



C.R.P.No.1693 of 2020
and C.M.P.No.10626 of 2020

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

C.R.P.No.1693 of 2020

and

C.M.P.No.10626 of 2020

M/s.Assembly of God Community Restoration Trust

Represented by its Managing Trustee,

Mr.D.John Nelson

No.54, Gandhi Road, 2nd Floor,

Tambaram West, Chennai - 45.

... Petitioner

Vs.

A.Satyavathi

... Respondent

Prayer: Civil Revision Petition filed under Section 25 of the Tamilnadu Building (Lease and Rent Control) Act, 1960 against the fair and decreetal orders dated 24.08.2020 passed in R.C.A.No.22 of 2018 on the file of the Rent Control Appellate Authority, Tambaram, modifying and reversing the fair and decreetal orders dated 27.08.2018 in R.C.O.P.No.2 of 2014 under Sections 10(2)(i), 10(2)(iii), 10(2)(v), 10(2)(vi), 10(3)(a)(i) of the Tamilnadu Building (Lease and Rent Control) Act on the file of the Rent Controller / District Munsif, Tambaram.



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For Petitioner : Mr.Praveen Alexander
For Respondent : Mr.C.B.Muralikrishnan
for K.Shyam Sunder

ORDER

This petition has been filed challenging the orders dated 24.08.2020 of Rent Control Appellate Authority, Tambaram in RCA.No.22 of 2018.

2.The petitioner is a trust represented by its Managing Trustee. The petitioner is the tenant in the 2nd floor of the property bearing Door No.54, Gandhi Road, Tambaram, owned by the respondent for a church and prayer hall. The monthly rent was Rs.2,500/- and the rental advance was Rs.10,00,000/-. The rental agreement was for 11 months commencing from 11.02.2012. The agreement was renewed again for 11 more months and ended in February 2014. The landlord/respondent had filed RCOP.No.2 of 2014 under Sections 10(2)(i), 10(2)(iii), 10(2)(v), 10(2)(vi), 10(3)(a)(i) of the Tamilnadu Building (Lease and Rent Control) Act,1960 for eviction of the tenant / petitioner for wilful default



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in payment of rents, acts of waste, nuisance, non-occupation and requirement for own occupation. According to the landlord the tenant ceased to occupy a portion of the premises. It was also alleged that the tenant had committed acts of waste and created nuisance by conducting prayers in the nights. There was also wilful default of rent and the landlord herself required the premises for her own use for her son. The trial Court/Rent Controller after analyzing the oral and documentary evidence adduced by both sides and also hearing both the counsels allowed the RCOP partly. The eviction was ordered for the reason of wilful default while the other grounds were rejected. The tenant aggrieved over this order approached the Rent Control Appellate Authority, Tambaram in RCA No.22 of 2018. The Appellate Authority confirmed the eviction order of the trial Court for wilful default in rent but also held that the other grounds like acts of waste, nuisance and requirement for own occupation were also held proved and the eviction was on that ground also.



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3.In the RCA two more issues were also raised by the tenant as to the maintainability of the RCOP citing that the building was less than five years old as per Section 30 of the Tamilnadu Building (Lease and Rent) Control Act, 1960. It was also pointed out by the tenant that the landlord ought to have filed separate appeal for the grounds that were rejected by the Rent Controller and since they have also been pleaded to be considered in the appeal, it was not to be analysed. However, the Rent Control Appellate Authority rejected both these pleas.

4.This Civil Revision Petition is against the order of the Rent Control Appellate Authority in RCA No.22 of 2018.

5.Heard Mr.Praveen Alexander, learned counsel appearing for the revision petitioner and Mr.C.B.Muralikrishnan, learned counsel appearing for the respondent.

6.The learned counsel for the revision petitioner would contend that it was orally agreed by both the parties that the building would be



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rented out for ten years and that Rs.10 lakhs as rental advance was given only to the respondent / landlord to construct the second floor of the building let out to the tenant. It was also contended that the appeal in RCA.No.22 of 2010 ought to have confirmed only on the ground of wilful default and not the other grounds already rejected by the Rent Controller. It was further contended by him that there was no wilful default in payment of rents and the landlord had refused to accept the rent which prompted the tenant to seek the account particulars and thereafter, to send money order to the landlord. The landlord had refused to accept the money order and therefore, in the strictest terms there was no wilful default but only default that too due to the adamant attitude of the landlord. Act of waste was held proved by the Rent Appellate Authority had no basis in it because there was no threat to the life of the building and such interpretation would lead to miscarriage of justice. It was also argued that the Rent Control Appellate Authority ought not to have gone into the other aspects and was expected to restrict himself to the wilful default aspect which clearly was not proved.



