2242 of 2008 on 27.02.2013 passed by the learned XV Judge, Court of Small Causes, Chennai.

(in all cases)

For Petitioner : Mr.K.J.Saravanan

For Respondent : Mr.V.Meenakshi Sundaram



## COMMON ORDER

By consent, all the Civil Revision Petitions are taken up together for final disposal and are disposed of by this common order.

2. The present civil revision petitions are directed against the judgement passed in R.C.A.No.137, 138 and 140 of 2013 dated 29.11.2019 confirming the orders passed in R.C.O.P.Nos.2239, 2240 and 2242 of 2008 on the file of the XV Judge, Court of Small Causes, Chennai.

3. For the sake of convenience, the parties are referred as landlord and tenant. The revision petitioners are the tenants under the respondent/landlord. The landlord filed the rent control original petitions in R.C.O.P.Nos.2239, 2240 and 2242 of 2008 on the file of the XV Judge, Court of Small Causes, Chennai, seeking direction to vacate the tenants under him and to deliver vacant possession of the petition mentioned non-residential shop portions and for other reliefs. It is found that there was malafide intention on the part of the landlord in vacating the tenants and that he had adduced cogent documentary evidence in the form of engineer report with sketch (Ex.P5) to show that if the partition wall in between the shops run by the tenants are removed and the building will not collapse and with few modifications, the said partitions can be used for running his own business. Further, trial Court had held that, with regard to the contentions raised by the tenants as to the dismissal of the earlier R.C.O.P., proceedings filed by the father of the landlord, the said dismissal cannot itself be a ground to dismiss the present R.C.O.P. proceedings as the present requirements of the landlord would be manifestly malafide and allowed the rent control original petitions and directed the tenants to vacate and deliver the vacant possession of the petitions premises within the stipulated time.

4. The appeals preferred by the tenants in R.C.A.Nos.137, 138 and 140 of 2013 also stood dismissed confirming the order of the trial Court. Hence, these civil revision petition has been filed.

5. The learned counsel for the petitioners submitted that the Court below have failed to take note of the fact that the landlord/respondent did not prove the construction of the building and that the Courts below have failed to take note of the report of the engineer filed on behalf of the petitioners. It is further submitted that the said verdict of both the Courts below are based on surmises and conjectures. The learned counsel would also submit that the respondent/landlord had miserably failed to prove by both oral and documentary evidence that the



requirement for the said shops is only for a bonafide reason. In support of his contention, he relied upon the judgement reported in (1974) 2 SCC 365 at 366 Mattulal V.Radhe Lal.

6. Per contra, the learned counsel appearing for the respondent/landlord would submit that there is no error apparent in the judgments of the Courts below warranting interference at the hands of this Court. The trial Court has extensively and exclusively dealt with the matter, on a thorough consideration of the oral and documentary evidence let in by the landlord/respondent and the lower appellate Court also confirmed the orders of the trial Court and hence, submitted that the present civil revision petitions deserves dismissal.

7. This Court has considered the rival submission and also perused the materials placed before it.

8. Admittedly, there is no dispute as regards the tenancy. The tenants/petitioners stoutly opposed the proceedings initiated by the landlord mainly on three grounds;

(i) If the partition wall demolish the building would collapse.

(ii) The reason for eviction stated by the landlord namely to use the said portion to set up his own business is false.

(iii) Dismissal of the earlier R.C.O.P. proceedings initiated by the father of the landlord for the same purpose.

As regards the first contention of demolishing the portion is concerned, the trial Court in Paragraph No.6(iii) as elaborately dealt with the said aspects and rejected the contentions raised by the tenants. As far as the second contention raised, this Court in several decisions had held that the landlord need not be actual carrying business and it is sufficient, if steps are taken by him to commence the same. Insofar as the third contention raised by the tenants as to dismissal of the earlier rent control proceedings initiated by the landlord's father, certain reliance has been placed by the landlord/respondent on the decision reported in 1984(1) AIRCJ 8 (A.Ganesan Vs Amaravathiammal). This Court had held that "simply because the eviction petition filed in 1972 was dismissed, the mind of the Court shall not be carried away or prejudiced in finding out whether the present requirement is bonafide". Hence, the dismissal of the earlier proceedings cannot by itself be a ground to dismiss the present proceedings, where the present requirement of the landlord is to be taken into consideration. On a thorough consideration of all the material aspects, the trial Court had allowed the R.C.O.P.Nos. 2239, 2240 and 2242 of 2008 filed by the landlord and the said orders were confirmed by the lower appellate Court in dismissing the appeals preferred by the tenants/petitioners.



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9. This Court, on independent application of mind and on consideration of entire materials, is of the considered view that there is no error apparent or infirmity in the reasons assigned in the fair orders passed by the Courts below and finds no merits in these revision petitions.

10. In the result, the present civil revision petitions are dismissed, confirming the order of the trial Court made in R.C.O.P.Nos.2239, 2240 and 2242 of 2008 on the file of the XV Judge, Court of Small Causes, Chennai, as confirmed in R.C.A.No.137, 138 and 140 of 2013 dated 29.11.2019 on the file of the IX Judge, Court of Small Causes, Chennai. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn

To

1. The IX Court of Small Causes,  
Chennai

2.The XV Court of Small Causes,  
Chennai.

+2CC to Mr.M.Jai Kumar, Advocate, Sr.No.8339, 8340

+3CC to Mr.V.Meenakshi Sundaram, Advocate, Sr.No.8450 to 8452

C.R.P. (NPD) Nos.1000, 1054 & 1086 of 2020  
and  
C.M.P.Nos.5425, 5770 & 5918 of 2020

RSI (CO)  
SB(18/11/2021)