

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2021

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.Nos. 4504 and 4505 of 2015
and
MP.Nos. 1 and 1 of 2015

CRP.NPD.No. 4504 of 2015

1. D.Manoj Kumar @ Manohar

2. D.Ashok Kumar

..Petitioners

Vs.

V.Ganapathy

..Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code praying to allow the revision by setting aside the order and decretal order made in R.C.A.No.509 of 2010 dated 22.07.2015 on the file of the VII Judge, Small Causes Court, Chennai confirming the order and decretal order made in R.C.O.P.No.1521 of 2008 dated 16.04.2010 on the file of the XIV Judge, Court of Small Causes, Chennai.

For Petitioners

: Mr.Wilson for
Mr.A.S.Kailasam

For Respondent

: M/s.Rajeswari for
Mr.T.V.Vinoth Kumar

CRP.NPD.No. 4505 of 2015

D.Ashok Kumar

... Petitioner

Vs.

V.Ganapathy

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act 1960 (As amended by Act 23 of 1973 and Act 1 of 1980) praying to allow the revision by setting aside the order and decretal order made in R.C.A.No.11 of 2012 dated 22.07.2015 on the file of the VII Judge, Small Causes Court, Chennai confirming the order and decretal order made in R.C.O.P.No.1653 of 2008 dated 27.07.2011 on the file of the XVI Judge, Court of Small Causes, Chennai.

For Petitioner

: Mr.Wilson for
Mr.A.S.Kailasam

For Respondent

: M/s.Rajeswari for
Mr.T.V.Vinoth Kumar

COMMON ORDER

These Civil Revision Petitions are directed as against the order and decretal orders passed in R.C.A.No.509 of 2010 and R.C.A.No.11 of 2012 dated 22.07.2015 on the file of the VII Judge, Small Causes Court, Chennai

and confirming the order and decretal orders passed in R.C.O.P.No.1521 of 2008 dated 16.04.2010 on the file of the XIV Judge, Court of Small Causes, Chennai and R.C.O.P.No.1653 of 2008 dated 27.07.2011 respectively, on the file of the XVI Judge, Court of Small Causes, Chennai.

2. In both the Civil Revision Petitions, the petitioners are the tenants and the respondent is the landlord. (hereinafter called as 'the tenants' and 'the landlord'). The landlord filed a petition for eviction on the ground of willful default, different use and demolition and reconstruction. The landlord purchased the petitioners' premises comprised in New Door No. 18 and 16 and Old Door No.122 and 123 (formerly Door No.105) situated at Egmore High Road, Egmore, Chennai, measuring an extent of 865 sq.ft by registered sale deed dated 07.06.2006 vide document No.1399 of 2006.

3. The father of the tenants originally was inducted as tenant under the vendor of the landlord in the year 1989. In fact, even in the year 2006, the tenant filed a petition in RCOP No.2222 of 2006 for deposit of rent as against the vendor of the premises. While the said RCOP was pending, the present landlord filed a petition to implead himself as a party. Thereafter,

the petition was contested and the same was dismissed for the reason that the tenants are willful defaulter in the payment of rents. Therefore, the tenants had knowledge about the purchase of the petition-premises by the landlord. Even then, the tenants did not pay any rent for the premises either to the earlier landlord or the present landlord for the petition-premises. Further, the petition-premises is also more than 50 years old and is in a dilapidated condition. Therefore, the landlord intended to construct new building, so that it would fetch more rent. Therefore, the landlord wants to demolish the building and construct a new building and the landlord also is having enough source of income to construct the new building.

4. Pending the eviction petition, the tenant filed a petition again for deposit of rent under Section 8 (5) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960. The tenant filed the above petition for the reason that the earlier landlord inducted his father as a tenant for the monthly rent of Rs.200/- Thereafter, from time to time, it was enhanced and finally, the rent was at the rate of Rs.2,000/- per month. In fact, the erstwhile landlord viz., Mr.Balaraman refused to receive the rent and as such, he filed a petition in RCOP.No.2222 of 2016 for deposit of rents. After purchase of

the petition-premises by the present landlord, he also refused to receive the rent. Though the tenants tendered rents on various occasions in the manner known to law by complying with the provisions as contemplated under Section 8 (4) of Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, the landlord refused to receive the rent. Therefore, the tenant was constrained to file a petition for deposit of rents.

5. Though, the eviction petition filed by the landlord on three grounds, the learned Rent Control controller found that the other grounds are not good enough to order eviction and order of eviction was only on the ground of willful default. On a perusal of the order passed in the earlier RCOP No.2222 of 2006, it is seen that the tenants did not pay any single paise as monthly rent to the erstwhile owner as well as the present landlord, even till today. Therefore, the learned Rent Control Appellate Authority confirmed the order of eviction and ordered to evict the tenants from the petition-premises.

6. The petitions for deposit of the rent filed by the tenants were also dismissed by the learned Rent Control Appellate Authority for the reason

that the tenants failed to prove that the money order was sent by him as contemplated Section 8 (5) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960. In fact, even till today admittedly the tenants did not pay any single paise to the landlord in respect of the petition-premises. Therefore, in both the petitions, concurrent order was passed as against the tenants. As such, this Court finds no irregularity or infirmity in the orders passed by the Court below.

7. In view of the above, these Civil Revision Petitions are dismissed. The petitioners are directed to vacate the their premises and hand over the same to the landlord, within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petitions are closed. No costs.

21.01.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

1. The VII Judge, Small Causes Court, Chennai
2. The XIV Judge, Court of Small Causes, Chennai.
3. The XVI Judge, Court of Small Causes, Chennai.



**CRP.NPD.Nos. 4504
and 4505 of 2015**

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