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7.Per contra the learned counsel for the respondent argued that there was no bar on the Appellate Court to go into all aspects raised in the original petition in RCOP and also that the owner of properties with the tenant to prove the age of the building and simply by stating that the building was exempted from the provisions of the Tamilnadu Building (Lease and Rent) Control Act, 1960 would not suffice. It was also contended that the Rent Control Authority had rightly interpreted the various grounds relied upon by the landlord despite the trial Court rejecting the grounds. Thus no interference was warranted in the order of the Rent Control Appellate Authority and the petition needs to be dismissed.

8.The revision petitioner has raised many points which were earlier negated by the Appellate Authority. Let us discuss one by one.

- i. The first one is the maintainability issue. It is well settled that an appeal against eviction order by the trial court on one ground when several grounds are relied upon by the landlord, the appellate authority can go into the other aspects also and it is not necessary



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for the Appellate Court to stick on to the ground in which the trial Court decided the matter. It is not necessary for the landlord to raise a separate appeal in this regard. In the instant case the trial Court had reasoned out as to why the other grounds were not made out in the RCOP. But the Appellate Authority had spelt out reasons as to why the other grounds also had conviction in them. The Appellate Court had relied its decision on a ruling of this Court in *CDJ 1984 MHC 276 - M/s.Shelat Brothers, rep. by its Partner, Rohitkumar Vs. Lodd Narendradas*. It reads as "Even in a case where an order for eviction is sought cumulatively on several grounds and is granted on one of such grounds, it would be open to the landlord to support the order of eviction on the grounds found against him in an appeal preferred against the order of eviction by the tenant without the landlord himself taking up further proceedings or filing an appeal against the adverse findings".

- ii. Secondly, the point raised was about the exemption of the building under Section 30 of the Act which was less than five years old according to the tenant. The Rent Appellate Authority has rightly



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held that no evidence was even attempted to be adduced by the tenant regarding the age of the building. There is merely an averment by the tenant which says that Rs.10,00,000/- was given by him to finance the construction of the second floor of the building. The deposition of PW1 is that the second floor was incomplete and that the building was already existing with ground plus three floors.

iii. Thirdly, the contention that the rental advance was exorbitant and therefore it could be deciphered that the amount was not an advance but a form of financial assistance to construct the second floor portion of the building. This again is not substantiated by the tenant.

9.The other grounds which were held as not substantiated by the trial Court but reversed by the Appellate Court are

a) Nuisance : The Appellate Court had reversed the decision of the trial Court. The deposition of the RW1 in RCOP was that loud speaker and music was employed for prayers between 10.30 p.m.



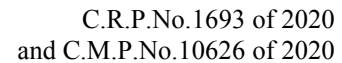
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to 02.30 a.m. in weekends and on other days prayers were held with clapping of hands. The trial Court had held that without a police complaint this ground does not hold good. The Appellate Authority deferred on this by holding that such prayers late in the night was definitely a issue of nuisance and it requires no extra proof.

b) Acts of Waste : This ground again was negated by the trial Court but reversed by the Appellate Authority. In order to hold this as proved, the Appellate Authority relied on the deposition of the RW1 who had deposed that there was only one toilet for 100 persons attending the prayer and that non vegetarian food was provided in the night prayers. The debris and garbage out of such a feast along with the usage of one toilet by the attendees was definitely an act of waste to the building and the Appellate Authority was right in holding so.

c) Owners occupation : This ground also has been approved by the Appellate Authority. The reasoning offered by the Appellate Authority is that the landlord has two children out of which the son



d) Wilful default in payment of rent : This ground was upheld by the trial Court and also by the Appellate Authority. The contention of the tenant that rents were refused to be accepted by the landlord alone could not convince the Courts. In fact in the reply legal notice (EX.B3) dated 01.10.2013 sent by the tenant, it was stated by him that since Rs.10 lakhs was given to him as rental advance security deposit, the rents need to be adjusted against them. In fact the legal notice clearly stated that the rent at Rs.2,000/- can be deducted from the rental advance of Rs.10 lakhs for 500 months (i.e. 41 years and 8 months) which is unreasonable. Thus the wilful



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default of rent was evident and implied in the reply notice itself.

Thus the Appellate Authority also agreed to uphold the decision of the Rent Controller in his regard.

10. In view of the aforesaid discussion it is crystal clear that the order of the Appellate Authority does not suffer from any infirmity. The Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
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To

- 1.The Rent Control Appellate Authority, Tambaram.
- 2.The Rent Controller / District Munsif, Tambaram.
- 3.The Section Officer, VR Section, High Court, Madras.

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