



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.NO.2309 OF 2020

AND

C.M.P.NO.14513 OF 2020

1. M/s.KPN Travels India Limited,  
Represented by its Managing Director,  
Mr.K.P.Natarajan,  
No.23-B, Rajaji Street,  
Swarnapuri, Salem - 636 004.
2. Mr.K.P.Natarajan  
Managing Director,  
KPN Travels India Limited,  
No.23-B, Rajaji Street,  
Swarnapuri, Salem - 636 004. ... Petitioners/Appellants/  
Tenants

.Vs.

Mr.C.M.Suresh,  
S/o.Dr.C.Muniratnam,  
No.3, I-Block,  
Anna Nagar East,  
Chennai - 600 102. ... Respondent/Landlord

PRAYER:-

Civil Revision Petition filed under Section 25 of TNBC Rent Control Act, 1960, against the Judgment and Decree dated 24.01.2020 passed in R.C.A.No.699 of 2014, on the file of the VII Judge, Small Causes Court, Chennai confirming the order dated 17.09.2014 in R.C.O.P.No.5 of 2013 on the file of the X Small Causes Court, Chennai.

For Petitioners : Mr.M.Arunkumar

For Respondent : Mr.A.Muniraja



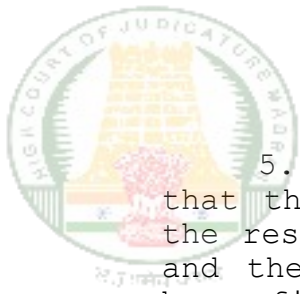
## ORDER

This Civil Revision Petition filed under Section 25 of Tamil Nadu Building (Lease and Rent) Control Act, 1960, against the judgment and decree dated 24.01.2020 passed in R.C.A.No.699 of 2014 on the file of the learned VII Judge, Small Causes Court, Chennai, confirming the order dated 17.09.2014 passed in R.C.O.P.No.5 of 2013 on the file of the X Small Causes Court, Chennai.

2. The case of the revision petitioners is that the petitioners herein are tenants in the premises at Door No.13, 1-B, Anna Nagar East, Chennai - 600 102, wherein, ground floor portion of the building was let out to the petitioners by the respondent's father in June 2002 for business purposes on a monthly rent of Rs.26,000/- and Rs.4,00,000/- was paid towards Security Deposits.

3. Further, in the year 2005, the respondent's father had settled the property/premises in favour of the respondent. After execution of the settlement, the petitioners herein were paying the rent and amenities charges to the respondent. The rent was increased from time to time and at present the petitioners are paying rent of Rs.30,800/- and amenities charges of Rs.1,500/-, totally Rs.32,300/- and after deducting the TDS of Rs.3,080/- the petitioners are paying Rs.29,220/- to the respondent. The extent of property is 1,500 Sft. and vacant place of 750 Sft. The said building was used as an office for loading, unloading and storing stocks that are being transported.

4. Also, the respondent herein filed R.C.O.P.No.5 of 2013, in the year 2013 under Sections 10(2)(ii)(b), 10(2)(v) and 10(3)(c) of the Tamilnadu Buildings (Lease and Rent Control) Act for eviction on the ground of different user, nuisance and own use and occupation. The trial court after taking note of the facts and circumstances and the documents placed on record, had passed an order observing that "the petition is allowed on the ground of additional accommodation. This petition is dismissed on the grounds of different user and nuisance. Eviction ordered. Time for eviction two months." Against the said order in R.C.O.P.No.5 of 2013, the respondent herein filed R.C.A.No.126 of 2015 and the petitioners herein filed R.C.A.No.699 of 2014, which were also dismissed by the learned VII Judge, Small Causes Court, Chennai, vide its order dated 24.01.2020 confirming the order of the learned Rent Controller. Aggrieved against the order of the Appellate Authority in R.C.A.No.699 of 2014 by confirming the order in R.C.O.P.No.5 of 2013, the petitioners herein filed this present Civil Revision Petition before this Court and the respondent have filed a Caveat No.4098 of 2020.



