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C.R.P. (NPD) No.1431 of 2021
and CMP No.11171 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

Civil Revision Petition (NPD) No.1431 of 2021
and CMP No.11171 of 2021

R.V.Thirunavukarasu

.. Petitioner

Vs.

Thibert Lourdusamy

.. Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Pondicherry Buildings (Lease & Rent Control) Act, praying to set aside the judgment and decree dated 15.04.2021 passed in R.C.A.No.4 of 2020 on the file of the II Additional District Judge, Puducherry, confirming the order and decreetal order dated 16.07.2020 passed in HRCOP No.81 of 2014 on the file of the Rent Controller-I, Puducherry.

For Petitioner : Mr. A.Tamilvanan

For Respondent : Mr. K.Sasindran



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ORDER

The tenant challenges the order of eviction granted in HRCOP No.81 of 2014 and confirmed in RCA No.4 of 2020. The landlord sued for eviction of tenant on the ground that he has committed willful default, he has changed the user of the premises, he has denied the title of the landlord and on the ground that the premises is required for the own occupation of the petitioner who has retired from service.

2. The tenant resisted the claim contending that the property was leased to him by one Abdul Rahman, on a monthly rent of Rs.10,000/- and he has paid an advance of Rs.60,000/-. The lease was reduced in writing on 01.10.2012. It is the further contention of the tenant that Adbul Rahman, had agreed not to evict him for a period of 7 years from the date of the lease and executed a separate deed. It is also stated that the tenant was paying rents to Abdul Rahman regularly and whenever he failed to collect the rent, the rent was deposited in UCO Bank, account of Adbul Rahman. Therefore,



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according to the tenant there is no default.

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3. It is claimed that one Muruganandham claiming to be the representative of the petitioner verified the receipts of the respondent and the respondent raised a *bona fide* doubt about the ownership of the property. It is claimed that notice was issued by the respondent on 31.05.2014 and that there was no reply, he had filed RCOP No.78 of 2014 seeking to deposit the rent before the Rent Controller. The claim that there was change of the user of the building was also denied. The requirement of the landlord for his own occupation was termed as not *bona fide*.

4. At trial, the petitioner was examined as P.W.1 and two of his witnesses were examined as P.Ws. 2 & 3. The respondent was examined as R.W.1 and one Anthony was examined as R.W.2. While Exhibits P1 to P21 and X1 to X3 were marked on the side of the petitioner and Exhibits R1 to R22 were marked on the side of the respondent.

5. The learned Rent Controller upon a consideration on the evidence



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on record found that the tenant had exhibited supine indifference in and he has been highly irregular in payment of rent. The learned Rent Controller concluded that the default on the part of the tenant is willful and he has rendered himself liable for eviction on the ground of willful default. The learned Rent Controller pointed out that the receipts produced by the respondent would themselves show that the respondent was not regular in payment of rent. The learned Rent Controller was in fact surprised by the fact that the fixed deposit was made by the Bank with the following as the Depositor's name "Rent Controller –I A/c. R.V.Thirunavukkarasu, Pondicherry". The Rent Controller pointed out that such a deposit ought not to have been made without an order of Court.

6. On the claim of the landlord that there has been a change of user of the building, the Rent Controller found that the building was a residential one and was leased out for residential purposes. The learned Rent Controller also found that Ex.P12 under taking letter given by the respondent to the Police Station, which was not denied by the respondent, would show that the respondent had converted the building into a non-



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residential one and has been using it for running an office.

7. On the above findings, the learned Rent Controller concluded that there has been a change of user of the premises. On the claim of the landlord that he requires the premises for his personal occupation, the claim of the tenant that the first floor of the building is vacant and therefore the landlord can occupy the first floor was rejected because the landlord is aged about 70 years and it is for him to choose the place where he would live and it is not for a tenant to dictate terms. The learned Rent Controller also took note of the various decisions of this Court on the requirement of the landlord for personal occupation and accepted the case of the landlord. On the above conclusions, the learned Rent Controller ordered eviction on all causes. Aggrieved the tenant preferred an Appeal in RCA No.4 of 2020.

