



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	20.09.2021
DELIVERED ON	30.09.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) .Nos.519 & 520 of 2021

and

C.M.P. (MD)Nos. 2753 & 2758 of 2021

WEB COPY

Selvaraj

... Petitioner/Appellant/Respondent/Tenant
in C.R.P.(MD)No.519 of 2021

K.Raja

... Petitioner/Appellant/Respondent/Tenant
in C.R.P.(MD)No.520 of 2021

Vs .

Shanthanakrishnan

... Respondent/Respondent/Petitioner/Landlord
in both C.R.Ps.

COMMON PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure r/w Section 25 of the Tamil Nadu Buildings [Lease and Rent Control] Act, 1960, against the fair and decreetal order, dated 14.11.2019 made in R.C.A.Nos.5 & 6 of 2019 on the file of the learned Rent Control Appellate Authority (Principal Subordinate Judge), Madurai, confirming the decreetal and fair order, dated 09.11.2018 made in R.C.O.P.No.65 & 64 of 2015 on the file of the learned Principal Rent Controller (Principal District Munsif), Madurai Town.

In both CRPs

For Petitioners : Mr.J.Anandkumar
For Respondent : Mr.V.N.Arjun
for N.Vallinayagam

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decreetal order, dated 14.11.2019 in R.C.A.Nos.5 & 6 of 2019 passed by the learned Rent Control Appellate Authority (Principal Subordinate Judge), Madurai, confirming the decreetal and fair order, dated 09.11.2018 in R.C.O.P.No.65 & 64 of 2015, passed by the learned Principal Rent Controller (Principal District Munsif), Madurai Town.

2.The revision petitioners herein are tenants and the respondent herein is landlord. The respondent herein/landlord has filed two interlocutory petitions under Section 14(i)(b) of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960, in R.C.O.P.Nos.64 & 65 of 2015 on the file of the learned Principal



Rent Controller (Principal District Munsif), Madurai Town, to evict the tenants and to hand over the possession of the building to the landlord for demolition and reconstruction. Both the RCOPs were allowed on 09.11.2018. Against the said order, the revision petitioners/tenants have filed an appeal in R.C.A.No.5 & 6 of 2019. The Appellate Court had dismissed both the appeals on 14.11.2019. Aggrieved over the said order, the tenants/revision petitioners are before this Court.

3. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent. Perused the records.

4. The learned counsel appearing for the revision petitioners contended that the Courts below have failed to appreciate that there is no significant structural issues with the building to necessitate demolition and reconstruction. He further contended that the Courts below have failed to appreciate that the petition for eviction does not contain any specific plea setting out the reasons for demolition and reconstruction. The petition only contains vague statements on structural soundness of the building. He further contended that the Courts below have failed to appreciate that the report of the engineer does not establish that the building is unsound and in imminent need of demolition.

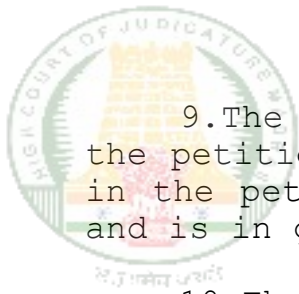
5. The learned counsel for the petitioners relied on the Judgment reported in **2019 (4) CTC, 890 in the case of Prabhakaran Vs. Dr. Muthulakshmi**, is held as follows:

"Held, existence of bona fide requirement is essential pre-requisite for seeking eviction on ground of Owner's occupation - Absence of reference to earlier Eviction proceedings and sudden change of ground for eviction casts serious doubt on bona fides of Landlord's requirement - Authorities below erred in not verifying bona fides of Landlord. "

6. There is no doubt that the landlord has to prove his bonafide intention in evicting the tenant.

7. The point for consideration is that, whether any bonafides on the claim of landlord to seek eviction of the tenants?

8. As per the case of the respondent herein/landlord, the building in petition property are old and indilapidated condition. Apart from the ground level the entire building became lower than road level due to periodical raise of road level. The revision petition mentioned property was constructed 40 years ago. He has sufficient means to construct new building.



