



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.07.2021

PRONOUNCED ON : 23 .08.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP (MD) No.827 of 2014

(Through Video Conferencing)

Sheik Ali

...Petitioner

Vs

Mayandi

...Respondent

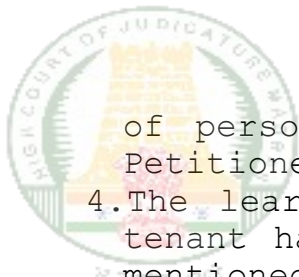
Prayer:- This Civil Revision Petition has been filed, against the fair and decreetal order dated 23.10.2013, made in RCA.No.7 of 2013, by the Principal Sub Court, Tirunelveli, confirming the fair and decreetal order, dated 13.02.2013, made in RCOP.No.22 of 2012, by the I Additional District Munsif, Tirunelveli.

For Petitioner : Mr.Rajesh for Mr.M.P.Senthil

For Respondent : Mr.B.Gurusankar for Mr.T.Selvan

ORDER

- 1.This Civil Revision Petition has been filed, against the fair and decreetal order, dated 23.10.2013, made in RCA.No.7 of 2013, by the Principal Sub Court, Tirunelveli, confirming the fair and decreetal order, dated 13.02.2013, made in RCOP.No.22 of 2012, by the I Additional District Munsif, Tirunelveli.
- 2.The facts of the case, in a nutshell, are that the tenant is the Petitioner and the landlord is the Respondent. The landlord had filed the above petition for eviction of the tenant from the petition mentioned premises on the ground of owner's occupation and the eviction was ordered by the impugned order by the Rent Controller and the appeal filed as against the same by the tenant was dismissed by the impugned order by the Rent Control Appellate Authority Court. Hence, this Civil Revision Petition has been filed.
- 3.The learned counsel for the Petitioner has submitted that the requirement of the Petition mentioned premises is not a bona fide requirement and that when there is no evidence to prove the plea



of personal occupation, the courts below erred in evicting the Petitioner.

4. The learned counsel for the Respondent has submitted that the tenant had committed default in payment of rent and the petition mentioned premises is essentially required for him to set up a business and considering those aspects, the courts below have rightly ordered for eviction.
5. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
6. The relationship of tenant and landlord between the parties is not in dispute.
7. According to the landlord, he has no other property except the Petition mentioned property and hence, to set up a separate business, the said property is required for starting the business. Per contra, it is the stand of the tenant that only in order to get higher advance and rent from the other third parties, he was sought to be evicted.
8. Now, it is to be seen as to whether the premises is bona fide required by the landlord for his own use and occupation.
9. The landlord has allegedly been carrying on the business of flower vending for the 30 years in a rented shop belonged to the Temple. One Muthukrishnan, one of his sons, along with the landlord, has also allegedly been doing a small business of selling chappals for the past 10 years. The intention of the landlord is that after handing over the shop, where he was carrying on the flower vending business to his son, for want of more space, he wanted to set up a separate business for him, for which, the petition mentioned property is bona fide required by him.
10. According to the tenant, when the Petitioner has already been carrying on the business, requirement of the Petition mentioned premises for a new business is not a bona fide one. It is trite that there is no bar under the law for a person, who is carrying on a business, cannot conduct another business simultaneously or he cannot conduct more than one business.
11. In order to substantiate the contention that the requirement of the landlord is not bona fide, there is no explanation forthcoming from the tenant. The only requirement under the provisions of the Act is that the landlord should not possess any other property other than the property sought to be required and a duty is cast on the tenant to prove the said requirement by valid evidence. In this case, the tenant did not let in any evidence both oral and documentary to show that the landlord possesses any other property other than the Petition mentioned property and on the other hand, the landlord has proved his case by convincing evidence and as such, it cannot be said that the requirement of the landlord, namely, the premises is required for starting up a new business, is not a bona fide requirement. Considering those aspects, both the courts below had rightly ordered for eviction of the tenant, by the impugned orders, which warrant no interference by this court.



12.In fine, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Principal Sub Judge,
Principal Sub Court
(Rent Control Appellate Authority)
Tirunelveli.
2. The I Additional District Munsif,
I Additional District Munsif Court,
(Rent Controller)
Tirunelveli.

Copy to:

The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court, Madurai - 2 Copies

+1 CC to M/s.M.P.Senthil, Advocate (SR.27080 dated 24/08/2021)

CRP(MD)No.827 of 2014

MGJ(29.09.2021) 3P 6C