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W.A.No.64 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

W.A.No.64 of 2020 and CMP.No.902 of 2020

1. R.Kamaraj

2. R.Ettaraja

... Appellants

-VS-

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

2. The District Revenue Officer,
Zone VI, Greater Chennai Corporation,
No.5, Anderson Road,
Ayanavaram, Chennai-600 023.

3. The Assistant Revenue Officer,
Zone VI,
Greater Chennai Corporation,
No.5, Anderson Road,
Ayanavaram, Chennai-600 023.

4. M.K.Kanmani

5. Kubendran

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the
order dated 04.10.2019 passed in W.P.No.21216/2019 by a learned



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Single Judge.

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For Appellants : Mr.Ashok Menon
For Respondents : Mr.K.Raja Shrinivas
1 to 3

JUDGMENT

(Order of the Court was made by **T.RAJA, J.**)

This Writ Appeal has been directed against the order dated 04.10.2019 passed in W.P.No.21216/2019 by a learned Single Judge of this Court on the ground that the writ petitioners/appellants failed to produce 'No Objection Certificate' from their own landlords to set up a hotel.

2. Learned Counsel appearing for the appellants/writ petitioners assailing the impugned order submitted that the premises-in-question bearing Door No.120, Madhavaram High Road, Perambur, Chennai-11 belongs to the respondents 4 and 5 herein who are the absolute owners of the same. Therefore, the appellants herein and the landlords have entered into a tenancy agreement dated 10.06.2016 fixing the monthly rent at Rs.35,000/-. The appellants also claim to have been paid a sum of Rs.3,50,000/- as rental advance. After sometime, the said rent was enhanced to Rs.50,000/- per month for which also the appellants agreed and they have been paying a sum of Rs.50,000/- p.m. towards rent and the



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respondents 4 and 5 are not in the habit of issuing any rental receipts. After sometime, the 5th respondent asked the appellants to pay the enhanced rent of Rs.70,000/- p.m. But the appellants refused explaining their inability to pay such a steep enhancement. Thereafter, the 5th respondent refused to receive the existing rent. Therefore, when the monthly rents were sent by cheque for the months of March and April, 2018 under a covering letter dated 27.5.2018, the postal cover was also returned with the endorsements "Intimation Delivered" and "Door Locked". Thereafter, the appellants requested their friends to mediate and resolve the issue. In the meanwhile, in the last week of October, 2018, the 5th respondent threatened the appellants to evict, if they fail to pay the enhanced monthly rent. Therefore, the appellants herein filed a civil suit in O.S.No.6745/2018 on the file of the learned V Assistant Judge, City Civil Court, Chennai against the respondents 4 and 5 and the respondents 4 and 5 thereafter, filed RCOP.No.169/2019 before the Small Causes Court, Chennai against the appellants and both the civil suit and the RCOP proceedings are still pending.

3. Learned Counsel appearing for the appellants further submitted that in the meanwhile, when the appellants wanted to set up a hotel business, they were called upon by the respondents 2 and



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3 by serving a notice dated 4.12.2018 under Section 279 of the Chennai City Municipal Corporation Act, to produce a 'No Objection Certificate' from the landlords who are already not in good talking terms. When the O.S.No.6745/2018 is pending before the learned V Assistant Judge, City Civil Court, Chennai and Rent Control Proceedings are pending in RCOP.No169/2019 before the Small Causes Court, Chennai, the respondents 4 and 5 have clearly indicated that they will not issue any 'No Objection Certificate' to set up a hotel, therefore, the appellants are not in a position to obtain the 'NOC' from their landlords. Hence, insisting for the production of 'No Objection Certificate' is highly improper, unjustifiable and unfair. Therefore, when the appellants are in lawful possession of the premises-in-question, a direction was sought for to issue a 'No Objection Certificate'. But the learned Single Judge has refused to consider the same. Hence, the present Writ Appeal came to be filed.

4. Heard Mr.RajaShrinivas, learned Standing Counsel appearing for the respondents 1 to 3.

5. We are unable to find any merits in the present writ appeal. The reason being that it is an admitted case of the appellants that they are the tenants under the respondents 4 and 5 in respect of



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the premises bearing Door No.120, Madhavaram High Road, Perambur, Chennai-11 where the absolute owners of the premises, namely, respondents 4 and 5 have already initiated Rent Control Proceedings against them in RCOP.No169/2019 before the Small Causes Court, Chennai and the same is still pending. The RCOP proceedings would show that the appellants have not paid even the monthly rents. Therefore, we do not know the reason behind this and unless the rent controller goes into the matter, we will not be able to come to a finding thereon. Secondly, the appellants have also filed a Civil Suit in O.S.No.6745/2018 before the learned V Assistant Judge, City Civil Court, Chennai seeking injunction. Since the genuineness of the charge levelled against the appellants by the landlords that they have committed wilful default in paying the rents has to be ascertained only from the Rent Controller, we are not able to see any genuineness in the conduct of the appellants. The reason is that when the landlords have alleged wilful default in payment of monthly rent, the appellants having filed a Civil Suit in O.S.No.6745/2018 stated as above seeking injunction, they should have moved an application under Section 14 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. But, it appears that the appellants have failed to file any such application. In view of all the above, we find no merits in the present Writ Appeal.



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6. In the result, the Writ Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(T.R.J.,) (K.B.J.,)

11.07.2022

tsi

To

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