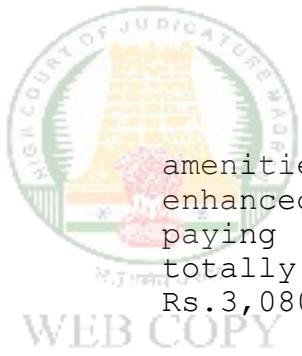
WEB COPY

5. The learned counsel for the petitioners would submit that the said accommodation was ordered only on the basis that the respondent is carrying a car business for the past 10 years and the same is without any basis, however, no documents have been filed to prove the same. The petitioners are running a Mobile Prepaid Card Top-Up counter at a small space of 150 sq.ft., in the same premise from 01.06.2002. The petitioners are carrying the said business in the same premise and the appellate Court has not considered the same and allowed the prayer of the respondent/landlord. The additional accommodation granted by the court below is affecting the petitioners' business and Section 10(3)(c) of Tamilnadu Buildings [Lease & Rent Control] Act, 1960 will not be applicable and no documents have been produced to show that the respondent is carrying on the business of buying and selling car. Also, no hardship has been proved by the land lord.

6. The learned counsel for the petitioners also submitted the respondent/landlord does not have any business plan as stated in the petition and even assuming the same is true, the business of mobile prepaid card top up does not require 1500 sq.ft. of commercial space or 750 sq.ft open parking. The respondent is not running any business dealing with used car in the petition premises as stated in the petition. The petitioners will be put into great hardship if it is asked to vacate the petition premises, whereas no hardship or prejudice will be caused to the respondent. The respondent's contention lacks bonafide and the demand made by the respondent is only with malafide intention.

7. That apart, it is the further contention of the learned counsel for the petitioners that the lower Court has accepted Ex.P9, Form 16, as a proof for the business of the respondent. The respondent has not produced any income tax statement or any other documents to substantiate the same and the Court below ought to have considered the same. Moreover, the respondent's allegation that the family members of the staff members of the petitioners are staying in the petition premises and the allegation of different user is also hereby denied. The petitioner/tenant is a transport company engaged in storing stocks, which are being transported in Chennai. Hence, the Additional Accommodation, which was granted by the court below to the respondent has to be set aside. Further, he would submit that the Court below ought not to have granted additional accommodation.

8. Contending contra, the learned counsel for the respondent would submit that the petitioner was a tenant under the father of the respondent/landlord from 01.06.2002 on a monthly rent of Rs.14,000/- and a sum of Rs.12,000/- as



amenities charges in the petition premises. The rent was enhanced from time to time and at present, the petitioners are paying the rent and charges at Rs.30,800/- and Rs.1,500/- totally Rs.32,300/- per month. After deducting TDS of Rs.3,080/-.

9. Besides the above, the learned counsel for the respondent would submit that the petitioner denies all the allegation that their staff members are taking bath and washing clothes in the petition premises and causing nuisance to the respondent and neighbours, but from the averments of the petition itself it is clear that the said building is used as office for loading, unloading and storing stocks that are being transported. Further, in the front open space, the vehicles are parked for loading and unloading goods and the petitioner/Company is having its staff members for running the office. Since the petition premises was taken on rent, some of the staff members are staying in the night in the petition premises for protecting and safeguarding the goods stored in the premises. As a common carrier, the vehicles of the petitioners are maintained and thereby the petitioners are causing nuisance to the respondent and neighbours.

10. The learned counsel for the respondent vehemently argued that the respondent is presently running a mobile prepaid card top up counter at a small space at 150 Sq.Ft., that too under the stairs of the building and in order to carry on the business of dealing in cars, the respondent needs a much larger space with road facing frontage and with space to accommodate and park the vehicle and that the respondent neither owns nor possesses any premises in the city of Chennai.

11. Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent and perused the materials available on record.

12. This Court has considered the rival submissions made by both the counsel. In the counter filed by petitioners before the court below, it is admitted that the respondent's building is used as office for loading, unloading and storing stocks that are being transported. It is an admitted fact that the petitioner its having staff members for running the transportation office and the petition premises is taken on rent and some of the staff members are staying during the night hours at petition premises for loading and unloading and safeguarding the goods stored in the premises. As a common carrier, the vehicles of the petitioners are maintained in the open space.

13. The present Civil Revision Petition filed by the petitioner/tenant. The finding of the Appellate/Tribunal, while



recording the plea of additional accommodation, it is clear from the pleadings and the pleadings made in RCOP, as far as the requirement of additional space, which is being occupied by the petitioner who is the tenant, the respondent submitted that he is carrying on business in dealing with used cars and then, professionally supported by his son to carry on business, they needed the premises, which was let out to the petitioner herein and the respondent had been demanding the vacant possession of the premises by making several oral and written demands for the last two years prior to filing of the RCOP No.5 of 2012. Further, the respondent/landlord also contended that he is running a mobile prepaid card top up counter at a small space of 150 sq.ft, that too under the stairs of the building comprised in the schedule portion. In order to carry on the business of selling of used cars, the landlord/respondent needed much larger space, which has got road facing frontage and with more space to accommodate the vehicles, which are brought for sale and to park the same. The petitioner/tenant, who filed the Revision had submitted that the business of mobile prepaid car does not require 1500 square feet and 750 square feet of open land, which is an open parking, as the respondent/landlord is not running any business dealing in car in the premises, as alleged by him.

