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C.R.P.No.408 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2022

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

C.R.P.No.408 of 2016

B.Padmini

... Petitioner

Vs.

S.Vasanthi

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and final order passed in RCA No.21 of 2013 dated 02.11.2015 on the file of the Rent Control Appellate Authority/Subordinate Judge, at Poonamalle dismissing the fair and final order made in R.C.O.P. No.35 of 2007 on the file District Munsif-cum-Rent Controller at Ambattur dated 12.04.2013.

For Petitioner : Mr.G.Dinesh Kumar

For Respondent : Mr.T.K.S.Gandhi

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order passed by the learned Rent Control Appellate Authority/Subordinate Judge, Poonamallee, made in RCA No.21 of 2013,



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dated 02.11.2015, reversing the fair and decreetal order passed by the learned District Munsif-cum-Rent Controller, Ambattur in RCOP No.35 of 2007, dated 12.04.2013.

2.The petitioner claims to be the landlord of the subject property. The case of the petitioner is that the respondent is a tenant in the subject property and she was paying a monthly rent of Rs.700/-. It was a oral tenancy and the respondent kept paying the rent every month. From January 2002 onwards, the respondent failed and neglected to pay the monthly rent and was also refusing to vacate the property. Hence, the petitioner lodged a complaint before the police and the respondent gave an undertaking to vacate and handover the premises by April 2006. However, the respondent went back on the undertaking and was squatting on the property without paying any rents. Hence, the petitioner filed an eviction petition in RCOP No.35 of 2007 on the ground of wilful default in payment of rent.

3.The respondent took a stand that the building does not belong to the petitioner and the land in which the building is located, is an Eari Poromboke, which was originally occupied by one Vasuki and the possession was transferred in favour of the respondent in the year 1994,



after receiving some consideration. The respondent took a very specific stand that she is in occupation of the property in her own right and that there is no landlord/tenant relationship between the parties. The respondent alleged that the petitioner attempted to grab the property by illegally throwing away the respondent from the property and also made a false complaint before the police. In view of the same, the respondent denied the very jural relationship between the parties and hence, sought for the dismissal of the petition.

4.The Rent Controller on considering the facts and circumstances of the case and evidence available on record, came to a conclusion that there was a landlord/tenant relationship between the parties and that there was willful default in payment of rent even after the receipt of the legal notice from the petitioner and hence, ordered eviction on the ground of willful default in payment of rent. Aggrieved by the same, the respondent filed an appeal before the Rent Control Appellate Authority and the Appellate Authority on re-appreciation of evidence and after considering the findings of the rent controller, allowed the appeal through fair and final order dated 02.11.2015 and set aside the order passed by the Rent Controller. Aggrieved by the same, the present Civil Revision Petition has been filed before this Court by the landlord.



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5.Heard Mr.G.Dinesh Kumar, learned counsel appearing on behalf of the petitioner and Mr.T.K.S.Gandhi, learned counsel appearing on behalf of the respondent.

6.The main issue that arises for consideration in the present case is as to whether there is a landlord/tenant relationship between the petitioner and the respondent. Only if this issue is found in favour of the petitioner, the issue as to whether there is willful default in payment of rent will arise.

7.The petitioner claims to be the owner of the subject property and the case of the petitioner is that he has let out the petition premises to the respondent for a monthly rent of Rs.700. The Rent Controller relied upon EXs.P3, P6 to P10 to come to a conclusion that the petitioner is the owner of the subject property and hence, is the landlord. EX.P3 is the Property Tax Demand Notice and it stands in the name of one Vasuki. Exs.P6 and P7 are Notices which carry the survey numbers as S.No.253/2 Part. There is no reference in these two documents with regard to the subject property. Exs.8 to 10 were the Tax Receipts. It is clear from these documents that a lump sum was paid as tax and infact Ex.P9 does not even reflect the petition premises.



8. On appreciation of the above documentary evidence, the Appellate Authority came to a conclusion that the petitioner does not have any title over the property and there is a serious dispute on the very jural relationship between the parties. In view of the same, the Rent Control Appellate Authority reversed the findings of the Rent Controller to the effect that the petitioner is the owner/landlord of the petitioner premise. The Appellate Authority also found that the petitioner did not prove to be the landlord of the petitioner premise and whereas, the documents filed by the respondent goes to show that she is residing in the property in her own right.

9. In the considered view of this Court, there is no patent illegality or infirmity in the order passed by the Appellate Authority and the Appellate Authority has assigned cogent reasons to come to a conclusion that there is a serious dispute with regard to the landlord/tenant relationship between the parties. This finding rendered by the Appellate Authority does not require any interference of this Court. The Rent Control Authority cannot go into the title to the property and once the authorities *prima facie* satisfy that there is a serious dispute with regard to the same, the parties will have to necessarily work out their remedy only before the competent civil



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ssr

10.In view of the above finding, this Court is not inclined to interfere with the fair and final order passed by the Appellate Authority in R.C.A.No.21 of 2013 and the same is hereby confirmed. It will be left open to the petitioner to workout her remedy before the competent Civil Court.

11.In the result, this Civil Revision Petition stands dismissed. No Costs.

12.12.2022

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
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To

1.The District Munsif, Ambattur.

2.The Commissioner,
Ambattur Municipality,
Ambattur,
Chennai – 8.

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