

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 24.06.2021

PRONOUNCED ON: 12.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P. (NPD) No. 805 of 2021

And

C.M.P.No. 6709 of 2021

T.Kalaivanan

... Petitioner/Appellant/Respondent-Tenant

-Vs-

K.Mohamed Adam (Deceased)

1. Mrs. P.M.Hameeda Banu
2. Mrs. K.A. Kathija Beevi
3. Mr.K.A. Mohammed Yousuf
4. Mrs. K.A. Mumtaj Begum
5. Mr. K.A. Mohammed Hussain
6. K.A. Rabiyaathul Bashriya

(Legal heirs of deceased K. Mohammed Adam)

... Respondents/Respondents/Petitioners-Landlords

PRAYER: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 18 of 1960, as amended by Act 23 of 1973 against the Judgment and Decree dated 06.03.2021 made in R.C.A.No. 220 of 2017 passed by the VIII Small Causes Court at Chennai, confirming the Judgment and Decree dated 16.02.2017 made in R.C.O.P.No. 1791 of 2014 passed by the X Small Causes Court at Chennai.

For Petitioner : Mr. R.Harikrishnan

For Respondents : Mr. A.Palaniappan

ORDER

This Revision Petition has been filed questioning the order dated 06.03.2021 in R.C.A.No. 220 of 2017 passed by the VIII Small Causes Court at Chennai, confirming the Judgment and Decree dated 16.02.2017 in R.C.O.P.No. 1791 of 2014 passed by the X Small Causes Court, Chennai.

2. The revision petitioner is the tenant. R.C.O.P.No. 1791 of 2014 had been filed by K.Mohamed Adam against the revision petitioner herein seeking eviction of the petition premises, namely, commercial building in the ground floor, right side portion in Door No. 151 under Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 18 of 1960.

3. For the sake of convenience, the parties shall be referred as landlord and tenant. The tenant is the revision petitioner.

4. The landlord in R.C.O.P.No. 1791 of 2014 stated that he and his brother K.Noor Mohammed, who died in the year 2011, were the owners of the premises bearing Door No. 151, Bells Road, Chepauk, Chennai – 600 005. The tenant took a shop at the left side portion of the ground floor of the said building for lease for commercial purposes. The monthly rent was initially fixed at Rs.1,700/-. It was subsequently enhanced to Rs.8,000/- in the year 2003. The tenant was running an Automobile shop in the name of 'Sri Amman Travels' selling two wheelers. The landlord claimed that the tenant did not pay rents from August 2014 to October 2014 and claiming that such default is willful, the petition had been filed seeking eviction.

5. In the counter, the tenant claimed that he was inducted into tenancy in December 1996 by K.M. Noor Mohammed and that the present monthly rent was Rs.6,500/-. He also claimed that he was paying the monthly rent to K.M.Noor Mohammed through his manager. He also

claimed that after the death of K.M. Noor Mohammed he was paying the monthly rents to the son K.N.M.Yassar Arafath. He claimed that there was no arrears in the payment of rent. He claimed that there was no demand made towards payment of arrears of rent. He also claimed that the petitioner/landlord was not the owner of the property. He also stated that K.N.M. Yassar Arafath had filed C.S.No. 190 of 2015 in the Original Side of the Madras High Court. He claimed that he was paying the rents without any default.

6. Pending the Rent Control Proceedings, the landlord K. Mohammed Adam died and his legal representatives were brought on record. The parties went to trial and by Judgment dated 16.02.2017, the learned Rent Controller/10th Small Causes Court, Chennai, had allowed the Rent Control Petition and directed eviction on the ground of willful default in the payment of rent and also on the ground of denial of title. It was very specifically found that it had been proved that the petitioners in the Rent Control Petition were the landlords and that the tenant had deliberately denied their title. With respect to the payment of rent, it was very specifically found that the tenant had not produced any record to show the

payment of rents to K. M.Noor Mohammed. It was also specifically found that the contention that rents were paid to Yassar Arafath was also not a correct statement and was made without any basis.

7. The tenant thereafter filed R.C.A.No. 220 of 2017 which came up for consideration before the VIII Court of Small Causes, Chennai. By Judgment dated 06.03.2021, the order of the Rent Controller was confirmed. It was specifically found that the tenant had not established payment of the monthly rent to K.M. Noor Mohammed or to his son Yassar Arafath. In fact it was also found that Yassar Arafath was not connected with the petition premises and was in fact a fictitious person. It was also found that the documents filed by the tenant were manipulated documents. As a matter of fact, the subpoena has been issued for Yassar Arafath and he did not come to tender evidence. It was further held that the tenant denied the title of the landlord and therefore, eviction was ordered on both the grounds of willful default in the payment of rent and also on the ground of denial of title.

8. Questioning the said Judgment, the present revision petition has been filed.

9. Heard arguments advanced by Mr.R.Harikrishnan, learned counsel for the petitioner/tenant and Mr. A. Palaniappan, learned counsel for the respondents/landlords.

10. Though Mr. R. Harikrishnan made a vain attempt to establish that the revision petitioner/tenant had been paying the monthly rents to the brother, K. Noor Mohammed, no documentary evidence could be produced with respect to the same. It is seen from the records that the contention of the tenant that he had been paying the monthly rents to K.Noor Mohammed had been specifically rejected by both the Courts below. Further, his contention that subsequent to the death of K.Noor Mohammed, he had been paying the monthly rents to his son Yassar Arafath was also disbelieved by both the Courts below. As a matter of fact, the Rent Control Appellate Authority had raised a doubt that Yassar Arafath could be a fictitious person created by the tenant. The evidence tendering to default in the payment of rent is overwhelming.

11. The fact that the tenant had not tendered the rents even during the pendency of the Rent Control Petition and the Rent Control Appeal shows that the default was willful not only during the pendency of the

proceedings but also even prior to that. The stand taken by the tenant that Mohammed Adam or his legal representatives were not the owners of the property has also been negated by both the Courts below. Even in the Rent Control Petition, Mohammed Adam had very clearly stated that he and his brother Noor Mohammed were the joint owners of the petition premises and that Noor Mohammed died in the year 2011. The tenant cannot take advantage of the death of one of the landlords. The tenant cannot deny the title of the landlord/respondents in the Revision Petition. There are no reasons to interfere with the considered Judgments of both the Rent Controller and the Rent Control Appellate Authority. I find no reason to allow this Civil Revision Petition.

12. Accordingly, this Civil Revision Petition is dismissed. No order as to costs. Consequently, connected Miscellaneous Petition is closed. Two months time is granted for vacating the premises.

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Index: Yes/No

Internet: Yes/No.

Speaking / Non speaking

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C.V.KARTHIKEYAN, J.

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Pre-Delivery Order made in

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