



C.R.P.(NPD)No.1112, 1113 & 1115 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on 05.07.2022

Order delivered on 30.08.2022

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(NPD)Nos.1112, 1113 & 1115 of 2019

E.Srinivasan @ Ravi

.. Petitioner in all the C.R.Ps.

Vs

C.Santhamani

..Respondent in C.R.P.No.1112/2019

C.Belli Raj

..Respondent in C.R.P.No.1113/2019

Ranachandran

..Respondent in C.R.P.No.1115/2019

PRAYER: Civil Revision Petitions filed under Section 25 of Tamil Nadu Building Lease and Rent Control Act, 1960 against the judgment and decretal order dated dated 25.01.2019 in RCA Nos.5, 7 & 6 of 2017 on the file of Sub-Court, Conoor reversing the fair and decretal order dated 6.6.2017 in RCOP.Nos.8, 9 & 10 of 2014 respectively on the file of Rent Controller, Conoor.



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For Petitioner : Mr.R.Subramanian
For Respondents : No appearance

COMMON ORDER

These civil revision petitions have been filed against the judgment and decretal order dated 25.01.2019 in RCA Nos. 5, 7 & 6 of 2017 on the file of Sub-Court, Conoor reversing the fair and decretal order dated 6.6.2017 in RCOP.Nos.8, 9 & 10 of 2014 respectively on the file of Rent Controller, Conoor.

2. The brief facts of the case are as follows:

The landlord is the revision petitioner. The landlord filed R.C.O.P.Nos. 8 to 10 of 2014 before the Rent Controller, Coonoor for eviction on the ground of owners occupation, demolition and reconstruction. The building is 115 years old. The respondents have been running a tea shop at Door No.6, Door No.7 & Door No.5 respectively and the monthly rent is Rs.600/- each. Since the building is dangerous for human habitation, the landlord sent a



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petition to Municipality, requesting them to grant permission for demolition vide letter dated 10.04.2014. The tenants filed counter stating that the landlord requirement is not bonafide and that they are paying the rent regularly and the building is in good condition. The learned Rent Control held that as seen from Ex.P4, the landlord had sent a letter to the Commissioner, Coonoor Municipality seeking permission to demolish the premises since it became dilapidated. The landlord also stated in his evidence that he requires the suit premises for his own use and occupation and also for demolition and reconstruction. The tenants in the cross examination had admitted that the building is 117 years old and also admitted that the landlord has financial source to demolish and reconstruct. Therefore, the learned Rent Controller held that the landlord has proved bonafide requirement and he is entitled for eviction and thus, allowed the R.C.O.Ps. Challenging the same, the tenants filed R.C.A.Nos.5, 7 & 6 of 2017 respectively and the Appellate Authority has allowed the appeals holding that section 10(3)(a)(ii) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 is not maintainable. Regarding Section 14(1)(b) of the



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Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 which provides that the landlord should give an undertaking that the work of demolishing any portion of the building shall be substantially commenced by him not later than 1 month and shall be completed before the expiry of 3 months from the date of recovery of possession, the appellate authority held that in the absence of undertaking, eviction under Section 14(1)(b) cannot be allowed. Hence, these civil revision petitions.

3. Heard the learned counsel appearing for the petitioner. Though the name of the respondents are printed in the cause list, there is no appearance for the respondents either in person or through counsel.

4. Learned counsel for the petitioner would submit that there is no discussion or finding regarding the finding of the Rent Controller that the building is 117 years old as admitted by the tenants. The landlord is a man of means as admitted by the tenants. For eviction under Section 14(1)(b), the landlord should satisfy that the age of the building required demolition, the financial position of the landlord and the bonafide intention of the landlord. Regarding the undertaking to be filed by the landlord, it is only a procedural



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formality.

5. Learned counsel would further submit that Section 16 of the Tamil Nadu Buildings Lease and Rent Control Act provides that if the landlord does not satisfy the act of demolition within the prescribed period under section 14(2) (b), then the tenant can apply for putting him back in possession of the building. In view of this statutory protection, the undertaking to be given is not mandatory. Moreover, in the decision reported in **2007(2) CTC 518 (Lakshmi vs. M.V.Balamurali and another)**, in identical case, this Hon'ble Court held that it is only a rectifiable error and the landlord can file an undertaking before the order of eviction is passed and the same can be done in appeal or revision stage. In this case also, the landlord has filed an undertaking affidavit in this C.R.Ps. Further, the tenants have not raised the said plea in the counter filed in the rent control proceedings.

6. Learned counsel would further submit that regarding Section 30, the tenants have not raised the issue and therefore, they are deemed to have waived the same. In the instant case, admittedly the tenants are running tea



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stall which does not attract Section 30. Only when the lease is in respect of Hotel, Section 30 would apply. The landlord has only stated in his evidence that the tenant is running hotel which has been misunderstood, actually, the schedule property is only tea stall. There is no conflict between Section 14(1)(b) and Section 10(3)(a). In both cases, the landlord only seeks possession of the building for his own occupation. Therefore, the learned counsel would pray for setting aside the order passed by the appellate authority and to allow these civil revision petitions.

7. On a careful scrutiny of the above submission and on perusal of the available materials on record, this Court is of the considered view that the civil revisions petitions have to be allowed.

8. First of all, it is not in dispute that the building is an old construction of more than 100 years which requires demolition and reconstruction. The Rent Controller has observed that the respondents have clear knowledge about the transfer of ownership from the previous owner to the petitioner from Ex.P1 and it is also observed that the building is in a dangerous and dilapidated condition as per Ex.P4. Further, the tenant cannot



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dictate terms to the landlord, the manner in which he should make use of his building. Therefore, this Court is of the opinion that the requirement of the building by the petitioner appears to be bonafide.

9. Section 30(3) refers to "any lease of the building under which the object of the tenant is to run the business or industry with the fixtures, machinery, furniture or other articles belonging to the landlord and situates in such buildings". Admittedly, the tenants are running tea stall which does not attract Section 30 and only when the lease is in respect of Hotel, Section 30 would apply. The landlord seeks possession of the building for his own occupation. Further, the landlord has filed an undertaking affidavit in the C.R.Ps stating that "he undertakes to demolish the material portion of the building which shall be substantially commenced not later than one month and shall be completed before the expiry of three months from the date of recovery of possession of the entire building or before the expiry of such further period as the controller may, for reason to be recorded in writing." Therefore, the requirements of Section 14(1)(b) is satisfied by the petitioner.

10. For the reasons stated above, this Court is of the considered view



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that the petitioner has proved his case for eviction on the ground of owner's occupation, demolition and reconstruction. Therefore, judgment and decree dated 25.01.2019 made in RCA Nos.5, 7 & 6 of 2017 passed by the learned Subordinate Judge at Conoor are set aside. The respondents/ tenants are hereby directed to vacate and handover possession of the petition mentioned premises to the petitioner/landlord. Time for eviction is two months from the date of receipt of a copy of this order. No costs.

30.08.2022

Index :Yes/No
Speaking/Non-speaking order
vsi

To

1. The Sub-Court, Conoor.
2. The Rent Controller, Conoor.



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J.NISHA BANU, J.

(vsi)

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