



WEB COPY



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Revision Petition (NPD) No.1473 of 2021
and CMP No.11580 of 2021

Henry Prem Anand

.. Petitioner

Vs.

1. K.Nirmala

2. M.Madhuprakash

.. Respondents

PRAYER: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease & Rent Control) Act, praying to set aside the order of eviction passed by the learned VIII Judge, Court of Small Causes, Chennai in RCA No.104 of 2019, dated 19.11.2020 confirming the order of the learned X Judge, Court of Small Causes, Chennai (Rent Controller) dated 17.12.2018 in RCOP No.591 of 2017.



WEB COPY



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

For Petitioner : Mr.S.S.Rajesh

For Respondent : Mr.R.Lakshmi Narasimhan

ORDER

The tenant is on Revision challenging the orders of eviction passed by the Authorities under the Tamil Nadu Building (Lease and Rent Control) Act, 1960, on the ground that the landlords require the premises for demolition and reconstruction.

2. The landlords sought for eviction under Section 14(1)(b) of the Tamil Nadu Building (Lease and Rent Control) Act, 1960, claiming that they intend to demolish the building and reconstruct the same. It was specifically pleaded that the building is aged more than 70years. While the ground floor has Madras Terrace roof and the first floor of the premises has got RCC roof. It is also claimed that the landlords are occupying portion of the ground floor and first floor of the building, while the tenant is occupying a portion of the ground floor. It is also pleaded that the tenant has initiated



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

WEB COPY

a suit in OS No.5448 of 2016 seeking permanent injunction restraining the petitioner from evicting the respondent except under due process of law.

The dismissal of earlier proceedings launched by the mother of the first petitioner in RCOP Nos.213 of 1991 and 2274 of 1994, were also quoted as a defence.

3. This attempt for eviction was resisted by the tenant contending that the petition lacks *bona fide*. While admitting the tenancy and the age of the building, the tenant would contend that the landlords having failed in their illegal attempts to evict the tenant have come up this application seeking eviction under Section 14(1)(b) of the Act. The interlocutory orders passed in the suit for restoration of amenities and the failure on the part of the landlords to restore the amenities, revisions filed, orders in Contempt Application as well as directions issued by this Court for restoration, were cited as facts which would have a bearing on the *bona-fides* of the landlords.



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

WEB COPY

4. At trial, the first petitioner Nirmala was examined as P.W.1 and Exhibits P1 to P5 were marked. The respondent/tenant was examined as R.W.1 and Exhibits R1 to R11 were marked.

5. The learned Rent Controller upon a consideration of the evidence on record concluded that the landlords have satisfied the requirements of Section 14(1)(b) of the Act. This conclusion was reached by the learned Rent Controller based on the Report of the Advocate Commissioner Ex.R11 which shows that the building has developed several cracks and is in a dilapidated condition. It is also seen from Ex.P5, the landlords have obtained a building approval for construction of the building. The financial capacity of the landlords to put up a new construction was not in dispute. The xerox copies of various deposit receipts were also produced to show that the landlords are possessed of enough funds to demolish and reconstruct the existing structure.

6. In the light of the evidence that was produced, the learned Rent



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

WEB COPY

Controller rejected the claim of the tenant that the petition is a ruse to evict the tenant, since the tenant has launched the proceedings in OS No.5448 of 2016 and had obtained orders for restoration of amenities. On the findings the learned Rent Controller passed an order of eviction.

7. Aggrieved the tenant preferred an Appeal before the Appellate Authority in RCA No.104 of 2019. The learned Appellate Authority on a re-appreciation of the evidence concurred with the findings of the Rent Controller and dismissed the Appeal.

8. Mr.S.S.Rajesh, learned counsel appearing for the petitioner/tenant would vehemently contend that both the Authorities have failed to consider the *bona fides* of the landlords. According to him, the filing of the suit by him, grant of interim injunction and the discontinuance of amenities at the instance of the landlord despite an order of injunction having been granted would show that the need of the landlords is not bona fide. No doubt, those documents have been placed before the Court. Both the Authorities have analysed the documents and have come to the conclusion that those



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

WEB COPY

proceedings will not affect the *bona fides* of the landlords when they seek eviction under Section 14(1)(b) of the Act. The statutory requirements namely the obtainment of plan, financial ability of the landlord and the undertaking required to commence demolition of the building within one month substantially complete it within three months have all been complied with.

9. Mr.S.S.Rajesh, learned counsel would contend that when the *bonafides* are lacking the compliance with the other requirements of Section 14(1)(b) of the Act, by itself would not entail the landlords to an order of eviction on the ground of demolition and reconstruction. The term *bonafides* is a concept, that cannot be put in a straight jacket. It varies from case to case. Here is a case where the age of the building is admitted to be 70 years and both the Authorities have found that the building has developed cracks in the walls. There is a Commissioner's Report which supports the said findings. Merely because the landlords resisted the attempt of the tenant to obtain an order of injunction restraining the landlords from interfering with the tenant's possession and there was



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

WEB COPY

interruption of certain amenities, it cannot be said that there are no *bonafides* in the subsequent request of the landlords for demolition and reconstruction.

10. No doubt this Court has passed orders directing the landlords to restore the amenities and it is not in dispute that the restoration has been done. In such circumstances when the need of the landlords is imminent and the building is also quite old, the question of *bona fides* will have to be tested on the basis of the current requirement and not on the basis of the past behavior. Further both the Authorities under the Act have gone into the evidence and reached a particular factual conclusion which is concurrent.

11. I am afraid that I cannot disturb those findings considering the scope of a Revision under Section 25 of the Tamil Nadu Building (Lease and Rent Control) Act, 1960, which is restricted to examination of the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein. I therefore do not think that the case on hand is one which would require interference under Section 25 of the Act.



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

WEB COPY

There is sufficient evidence in support of the conclusion reached by the Authorities. The interference under Section 25 of the Act, can be made only when I reach a conclusion that the findings are not supported by material or that the findings are opposed to law. Having gone through the orders of both the Authorities and also the evidence placed before them, I am of the conclusion that the findings of the Authorities are just and proper and they cannot termed as illegal or based on no evidence.

12. In the light of the above, I do not see any reason to interfere with the orders of the Authorities, the Civil Revision Petition fails and it is **dismissed**. Consequently, the connected miscellaneous petition is closed. No costs.

13. Mr.S.S.Rajesh, learned counsel appearing for the petitioner/tenant would seek some time to vacate. Considering the fact that the tenant has been in possession of the property for a considerably long period, the tenant is granted time till 31.12.2022 to vacate and handover possession to the landlords without driving the landlords to execution proceedings. The



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

WEB COPY

tenant shall file an affidavit under taking to vacate and hand over possession to the landlord on or before 31.12.2022. Such affidavit shall be filed into this Court by 23.12.2021. If the affidavit is not filed by 23.12.2021, it will be open to the landlords to execute the order of eviction, as if no time has been granted by this Court.

jv

14.12.2021

Index: No
Internet: Yes
Speaking order

To

1. The VIII Judge,
Court of Small Causes, Chennai
2. The X Judge,
(Rent Controller)
Court of Small Causes,
Chennai.
3. The Section Officer,
V.R.Section,
High Court of Madras.



WEB COPY



C.R.P. (NPD) No.1473 of 2021
and CMP No.11580 of 2021

R.SUBRAMANIAN, J.

jv

Civil Revision Petition (NPD) No.1473 of 2021
and CMP No.11580 of 2021

14.12.2021