14. On perusal of the documents, filed on behalf of the respondent/landlord, it is categorically made clear that he is in possession of the portion of the rented out premises and that he requires the said land for expanding his business. The Civil Revision Petitioner herein has not denied that the landlord is in occupation of the portion of the rented out premises and not denied that the landlord is not carrying on the said business, as claimed by the landlord. Thus it is made clear that the landlord is in possession of the portion of the premises which is evidently clear from the counter affidavit at paragraph no.8, wherein it is stated that the allegation of "business plans of the respondent is denied. The business of mobile prepaid card top up does not require 1500 square feet commercial space or 750 square feet of open parking. The respondent is not running any business dealing in cars in the premises as alleged by the respondent".

15. Contrary to the said statement, the Revision Petitioner in his cross examination has already stated that "மனுதாரர் என்ன தொழில் செய்கிறார் என்பது எனக்கு தெரியாது." Further he has also stated that "மனுதாரர் இந்த வழக்கை தாக்கல் செய்தபிறகு என்ன தொழில் செய்கிறார் என்று பார்த்தபோது அவர் தொலைபேசி ரீசார்ஜ் செய்யும் தொழிலை மாடிபடியின் கீழ் வைத்து நடத்துகிறார் என்று நான் தெரிந்து கொண்டேன். "

16. From the above statement, it is clear that the respondent/landlord is carrying on the business of mobile



recharge as claimed by him in the original petition. The Rent Control Original Authority has held that the additional accommodation, as pleaded by the respondent/landlord is genuine and required for his own use and allowed the claim as far as the additional accommodation alone, which had been concurrently held by the Rent Control Appellate Tribunal. That apart, it is also clear that the respondent/Land lord has also produced a statement that he is doing a car business for the past ten years and for the car business, he has obtained bank loan to the tune of Rs.20 Lakhs, which is established and evidently clear from Exhibit P9, which is a sanction letter for advance issued to the P.W.1. It is not denied by the petitioner/tenant that the landlord is not doing any cell recharge business under the stair case to an extent of 150 square feet, which establishes that the land lord is doing business, as he claimed in the RCOP petition and when the same has been proved from the statements, the court below has rightly allowed the landlord's claim.

17. Therefore, this Court is of the view that it is not for the tenant to dictate terms to the landlord as to whether the business carried on by the landlord requires 1500 square feet or 750 square feet of parking area, it is for the landlord to decide how much space he requires to do his business or expand his business. Time and again, the Hon'ble Supreme Court as well as this Court in various cases decided that it is not the choice of the tenant to state that the requirement of the landlord is limited to an extent and not as the landlord claims and it is for the landlord to decide as to what he has to do with the portion he requires, as long as the claim for requirement is bonafide. From the records, it is categorically clear that the landlord is in need of space to expand his business, which is available in the petition mentioned property.

18. That apart, the respondent has claimed the said land for his son's future expansion of business and this Court feels that it is a bonafide requirement. When the Civil Revision Petitioner has stated that the only claim put forth is that the requirement of the respondent/landlord is not bonafide and does not show any material that he is already into the business for the past ten years and the claim has to be rejected, the landlord has proved that he is dealing with the used cars. Apart from that, the landlord has established that the requirement is bonafide and the need is genuine as the findings of the court below are not perverse and this Court is not inclined to interfere with the same, as the entire evidence has been considered and the findings of the authorities are also considered.

In view of the above, the present Revision petition is devoid of merits and no valid grounds are raised for this Court



to interfere with the concurrent findings of the Rent Controller as well as the Appellate Tribunal. Hence the Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition and Caveat petition are closed. Accordingly, the petitioners herein are directed to vacate the premises as per the orders of the Court below and hand over the vacant possession to the respondent on or before 28.03.2021. No costs.

Sd/-  
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

sbn/ssd

To

1. The VII Judge,  
The VII Small Causes Court,  
Chennai.
2. The X Judge,  
The X Small Causes Court,  
Chennai.

+1cc to M/s.Sampathkumaar & Associates, Advocate, S.R.No.7609

C.R.P.NO.2309 OF 2020 AND  
C.M.P.NO.14513 OF 2020

VG-II (CO)  
PBS/02/12/2021