



WEB COPY



CRP (NPD) No.2513 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.2513 of 2021
and CMP No.18884 of 2021

T.P. Pandi Selvi

... Petitioner

Vs

N.F. Ansari Mohammed

... Respondent

Prayer: This Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, against the Judgment and Decree dated 16.09.2021 passed in R.C.A. No.786 of 2017 on the file of the VII Judge, Small Causes Court, Chennai confirming the order, dated 12.09.2017 made in R.C.O.P. No.506 of 2015 on the file of XII Judge Small Causes Court, Chennai.

For Petitioner : Mr.B.R. Shankaralingam

For Respondent : Mr. Nazar Hussain
for Mr.N.A.Nissar Ahmed



CRP (NPD) No.2513 of 2021

ORDER

WEB COPY

The tenant challenges the orders of eviction on the ground of additional accommodation passed in RCOP No.506 of 2015 as confirmed in RCA No.786 of 2017.

2. The landlord sought for eviction on the ground that he requires the petition premises, which is a non-residential one, for his business which is being carried on in a rented premises. The landlord admitted that he is residing in the first floor of the petition premises and he is also in occupation of a portion of the ground floor which is being used as a godown. He wanted the petition premises for his showroom which is now situate in No.63, MC Road, Old Washermenpet, Chennai 600 021.

3. The said claim of the landlord was resisted by the tenant contending that the requirement of the landlord is not bonafide and the landlord is having a textile godown in the ground floor. It was also contended that the area that is in occupation of the landlord would be sufficient for his business. The tenant also pointed out that the hardship that



would be caused to the tenant would outweigh the advantage that would accrue the landlord.

4. At Trial the landlord was examined as PW1 and Exs.P1 to P4 were marked and one S.Tirupathi was examined as RW1 and Exs.R1 to R5 were marked.

5. The learned Rent Controller on a consideration of the evidence on record, rejected the defence of the tenant and concluded that the requirement of the landlord is bonafide. It was also found that the hardship that would be caused to the tenant would not outweigh the advantage that accrued to the landlord. Upon such finding, the learned Rent Controller allowed the application for eviction and ordered eviction. Aggrieved, the tenant preferred an appeal in RCA No.786 of 2017.

6. The Appellate Authority on a reconsideration of the evidence on record, concurred with the findings of the learned Rent Controller and dismissed the Appeal.



7. I have heard Mr.B.R.Shankaralingam, learned counsel appearing for the petitioner and Mr.Nazar Hussain, learned counsel appearing for the Caveator.

8. Mr.B.R.Shankaralingam, learned counsel appearing for the petitioner would invite my attention to the evidence of the landlord and contend that the landlord is already in occupation of about 800 Sq.ft. space in the ground floor of the premises, therefore his requirement of the petition premises measuring about 170 sq.ft is not bonafide. He would also submit that the space available with the landlord would be sufficient for him to carry on his business.

9. I am afraid such contention is not open to the tenant. He cannot dictate as to which portion should the landlord to occupy. This Court as well as the Hon'ble Supreme Court have reiterated that it is not for the tenant to dictate as to how the landlord should use his premises. In an eviction proceedings, particularly under Section 10 (3)(C) of the Act, the Court has to see whether the claim of the landlord is bonafide and whether



CRP (NPD) No.2513 of 2021

the advantage that would accrue the landlord would outweigh the hardship that would be caused to the tenant. Both the authorities below have adverted to the minimum requirements of the provision and have recorded their findings based on evidence. The claim of the landlord that he has been carrying on business in a rented premises has also been proved with substantial evidence. The landlord is carrying on business in a rented premises and he seeks eviction of his own building where he has a godown also. Such a need cannot be said to be malafide. Both the authorities under the Act, have analysed the evidence and concluded that the advantage that would accrue the landlord would outweigh the hardship that would be caused to the tenant. Being a revision under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, the scope of the proceedings and the power of this Court to interfere with such factual findings, is limited and I cannot re-appreciate the evidence and substitute my own conclusion, even if such conclusion is possible. I, therefore, do not see any merits in the revision. The revision fails and it is accordingly dismissed.



CRP (NPD) No.2513 of 2021

10. Mr.B.R.Shankaralinge, would seek some time to vacate the premises.

11. Considering the fact that the petitioner is carrying on business in the premises for more than 10 years, I am of the opinion that she should be granted some time to vacate and handover possession to the landlord without driving the landlord to execution proceedings. The petitioner/tenant is granted eight months time to vacate and handover possession subject to filing of an affidavit of undertaking to vacate and hand over possession on or before **31.07.2022**. Such affidavit of undertaking shall be filed in this Court on or before **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.

24.11.2021

vum
Index: Yes/No
Speaking order / Non speaking order



WEB COPY



CRP (NPD) No.2513 of 2021

To:

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



WEB COPY



CRP (NPD) No.2513 of 2021

R.SUBRAMANIAN, J.

vum

CRP (NPD) No.2513 of 2021
and CMP No.18884 of 2021

24.11.2021