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C.R.P(NPD).No.2060 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P(NPD).No.2060 of 2022
and C.M.P.No.10599 of 2022

A.Selvi

... Petitioner

Vs

1. N.Rukmani

2. U.Savithiri

... Respondents

Prayer:- Petition is filed under Section 25(1) of the Tamilnadu Buildings Lease & Rent Control Act, 1960, pleaded to set aside the Decree and Judgment dated 22.02.2022 passed in R.C.A.No.77 of 2020 on the file of the Hon'ble Rent Control Appellate Authority, VII Small Causes Court, Chennai confirming the order and decree dated 29.11.2019 passed in RCOP No.1521 of 2015 on the file of the XIV Small Causes Court, Chennai.

For Petitioner : Mr.V.Manohar

For Respondents : Ms.C.Gayathri
for Mr.P.B.Balaji



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ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Rent Control Appellate Authority, VII Small Causes Court, Chennai dated 22.02.2022 made in R.C.A.No.77 of 2020, confirming the order and decree dated 29.11.2019 passed in RCOP No.1521 of 2015 on the file of the XIV Small Causes Court, Chennai.

2. Heard the learned counsel appearing for both the petitioners and the respondent and perused the materials available on record.

3. The revision petitioner is the tenant against whom the respondent Land lady has filed a petition for eviction on the ground of demolition and reconstruction in R.C.O.P.No.1521 of 2015. After a detailed enquiry, the said petition was allowed and eviction was ordered. The tenant had challenged the order of the Rent Controller by way of filing a Rent Control Appeal in R.C.A.No.77 of 2020 and the same was also dismissed. Aggrieved over that, the tenant has filed this Civil Revision Petition.



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4. Learned counsel for the petitioner submitted that the tenant is in occupation of the building for running his business in the demised premises for non residential purpose at an agreed rent of Rs.3,900/- per month; the learned Rent Control Appellate Authority, without properly appreciating the grounds of appeal raised by him, had confirmed the order of the Rent Controller; no documentary evidence has been produced to show that the building was 60 years old and it is in dilapidated condition; only a Structural Engineer can be a better person to assess the age of the building; but his evidence is not available; no scientific test was conducted; despite the building is old, the structure is very strong and it does not require immediate demolition; without any documentary proof about bonafidiness on the part of the respondent land lady, the trial Judge has ordered eviction.

5. Learned counsel for the petitioner further submitted that the respondent land lady did not prove before the Court that she had taken any serious steps to demolish and reconstruct; the petitioner did not have any financial wherewithals to demolish the existing building and put up new construction. The requirement



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under Section 14(1) of the Act is not proved and hence, the order of the Rent Controller should be set aside.

6. Learned counsel for the respondents submitted that the building is no doubt old and it requires demolition and reconstruction; even if the building is new, if the land lady wished to demolish it and put up construction convenient to her taste and needs; the financial capability of the land lady is already been proved in her evidence, where she has stated about her various Fixed Deposits with the different Banks. The appellant has filed this petition just in order to gain further time to squat on the property and hence, it should be dismissed.

7. Point for Consideration:

Whether the order of eviction confirmed by the learned Rent Control Appellate Authority is legally correct or whether the same suffer from any factual or legal infirmity?



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8. The relationship between the land lady and the tenant/revision petitioner is not denied. The eviction application has been filed on the ground of demolition and reconstruction. Even according to the revision petitioner, the building is nearly 50 years old, the age of the building is assessed by the Engineer, who filed his report along with photographs. In fact both the tenant and the land lady has got reports of the Engineers of their own choice. But the fact remains that the building is more than 50 years old, as per the report of the Engineers of both sides.

9. Learned counsel for the revision petitioner contended that despite the building is old, it is strong enough and fit for occupation; it does not require demolition and reconstruction; the law is settled long back that the option of the landlord to demolish and reconstruct his building need not be for the sole fact that the building is old and in dilapidated condition;

10. Even if the building is not old and in a fit condition, it is at the option of the land lady to put up the construction at her own convenience and better use. When a petition for eviction is filed on the ground of demolition and



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reconstruction, the Rent Controller has to consider whether there is bonafidiness on the part of the land lady, to seek eviction by invoking Section 14(1)(b) of the Tamilnadu Buildings Lease and Rent Control Act, 1960.

11. If the bonafidiness also goes well with the Financial capability of the land lady to put up new construction, it is quite natural for the land lady to intend demolish the building and put up modern construction of her choice. The doubt about the bonafidiness can be more, if the building is new.

12. In the case in hand, the Engineers report would show that there are cracks developed on walls of the building and it is in a dilapidated condition. Even though, the dilapidated condition of the building is not mandatory to seek eviction on the ground of demolition and reconstruction, the bad shape in which the building exists would add up the bonafidiness and genuine intention of the landlady. The proceedings taken by the land lady against all the tenants in the building also shows that she did not have any malafide intention to vacate this revision petitioner alone.



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13. When the essential criteria like age of the building and other factors are proved to be in favour of the land lady, the only remaining criteria is her financial status. The Courts below has observed that the Financial capability of the land lady was admitted by the tenant herself. The respondent/land lady has also produced Fixed Deposits receipts in her name and in her daughters names in various banks that would show her financial capability to raise new building in the demised premises.

14. The learned First Appellate Judge has referred to various legal position on the point of requirement of the building for demolition and reconstruction. It is also pertinent to note that out of the five tenants in the building, the revision petitioner alone had filed this Civil Revision Petition and the rest of the tenants have vacated the premises and handed over possession.

15. Since, the age of the building, bonafide intention and financial capability of the land lady are proved, the Rent Controller Appellate Authority has confirmed



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the order of the eviction passed by the Rent Controller. Hence, I find no reason for interference.

16. In the result, this Civil Revision Petition is dismissed and the order of the learned Rent Control Appellate Authority, VII Small Causes Court, Chennai dated 22.02.2022 made in R.C.A.No.77 of 2020, confirming the order and decree dated 29.11.2019 passed in RCOP No.1521 of 2015 on the file of the XIV Small Causes Court, Chennai is hereby confirmed. Consequently, connected Miscellaneous Petition is closed. No costs.

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Index : Yes
Internet : Yes
Speaking Order



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1. The Rent Control Appellate Authority,
VII Small Causes Court,
Chennai.
2. The XIV Small Causes Court,
Chennai
3. The Section Officer,
VR Section, Madras High Court,
Chennai.



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R.N.MANJULA, J.

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