



C.R.P(PD)No.2997 of 2021
and CMP.No.21342 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(NPD)No.2997 of 2021

and

CMP.No.21342 of 2021

Kundanmal

..Petitioner

Vs.

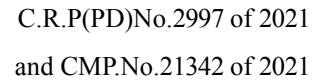
Mohanlal Navalmalr

..Respondent

Prayer: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, against the order and decretal order of the learned VII-Judge Small Causes Court, Chennai in RCA.No.464 of 2015 dated 09.09.2021 confirming the order of eviction in RCOP.No.2157 of 2012 dated 20.04.2015 on the file of the learned XIII-Judge, Small Causes Court, Chennai.

For Petitioner : Mr.Sameer Shah for

Mr.M.B.Sethuraman



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2. The Tenant, resisted the petition contending that the requirement of the Rent Controller that the premises kept vacant by the landlord is not bona fide. The tenancy, monthly rent and the fact that the landlord is doing business are admitted. The only defence that was put forward by the tenant was that the landlord has got some other property, which is lying vacant and business could be done in that place. In evidence, the tenant brought home that the premises that is kept vacant by the landlord is not suitable to have sufficient lightning, therefore, the landlord cannot carry on business in that premises. The learned Rent Controller accepted the



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explanation given by the landlord and found that the requirement of the landlord is bonafide. On the said finding, the Rent Controller ordered eviction. Aggrieved, the tenant filed an appeal in RCA.No.464 of 2015. The learned Appellate Authority, on a reconsideration of the evidence, agreed with the conclusions of the learned Rent Controller. Upon such agreement, the Appellate Authority dismissed the appeal.

3.Heard Mr.Sameer Shah, learned counsel appearing for the petitioner / tenant.

4.Mr.Sameer Shah, learned counsel appearing for the petitioner / tenant would vehemently contend that this is a case of total lack of bonafides. According to him, though the landlord has been carrying on business at 146, Mint Street, Second Floor, Chennai, he could have shifted his business, to his own premises, which was admittedly lying vacant. He would further contend that the landlord cannot be heard to claim that the premises is not suitable for his business even without attempting to occupy the same. Mr.Sameer Shah would also further contend that other portions of



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the building had fallen vacant during the pendency of the proceedings and the landlord has not chosen to occupy the same. As regards own use and occupation, the law is too well settled to the effect, the tenant cannot dictate the terms as to how and where the landlord should do business.

5.As far as the portion that was lying vacant at the inception of this proceeding, the landlord has offered an explanation, which has been accepted by the Rent Controller and the Appellate Authority. Sitting in a revision with a limited scope under Section 25 of the Act, I do not think, I can re-appreciate the evidence and come to a different conclusion. As regards the claim of the learned counsel that there are other premises that had fallen vacant during the pendency of the appeal, there is no evidence and the same cannot be assumed in order to deny relief to the landlord. The authorities under the Tamilnadu Buildings (Lease and Rent Control) Act had analysed the evidence and came to a particular conclusion. The power to interfere with those orders particularly, concurrent orders under the Act is very limited.



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6.In view of the language of Section 25 of the Act in a revision under Section 25, this Court cannot re-appreciate the evidence and substitute its own conclusions, even if such conclusions are possible, in the place of the conclusions of the authority concerned. Hence, I do not find any merit in this revision. This civil revision petition therefore, fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

7.Mr.Sameer Shah, learned counsel appearing for the petitioner would submit that since the petitioner has been carrying on business in the petition premises for a long time and hence, he should be granted sufficient time to vacate and handover possession. Considering the facts and circumstances and the fact that the petition premises is a non-residential premises situate in a commercial locality of the city, the petitioner is granted one year time to vacate and surrender possession, subject to condition that he files an affidavit undertaking to vacate and handover possession to the landlord on or before 31.12.2022 without driving the landlord to the execution proceedings. Such affidavit shall be filed into this Court by



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25.01.2022. The tenant shall also continue to pay the rent regularly. If the affidavit is not filed by 25.01.2022, the landlord will be at liberty to execute the decree as if no time has been granted.

23.12.2021

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Index:No
Internet:Yes
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To:-

1.The VII-Judge,
Court of Small Causes,
Chennai.

2.The XIII-Judge,
Court of Small Causes,
Chennai.



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R.SUBRAMANIAN, J.

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