

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

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

CRP (NPD) No.2377 of 2018
and CMP.No.14704 of 2018

V.Srinivasan

..Petitioner

Vs.

1.V.Sampoornammal

2.V.Ramamurthy

3.Executive Trustee/Assistant Commissioner,
Sri Devarajasamy Devasthanam,
having office at
Sri Devarajaswamy Temple Sannadhi Street,
Little Kanchipuram.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 11.04.2018 made in RCA No.7 of 2012 by the Rent Control Appellate Authority/Subordinate Judge at Kanchipuram confirming the fair and decreetal order dated 31.01.2012 made in RCOP No.9 of 2006 by the Rent Controller/District Munsif, Kanchipuram.

For Petitioner

: Mr.S.Jayakumar

For R1 & R2

: Mr. Kanchi G.V.Mathiazhagan

For R3

: Mr.K.Hari Haran

ORDER

This Civil Revision Petition is filed against the order dated 11.04.2018 passed in RCA No.7 of 2012 on the file of the Rent Control Appellate Authority/Subordinate Judge, Kanchipuram, thereby confirming the fair and decreetal order dated 31.01.2012 passed in RCOP No.9 of 2006 on the file of the Rent Controller/District Munsif, Kanchipuram, thereby ordering eviction.

2. The petitioner is the tenant and the respondents are the landlord in respect of the superstructure of the suit property. The respondents 1 and 2 filed a petition for eviction on the ground of owners occupation, wilful default, acts of waste and the nuisance to occupy the 1st floor.

3. The Rent Controller allowed the eviction petition on the ground of own use and occupation and also acts of waste. Insofar as the other prayers the Rent Controller dismissed the eviction petition and thereby directed the tenant to vacate and handover the possession of the petition premises to the landlord within the period of three months. Aggrieved by the same, the tenant filed an appeal before the Rent Control Appellate Authority and the Appellate Authority modified the order of eviction on the ground of wilful default in

payment of rent, own use and occupation. Insofar as the ground of causing nuisance to the landlord is concerned, it was dismissed. Aggrieved by the same, the tenant preferred the present Civil Revision Petition.

4. While pending the appeal before the Rent Control Appellate Authority, the third respondent preferred an appeal to implead the Temple as a party for the reason that the land belongs to the Temple and superstructure was only put up by the present landlord. They filed a suit in O.S.No.23 of 2016 for declaration and mandatory injunction and the suit was decreed in respect of the prayer for declaration and dismissed insofar as the prayer for mandatory injunction is concerned. Therefore, admittedly, when the superstructure was put up by the landlord herein, the tenant ought to have pay the rent to the petition premises. The tenant failed to pay the rent from October 2000 and has chosen to file the petition, to deposit the rent for the months of January 2001 to July 2001 in RCOP No.32 of 2001. Therefore, the petitioner committed wilful default in payment of rent and he is liable to be evicted on the ground of wilful default. In respect of the another ground raised by the landlord, the first floor of the petition premises was used by the landlord from the month of July 2001, and the tenant has disconnected the electricity line and created nuisance. Therefore, the first floor became vacant and the landlord residing in rental premises.

5. Whereas, the contention of the tenant is that the landlord has constructed a new house, the first and second floor were let out to another tenants. However, it is not proved by any evidence and as such, there is no nuisance caused by the tenant. Further the landlord is carrying his business adjoining to the petition premises. Therefore, the petition premises is in the own use and occupation of the landlord. The tenant also categorically admitted his evidence that the landlord is doing business in a rented shop and residing in the property and claimed eviction of the tenant on the ground of own occupation.

6. Therefore, the Rent Control Appellate Authority rightly ordered eviction on the ground of owners occupation. This Court finds no illegality or infirmity in the order passed by the Rent Control Appellate Authority. Hence, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Speaking/Non-speaking order

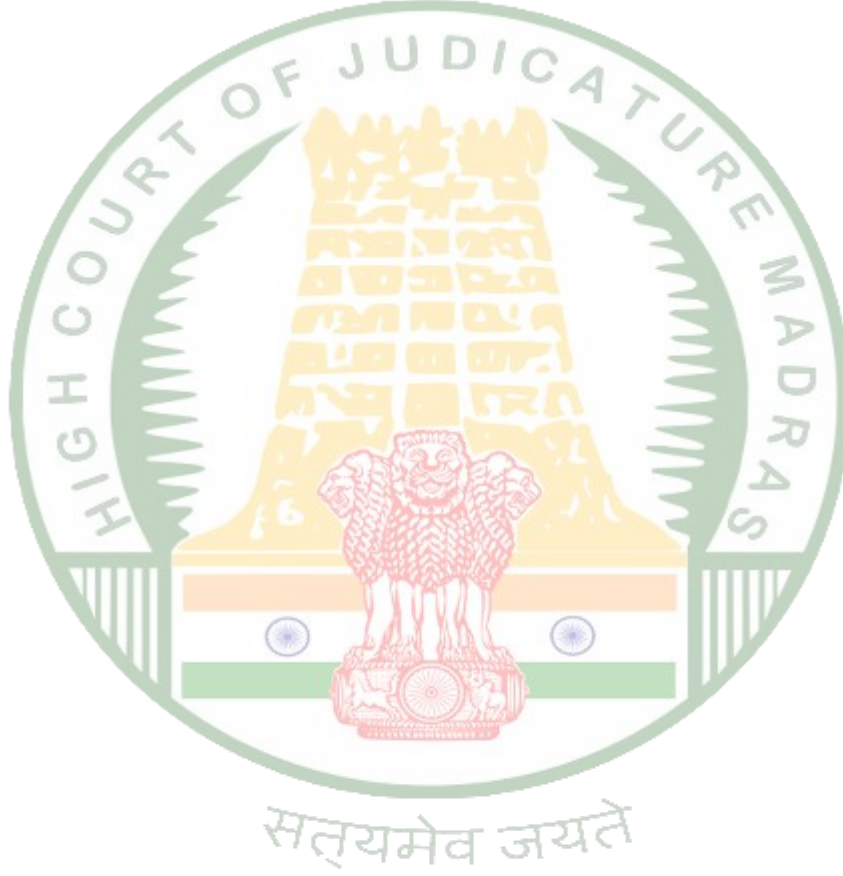
Index : Yes/No

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To

1. The Rent Control Appellate Authority/Subordinate Judge,
Kanchipuram
2. The Rent Controller/District Munsif,
Kanchipuram.



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G.K.ILANTHIRAIYAN.J,

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