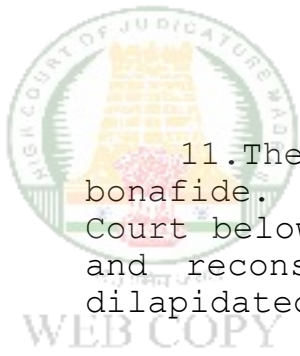
9.The revision petitioners/tenants have denied the averments in the petitions. They denied the condition of the building as stated in the petitions are false. The petition mentioned property is new and is in good condition.

10.The learned Rent controller has passed an order in R.CO.P.No.65 of 2015 in his judgment The relevant portion of the order in is extracted hereunder:

.....

"8.The petitioner/landlord has filed an application for appointment of advocate/commissioner and as per order of this Court the advocate/commissioner inspected the petition mentioned property with the help of a qualified civil engineer. The report filed by the advocate/ commissioner and the civil engineer are marked as Ex.C.1 to C.3. The civil engineer who inspected the suit property along with the advocate/commissioner was examined as P.W.2. The civil engineer has stated in his report that the age of the building is above 40 years and the condition of the roof, walls and shutters are in very poor condition and the damages cannot be repaired. The civil engineer opined that the petition mentioned building has lost its stability. The learned counsel for the respondent/tenant who cross examined the P.W.2, Civil Engineer suggested that the building is in stable condition. However, the respondent/tenant has not produced any evidence to support his claim that the petition mentioned building is in good condition. The respondent/tenant has not stated even in his counter that the petition mentioned building is in good and stable condition.

9.The petitioner/landlord has produced certain photographs of the petition mentioned building as Ex.P.6. The respondent/tenant has not denied the above Ex.P.6 photographs are not pertaining to the suit property. The above photographs clearly shows that the petition mentioned building is in old and dilapidated condition. Thus, the petitioner/landlord has given sufficient oral and documentary evidence to show that the petition mentioned building is in old and damaged condition. At the same time the respondent failed to offer any evidence in this case showing the present condition of the petition mentioned building".



11. Therefore, the respondent/landlord has to prove his bonafide. The landlord has filed eviction petitions before the Court below on the ground that he is going to demolish the building and reconstruction it since the building is 40 years old and dilapidated condition.

12. Ex.C.2 & C.3 were marked without any objection of the revision petitioners/tenants. The engineer inspected the property with the help of Advocate commissioner. The Advocate commissioner was examined as R.W.2.

13. By the report of engineer the respondent/landlord has proved that the building is 40 years old and condition of roof, the wall and shutters are very poor in condition, the damage cannot be repaired. The building also lost its stability.

14. Therefore, both the Courts below have rightly allowed the R.C.O.P.No.65 & 64 of 2015 and also dismissed the R.C.A.Nos.5 & 6 of 2019.

15. Finally, these Civil Revision Petitions are dismissed by confirming the fair and decreetal order, dated 14.11.2019 made in R.C.A.Nos.5 & 6 of 2019 on the file of the learned Rent Control Appellate Authority (Principal Subordinate Judge), Madurai, confirming the decreetal and fair order, dated 09.11.2018 made in R.C.O.P.No.65 & 64 of 2015 on the file of the learned Principal Rent Controller (Principal District Munsif), Madurai Town. No Costs. Consequently, connected miscellaneous petitions are closed. The revision petitioners/tenants are directed to hand over the possession to the respondent/landlord, within a period of three months from the date of receipt of copy of the order.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ksa

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Principal Subordinate Judge,
Rent Control Appellate Authority,
Madurai.

2.The Principal District Munsif,
Principal Rent Controller.
Madurai Town.

+2 CC to M/s.N.VALLINAYAGAM, Advocate (SR-30707, 30708 dated
30/09/2021)

**Common Order made in
C.R.P. (MD) .Nos.519 & 520 of 2021
30.09.2021**

SE(CO)/RS (12.10.2021) 5P 5C