8. The learned Appellate Authority on a reconsideration of the evidence on record concurred with the findings of the trial Court and dismissed the Appeal. Hence the Civil Revision Petition.



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9. I have heard Mr.A.Tamilvanan, learned counsel appearing for the petitioner and Mr.K.Sasindran, learned counsel appearing for the respondent.

10. Mr.A.Tamilvanan, learned counsel appearing for the petitioner would vehemently contend that the Rent Controller and the Appellate Authority were not right in upholding all the grounds of eviction claimed by the landlord. He would submit that the denial of title was *bona fide* and it was made only with an intention to know the actual owner of the property. He would point out that the tenant has shown his bona fides by depositing the rents with the Bank and hence there was no intention to default. In the absence of a finding that the tenant has exhibited supine indifference in payment of rent, eviction, on the ground of willful default, ought not to have been ordered. On the ground of change of user, the learned counsel would point out that Ex.P12 was a letter given to the police and therefore the same cannot form the basis for an eviction order. On the question of own use in occupation, the learned counsel would again reiterate the contention before

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the Rent Controller and the Appellate Authority to the effect that the first floor of the premises is vacant, therefore the landlord can occupy the same.

11. I am unable to agree with the contentions of the learned counsel for the petitioner. The fundamental duty of a tenant is to acknowledge the title of the landlord and pay rents. The tenant cannot deny the title of the landlord keep the rents in deposit in his own name and claim that he has discharged the obligation to pay the rent. The very fact that the deposits was made in the name of the Rent Controller without an order of the Court would show the intentions of the petitioner/tenant. As regards the claim for denial of title, both the Courts have come to the conclusion that the denial of title was not *bona fide* and the tenant was aware of the ownership of the landlord and the denial was only a half hearted attempt to escape eviction.

12. As regards change of user also no doubt Ex.P12 was executed before the Police Station, but the petitioner/tenant has not denied its execution. He has not taken the plea that it was obtained by force or coercion. He has very categorically admitted that he is running an office in



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the premises. The lease document shows that the premises was let out for residential purposes. Therefore the conclusion of the authorities that there has been a different user of the premises cannot be faulted.

13. As regards owners occupation also the learned Appellate Authority has found that it is for the landlord to decide where he would live and it is not for the tenant to dictate as to where the landlord should reside. The landlord is a French National and has retired from the service. He intends to settle down in Pondicherry. Therefore, the tenant cannot deny the landlord the pleasure of residing in his own house at least after retirement. I therefore do not see any ground to interfere with the conclusions of the Authorities below, particularly in a Revision under Section 25 of the Pondicherry Building (Lease and Rent Control) Act, where the scope of the Revision is very limited and interference with concurrent findings can be made only when it is shown that the findings are on the face of them illegal.

14. From an examination of the orders passed by the Authorities under the Act, I find that there is no scope for terming the orders of eviction



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as illegal or irregular. Hence the Civil Revision Petition fails and it is accordingly **dismissed**.

15. Mr.A.Tamilvanan, learned counsel appearing for the petitioner would seek time to vacate. Considering the fact that the petitioner has been in possession of the property since 2012, six (6) months time is granted to him to vacate and deliver the vacant possession of the property without driving the landlord to execution proceedings. The tenant shall file an affidavit undertaking to vacate on or before 31.05.2022. Such affidavit shall be filed into this Court on or before 10.12.2021. If the affidavit is not filed by 10.12.2021, the landlord will be free to execute the order of eviction, as if no time has been granted by this Court. Consequently, the connected miscellaneous petition is closed. No costs.

26.11.2021

jv

Index: Yes/No
Internet: Yes

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Speaking order/Non Speaking order

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To

1. The II Additional District Judge,
Puducherry.
2. The Rent Controller-I,
Puducherry.
3. The Section Officer,
V.R.Section,
High Court of Madras.



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R.SUBRAMANIAN, J.

jv

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