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CRP (NPD) No.2465 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.2465 of 2021
and CMP No.18606 of 2021

Kamalanathan

... Petitioner

Vs

A.Raghuram

... Respondent

Prayer: The Civil Revision petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act, against the Fair and Decreetal Order of the learned Rent Control Appellate Authority (IX Court of Small Causes) Chennai, dated 16.08.2021 in R.C.A.No.10 of 2020, confirming the fair and decreetal order of the learned Rent Controller (XV Court of Small Causes), Chennai dated 11.11.2019 in RCOP No.814 of 2017.

For Petitioner : Mr.T.Hariharan

For Respondent : Mr.R.Alwin Manoj, for
M/s.RRN Legal for Caveator



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ORDER

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The challenge in this revision is to an Order of the learned appellate Authority under the Tamilnadu Buildings (Lease and Rent Control) Act made in RCA No.10 of 2020, dated 16.08.2021, in and by which, the learned appellate Authority confirmed the order of eviction passed by the learned Rent Controller made in RCOP No.814 of 2017, dated 11.11.2019.

2. The landlord sued for eviction on two grounds namely wilful default and owner's occupation. According to the landlord, the tenant occupied the premises sometime in November 2013 on a monthly rent of Rs.7,500/-. He had paid an advance of Rs.40,000/-. The landlord would further aver that the tenant was paying rent directly to the petitioner from November 2013 to April 2014 and thereafter from May 2014, the tenant was depositing the rents in the landlord's saving bank account maintained at Punjab National Bank, TVK Nagar branch. The landlord was working as a Branch Manager in Punjab National Bank and retired from service in the year 2015. Initially the landlord along with his family members occupied



the petition premises from 2003 to 2006. For the sake of the education of their children, he let out the petition premises and shifted to Anna Nagar where the family resided in a rented accommodation. It is the claim of the landlord that the tenant has not paid rents from September 2015 and he requires the premises for his own occupation as he has retired and his son has completed his education. The daughter of the landlord has also got married sometime in 2016. Claiming that unable to pay the monthly rent of Rs.14,000/-, he had shifted to a smaller house on a monthly rent of Rs.10,000/-. Hence, the landlord sought for eviction on the ground that he requires the premises for his own use and occupation.

3. The claim of the landlord was resisted by the tenant contending that he was regular in payment of rents and the landlord evaded to receive the same. It is also claimed that the requirement of the landlord is not bonafide. It is also averred that the landlord himself informed the tenant that he is not willing to reside in the petition premises since a Church and Dance Class are situate nearby, which he considered as a nuisance.



4. At trial, the landlord examined himself as P.W.1 and Exs.P1 to P9 were marked. The tenant was examined as R.W.1 and one Mrs.Girija, was examined as R.W.2 and Exs.R1 to R5 were marked.

5. The learned Rent Controller upon consideration of the evidence on record concluded that the tenant had committed default in payment of rent. He also found that the requirement of the landlord is proved to be bonafide. The fact that the landlord was retired from service in the year 2015 and his two children had completed their education were taken into account by the learned Rent Controller in coming to the conclusion that the landlord has proved his bonafide intention to occupy the premises for his own use. On the above findings, the learned Rent Controller ordered eviction. Aggrieved, the tenant preferred an appeal in RCA No.10 of 2020.

6. The learned appellate authority on a re-examination of the evidence on record, concurred with the findings of the learned Rent Controller, and dismissed the appeal.



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7. I have heard Mr.T.M.Hariharan, learned counsel appearing for the petitioner / tenant and Mr.R.Alwin Manoj, learned counsel appearing for M/s.RRN Associates, for caveator.

8. Mr.T.M.Hariharan, learned counsel appearing for the petitioner would vehemently contend that the conclusion of the learned Rent Controller on the ground of wilful default is not supported by evidence. As regards the owners occupation, the learned counsel would submit that the appellate Court had only reiterated the findings of the learned Rent Controller.

9. I have gone through the order of the Appellate Authority. The appellate authority has considered the evidence and has come to the conclusion that the tenant has not paid rent wilfully. The very fact that the tenant issued a letter to the landlord asking his bank account in the year 2017 to deposit the rent would show the supine indifference on the part of the tenant. The tenant has deposited the rents during the years 2014 and 2015 in the bank account of the landlord maintained at Punjab National



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Bank, Thiru Vi Ka Nagar Branch, Chennai. Therefore he was aware of the details of the bank accounts of the landlord. The request made in 2017 shows that the intentions of the tenant are not bonafide. Be that as it may, the landlord has established his case for owner's occupation. The case of the landlord that he has retired in the year 2015, has not been denied by the tenant. The landlord's children have also completed their education and his daughter has also got married. Therefore there is nothing wrong in a person wanting to live in his own property at least after retirement. The claim of the tenant that the landlord did not like to live in the property in the year 2013, is not proved by any other evidence. Even assuming it to be true on the intention of the landlord seeking eviction on the ground of own use and occupation, I find that both the authorities constituted under the Tamilnadu Buildings (Lease and Rent Control) Act, have examined the evidence on record and reached the correct conclusion and even if a contrary finding is possible on the evidence, I do not think I can substitute my own finding in a Revision under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act. The revision therefore fails and it is accordingly dismissed.



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10. Mr.T.M.Hariharan, learned counsel appearing for the petitioner / tenant would seek some time to vacate the premises.

11. Considering the fact that the tenant is in occupation of the premises from the year 2013, the tenant is granted eight months time from today i.e., from 19.11.2021 to **31.07.2022** to vacate and hand over possession to the landlord without driving him to execution proceedings. The tenant shall also file an affidavit of undertaking to vacate and hand over possession on or before 31.07.2022. Such affidavit shall be filed by **10.12.2021**. If such affidavit is not filed by the said date, it will be open to the landlord to execute the order of eviction as if no time has been granted by this Court. No costs. Consequently, connected miscellaneous petition is closed.

19.11.2021

vum

Index: Yes/No

Speaking order / Non speaking order

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R.SUBRAMANIAN, J.

vum

To:

1. The Rent Control Appellate Authority
/IX Court of Small Causes, Chennai.
2. The Rent Controller/
XV Court of Small Causes,
Chennai.

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