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C.R.P. (NPD) .Nos.2709 of 2021 and 40 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).No.2709 of 2021 and 40 of 2022

and

C.M.P.Nos.19871 of 2021 and 280 of 2022

K.Ramasamy

.. Petitioner in both the CRPs

Vs.

N.Shankar

.. Respondent in both the CRPs

PRAYER in CRP.No.2709 of 2021: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, praying to set aside the fair and final order dated 11.03.2021 made in RCA.No.2 of 2020 on the file of the Principal Subordinate Court, Coimbatore confirming the fair and final order dated 04.06.2019 made in RCOP.No.206 of 2016 on the file of the I Additional District Munsif cum Rent Controller, Coimbatore.

PRAYER in CRP.No.40 of 2022: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, praying to set aside the fair and decreetal order made in I.A.No.1 of 2019 in

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RCA.No.34 of 2019 on the file of the Principal Subordinate Judge,
Coimbatore.

For Petitioner : Mr.K.S.Karthik Raja
For Respondent : Mr.V.Karthikeyan
for Mr.V.Nicholas

COMMON ORDER

These two Revisions have been filed by the tenant challenging the orders made by the learned Principal Subordinate Judge, Coimbatore in RCA.No.2 of 2020 and RCA.No.34 of 2019.

2. The landlord launched the proceedings for eviction in RCOP.No.206 of 2016 on two grounds viz., own use and occupation and demolition and re-construction. During the pendency of the said petition, the landlord filed I.A.No.1 of 2019 seeking a direction to the tenant to deposit the arrears of rent under section 11 of the Act. The Rent Controller by order dated 03.04.2019 directed the tenant to deposit the arrears of Rs.2,10,000/- within a period of two months from the date of the order. The tenant did not deposit the arrears as directed by the Rent Controller. He



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preferred an appeal. Since the tenant was unable to procure an order of stay in the Appeal before the expiry of two months period, the learned Rent Controller on 04.06.2019 stopped further proceedings in RCOP and directed eviction.

3. While the order dated 03.04.2019 made in I.A.No.1 of 2019 was made subject matter of RCA.No.34 of 2019, the order dated 04.06.2019 made in RCOP.No.206 of 2016 was made subject matter of challenge in RCA.No.2 of 2020.

4. The learned Rent Control Appellate Authority rejected the claim of the tenant that the sale deed executed by him was actually for a consideration of Rs.74,00,000/- and the landlord is liable to pay a sum of Rs.14,00,000/- towards balance of sale consideration. The tenant had also pleaded that the landlord had agreed that the tenant could continue in possession till such time the sum of Rs.14,00,000/- is paid by the landlord.



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5. The learned Appellate Authority concurred with the conclusion of the Rent Controller and held that these pleadings in defence are not open to the tenant since the tenant had admitted the relationship of landlord and tenant and the execution of the sale deed. It is also the fundamental principle of law that no party to an instrument can be allowed to lead evidence in support of a oral arrangement which runs contrary to the recitals of the written instrument under Section 92 of the Evidence Act. The tenant is attempting to do exactly what is prohibited under Section 92 of the Evidence Act. Therefore, the Rent Control Appellate Authority rejected the contention of the tenant and dismissed the appeal in RCA.No.34 of 2019. As a consequent, the appeal in RCA.No.2 of 2020 was also dismissed.

6. Mr.K.S.Karthik Raja, learned counsel appearing for the petitioner would vehemently contend that the Appellate Authority erred in concluding that such a plea was not open to the tenant. He would further argue that the Appellate Authority overlooked the fact that the petitioner herein was the owner of the property and he had sold the property to the present landlord.



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7. I find that the order of the Appellate Authority is in consonance with the law laid down. The learned Appellate Authority was right in rejecting the plea which attempts to alter the contents of the registered instrument of sale and the admitted deed of lease. I am therefore unable to fault the Appellate Authority for having come to the conclusion that the Rent Controller was right in directing deposit of rents.

8. Hence, these Revisions fail and are accordingly dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

19.01.2022

dsa

Index : No

Internet :Yes

Speaking order

To

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2.The I Additional District Munsif cum Rent Controller, Coimbatore.

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R.SUBRAMANIAN, J.

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