



C.R.P.(NPD) No.890 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P. (NPD) No.890 of 2022 and
C.M.P. Nos.4531 & 3341 of 2022

1.A.P.A. Majid (deceased)
2.Mrs.P.V.Nabeesu
3.A.P.Shajid
4.A.P.Saleel
5.Mrs.A.P.Shoujah

... Petitioners

VS

R.Sivakumaran

... Respondent

Prayer: Civil Revision Petition filed under Section 25(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to call for the records and set aside the order dated 18.11.2021 passed by the learned IX Court of Small Causes in RCA No.244 of 2019 confirming the order dated 25.02.2019 in R.C.O.P. No.1175 of 2017 passed by the XV Court of Small Causes and the petition seeking retoration of accommodation and fair rent fixation may be allowed.

For Petitioner : Mr.K.Sakthivel

For Respondent : Ms.P.Srividhya



C.R.P.(NPD) No.890 of 2022

ORDER

The tenants in RCOP No.1175 of 2017 have approached this court in this revision challenging the concurrent orders directing their eviction, both by the Tribunal and thereafter by the Rent Control Appellate Authority in R.C.A. No.244 of 2019. The eviction is sought on the grounds of bona fide own use and occupation of a residential building.

2. The landlord's case is that he is in his late 70s at the time he laid R.C.O.P.1175 of 2017, that he along with his wife, though residing in Coimbatore, frequented Chennai, as they have certain health issues to attend to, and that every time they came here they were constrained to stay in some hotel. The core of the defence taken by the tenants is three folds:

- (a) that there is no bona fides in the claim of the landlord;
- (b) that the landlord already has an unoccupied portion of the same building where he normally stays every time he comes to Chennai; and
- (c) that the landlord has nowhere disclosed that he wants to settle down in Chennai because of the health issues, but the Rent Controller has invented the said ground for them.



C.R.P.(NPD) No.890 of 2022

3. As already outlined, both the Tribunal and the Appellate Authority have rejected the defence and found merit in the claim of the landlord and allowed the prayer for eviction.

4. The learned counsel for the revision petitioners, putforth the following contentions:

(a) that the landlord cannot seek eviction under Section 10(3)(a)(i) of the Act merely because he wishes to stay there, but there must be a compelling need for owners occupation.

(b) that the landlord as PW1, has conceded in his cross-examination that he is in possession of a vacant portion in the same building and that he would occupy that portion every time he comes to Chennai.

5. Heard both sides and perused the materials available on record. It has to be outlined at the very outset that this court, while exercising its power under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, this court is not required to meticulously scan the evidence, and can interfere only if there is any patent illegality or irregularity or impropriety in the order passed by the Tribunal or the Appellate Tribunal. With this mind, this court approaches the present case.



6. The first point is that the revision petitioners seeks the indulgence of this court to literally re-look the evidence, and the very pattern of appreciation of evidence by the Tribunal. Though not required in law, still having addressed the court, this court deems it necessary to consider them and they are as below:

(a) The first of the contentions is that the landlord's desire or option to stay in Chennai, and that he has not shown any valid reason for the same. In other words, there must be a compelling need on the landlord for occupying the property and not a mere wish. Here, in paragraph 7 of the eviction petition, the landlord has outlined the need he faces. It should not be forgotten that the landlord was about 77 years when he laid the eviction petition, now he is well into early 80s. It has to be understood here that the court cannot decide what kind of life the landlord needs to live. It is his Constitutional right, and he will decide where he wants to live, and no Court can prescribe what he needs to do, lest it will be an interference with his right to property and his fundamental right to live. The landlord herein, has already indicated that he wants back his premises for his own use and occupation. The rent controller has properly



C.R.P.(NPD) No.890 of 2022

WEB COPY

appreciated the facts and circumstances and ordered eviction and the same was confirmed by the Rent Control Appellate Authority. This court does not find any need for the court to consider that the conclusion arrived by the tribunal or the appellate tribunal is shockingly perverse that no reasonable person of ordinary prudence would arrive at such a conclusion.

(b) The second aspect is about the alleged admission made by the landlord in his cross examination. This court read this portion in the cross examination of PW1 and is also read over it by the learned counsel for the revision petitioners. When translated into English it would only mean that a suggestion has been made to the landlord that he has reserved to himself certain vacant portion in the same building and whenever he arrives at Chennai, he would only stay there, but the landlord has denied it. A suggestion merely cannot assume the character of proof of what is suggested. The tenant also reiterates it in his chief examination, but in his cross examination it is exposed that the stand taken by the tenant is vacuous and is unsupported by his pleadings.



C.R.P.(NPD) No.890 of 2022

7. In conclusion, this court does not find any merit to interfere with the order of the appellate tribunal dated 18.11.2021 in R.C.A. No.244 of 2019 confirming the order dated 25.02.2019 in R.C.O.P. No.1175 of 2017 passed by the XV Court of Small Causes. Accordingly, this revision is dismissed. However, there is no order as to costs. Consequently, the connected civil miscellaneous petitions are closed. Three months time is given to the revision petitioners to evict the premises.

13.04.2022

Asr

To

The Registrar
Small Causes Court, Chennai



WEB COPY



C.R.P.(NPD) No.890 of 2022

N.SESHASAYEE, J.

Asr

**C.R.P. (NPD) No.890 of 2022 and
C.M.P. Nos.4531 & 3341 of 2022**

13.04.2022