



WEB COPY

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 12.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.3932 of 2019  
and  
C.M.P.No.25959 of 2019

A.S.Jayakumar  
S/o.Late Subramaniam

...Petitioner/Appellant/Tenant

Vs

R.Bhavani  
W/o.Ramakrishnan

...Respondent/Respondent/Landlord

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control Act) to set aside the fair and final order dated 04.07.2019 passed by the learned Subordinate Judge cum Rent Controller Appellate Tribunal, Pollachi in R.C.A.No.1 of 2018 confirming the Fair and Final Order dated 20.09.2017 passed by the learned District Munsiff-cum-Rent Controller, Pollaci in R.C.O.P.No.5 of 2012.

For Petitioner : Mr.R.Bharanidharan

For Respondent : Mr.R.Nandhakumar

O R D E R

The present revision petition has been filed against the judgement and decree passed by the Rent Control Appellate Tribunal cum Subordinate Court, Pollachi in R.C.A.No.1 of 2018 confirming the judgement and decree dated 20.09.2017 passed by the learned District Munsiff-Cum-Rent Controller, Pollachi in R.C.O.P.No.5 of 2012, in and by which, the revision petitioner was directed to hand over the vacant possession of the property to the land lady within a period of two months.

2. For the sake of convenience, the parties will be referred to as land lady and tenant.

3. It is the stand of the land lady that she is the owner of the property, her husband has been running a jewellery shop and this property was intended to be utilised for the purpose of



WEB COPY

establishing another shop pertaining to the silver articles. It is the further stand of the land lady that she is not in possession of any other property. The tenant was actually in occupation under the property of the land lady from whom she has purchased the property. At the time of purchase of property, the tenant was paying a rent of Rs.3,000/- to the land lady and subsequent to the purchase of the property by the land lady, though the tenant orally accepted for paying the rent of Rs.3,000/-, he filed the suit in O.S.No.240 of 2011 alleging that the land lady and her husband are trying to forcibly evict the tenant from the said property. Further, the tenant had initiated R.C.O.P.No.8 of 2011 before the Rent Controller for making deposits of the rent to the land lady. Neither the rent having been paid properly by the tenant nor the property was vacated and handed over to the land lady and hence, the land lady preferred R.C.O.P.No.5 of 2012. A counter statement was filed by the tenant stating that he had been staying in the said property for the past 15 years and the allegation that he has paid less rent is false. It was further stated that the land lady refused to receive the rent from the tenant and only for the purpose of evicting him, the land lady needed the property for her own use and occupation.

4. Before the Rent Controller, on the side of the land lady, she examined herself as P.W.1 besides marking Ex.P1 to Ex.P3. On the side of the tenant, R.W.1 and R.W.2 were examined and Ex.R1 to Ex.R7 were marked. The Rent Controller, after taking into consideration the oral and documentary evidence, held that the land lady was not in possession of any other property and it has not been established that the land lady has any other property and further held that the documents have been submitted to prove that the land lady intended to open a jewellery shop in the said property.

5. As against the said order, the tenant preferred an appeal before the Rent Controller Appellate Authority. The Rent Controller Appellate Authority agreed with the findings recorded by the learned Rent Controller and confirmed the order passed by the Rent Controller. Aggrieved by which, the petitioner has come forward with this present Civil Revision Petition.

6. It is the submission of the learned counsel for the petitioner that the land lady/respondent had not proved that the rent was enhanced from Rs.1,500/- to Rs.3,000/- after she purchased the property. It is the further submission of the learned counsel for the petitioner that inspite of the petitioner trying to pay the rent, the land lady refused to receive the same, which resulted in the tenant sending the same through Demand Draft and also Money Order, which was refused to be received by the land lady. Therefore, the findings recorded



by the trial Court that the tenant has not paid the rent properly is not sustainable. It is the further submission of the learned counsel for the petitioner that the land lady wants to lease out the property to various tenants, which clearly shows the requirements of own use and occupation. It is the submission of the learned counsel that the oral and documentary evidence has not been appreciated perspectively by the Court below and therefore, the said orders deserves to be interfered.

7. Heard the learned counsel on either side and perused the materials available on records and also the order passed by the Court below.

8. A perusal of the order passed by the Rent Controller reveals that the Rent Controller has taken into consideration Ex.P3 pertaining to the receipt issued by the appropriate authority for conducting jewellery business. The Rent Controller has analysed Exs.R1 to R7 submitted by the tenants. Further, the Rent Controller, on analysing the deposition of the tenant, has held that the tenant in cross examination has stated that there are other properties with the land lady for conducting her business, which deposition has not been supported through any evidence. Further, the Rent Controller has also given a categorical finding based on the deposition of the tenant that the portion occupied by the tenant is not the portion which was purchased by the land lady which is reflected in Ex.R7. Therefore, the Rent Controller has rejected the stand of the tenant. The land lady was in possession of the other properties where she has conducted her business. Insofar as the stand of the tenant that the rent of Rs.3,000/- was paid properly to the land lady, the Rent Controller has given a categorical finding that the said rent was not paid to the land lady. Further, the mere fact that the tenant has paid a sum of Rs.1,500/- as rent in the Court deposit, would not be a material to hold that the rent was only fixed as Rs.1,500/- in the absence of any documentary evidence establishing that the rent was only Rs.1,500/-. This stand of the tenant cannot be accepted. Further, the Rent Controller advertent to the deposition of the tenant that he had filed R.C.O.P.No.1 of 2009 praying for fixation of rent in respect of the property and it is the duty to show that the rent was fixed at Rs.1,500/- was not accepted by the land lady and further no order has been passed on the said R.C.O.P. fixing the rent. The stand of the tenant has not been accepted by the land lady.

9. On a careful reading of the finding recorded by the Rent Controller as affirmed by the Rent Controller, this Court is of the view that both the Courts below have appreciated the materials placed before it in a proper perspective and arrived at a finding in favour of the land lady.



10. This Court finds that there is no infirmity in the order passed by the Court below. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected civil miscellaneous petition is also closed.

WEB COPY

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn

To

1. The learned Subordinate Judge-cum-Rent Controller Appellant Tribunal, Pollachi.
2. The learned District Munsiff-Cum-Rent Controller, Pollachi.

+1cc to M/s.R.Nandhakumar, Advocate, S.R.No.8872

C.R.P. (PD) No.3932 of 2019  
and  
C.M.P.No.25959 of 2019

RSV(CO)  
RGA(07/10/2021)