



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.03.2021

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

CRP(MD)No.1105 of 2014

M.Subramanian

...Revision Petitioner/Appellant/
Respondent/Tenant

Vs.

A.Nagendran

.. Respondent/Respondent/Petitioner/
Landlord

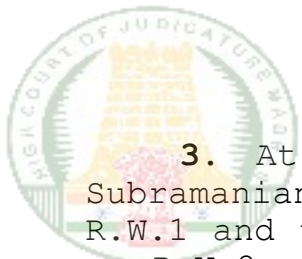
PRAYER:- Civil Revision Petition is filed under Section 25 of the Tamil Nadu Building (Lease and Rent Control) Act 18/1960 as amended, against the fair order and decretal order dated 25.03.2014 made in R.C.A.No.18 of 2012 on the file of the Rent Control Appellate Authority, Tirunelveli (Principal Subordinate Judge) confirming the fair and decretal order dated 01.03.2012 made in R.C.O.P.No.2 of 2011 on the file of the 1st Additional Rent Controller Tirunelveli (1st Additional District Munsif), Tirunelveli.

For Petitioner	:	Mr.T.Selvan
For Respondent	:	Mr.V.P.Rajan for Mr.V.Suresh Kumar

JUDGMENT

The tenant is the petitioner. The landlord sought for eviction under Sections 10(2)(i), 10(3)(a)(iii) of the Tamilnadu Buildings (Lease and Rent Control) Act.

2. The landlord would claim that he has purchased the schedule building on 18.06.2009. The petitioner herein, who was tenant under the erstwhile owner, was allowed to continue for the monthly rent of Rs.5000/-. Since the tenant did not come forward to pay the rent, notice was issued calling upon him to pay the rent on 08.12.2010. Complaining that the tenant had failed to pay the rent despite receipt of said notice, the landlord has approached the court for eviction. The claim of the landlord was rejected by the tenant by a novel plea of oral agreement of sale between the erstwhile owner and the petitioner/tenant. He would further claim that erstwhile owner agreed to receive the rent as and when the sale deed is executed. It is also contended that upon receipt of notice the tenant has paid the rent and therefore, he has absolved from default.



3. At trial, the petitioner was examined as P.W.1 and one Subramanian was examined as P.W.2. The respondent was examined as R.W.1 and two other persons namely Shanmugam and Ravi were examined as R.W.2 and R.W.3. Exs.P.1 to P.5 were marked on the side of the petitioner. Exs.R.1 to R.15 were marked on the side of the respondent.

4. The learned Rent Controller, upon consideration of the evidence on record, particularly, the oral evidence of the tenant that he is not liable to pay the rent, concluded that the tenant's conduct amounted to nothing but default. On the ground of owner's occupation, the learned Rent Controller found that the landlord has not proved that the requirement is *bonafide* and rejected the eviction on the said ground.

5. Aggrieved, the tenant has preferred an appeal in R.C.ANo.18 of 2012. The learned appellate authority, upon re-consideration of the evidence on record, concurred with the findings of the trial court and dismissed the appeal. Hence, this revision.

6. I have heard Mr.T.Selvan, learned counsel for the petitioner/tenant and Mr.V.P.Rajan, learned counsel for Mr.V.Suresh Kumar, learned counsel appearing for the respondent/landlord.

7. Mr.T.Selvan, learned counsel for the petitioner would vehemently contend that the authorities namely, the Rent Controller and the Appellate Authority were not right in ordering eviction. He would submit that notice was issued on 08.12.2010 and the arrears was paid on 04.01.2011 within a period of two months and therefore, the tenant cannot be said to have committed wilful default. The fact that the tenant paid the rent within two months will absolve him consequence of liability and consequence of willful default only when it is shown that he has paid the arrears of rent due. In the case on hand, both the courts found that Rs.225/- was not agreed to pay as rent between the parties. The courts below have taken note of the conduct of the tenant in not paying the rent even during the pendency of this proceeding. The lower appellate court has pointed out that the tenant had denied his liability to pay the rent in his evidence. The tenant has committed wilful default in payment of rent. In view of the above said categorical findings of the courts below, I am unable to conclude that the said findings are erroneous or perverse. As a revisional authority under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act jurisdiction of this Court is limited to error of law. This Court cannot re-appreciate the evidence even though jurisdiction under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act has been held to be little wider than the revisional jurisdiction under Section 115 of C.P.C. The authorities constituted under the Act had examined the evidence on record in proper perspective and they have reached the conclusion that the tenant is guilty of wilful default in



payment of rent.

8. The learned counsel for the petitioner, despite his best efforts, is unable to point out any evidence that has been omitted to be considered by the courts below. Both the courts have concurrently found that the tenant has committed default in payment of rent and he has also expressed his intention to commit default in payment of rent. This default can be said to be wilful default as defined under Section 10(2)(i) of the Tamilnadu Buildings (Lease and Rent Control) Act. I do not see any ground to interfere with the orders of the authorities. Hence, the Civil Revision Petition fails and the same is accordingly dismissed. No costs.

9. After orders were pronounced dismissing the revision, the learned counsel for the petitioner would seek time to vacate and hand over vacant possession. Considering the fact that the petitioner has been doing business in the tenanted premises, the petitioner is granted time till 30.10.2021 subject to the condition that the petitioner shall file an affidavit of undertaking to vacate by the said date. The affidavit shall be filed on or before 19.03.2021.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

To:

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

2.The 1st Additional District Munsif
(1st Additional Rent Controller),
Tirunelveli.

3.The Section Officer VR Section,
Madurai Bench of Madras High Court,
Madurai(2 copies).

CRP(MD)No.1105 of 2014

08.03.2021

MJ(CO)

TR(18.03.2021) 3P 5C