



WEB COPY

C.R.P.Nos.3407, 3409, 3410, 3411 & 3467 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.Nos.3407, 3409, 3410, 3411 & 3467 of 2022

and

C.M.P.Nos.18114, 18118, 18123, 18126 & 18491 of 2022

C.R.P.No.3407 of 2022:

Mr.M.Ramakrishna

... Petitioner

Vs.

N.Vijayalakshmi
Rep.by her Power of Attorney,
Mr.N.Parthasarathy,
No.15, Jagadeeshwaran Street,
T.Nagar, Chennai – 600 017.

... Respondent

Prayer: Civil Revision Petition filed under Section 25 (2) of Tamil Nadu Buildings (Lease & Rent Control Act) Act 18 of 1960 Amended Act 23/1973 praying to set-aside the judgment and decree passed by the Hon'ble VII Judge, Court of Small Causes, Chennai dated 29.06.2022 in RCA.No.826/2018, confirming the order and decree dated 08.10.2018 in RCOP.No.133 of 2014 on the file of Rent Controller (Hon'ble X Judge, Court of Small Causes, Chennai)



C.R.P.No.3409 of 2022:

1.Mr.B.Sahadevan
2.Mr.B.Krishnaraja
3.Mr.B.Thulasimani

... Petitioners

Vs.

N.Vijayalakshmi
Rep.by her Power of Attorney,
Mr.N.Parthasarathy,
No.15, Jagadeeshwaran Street,
T.Nagar, Chennai – 600 017.

... Respondent

Prayer: Civil Revision Petition filed under Section 25 (2) of Tamil Nadu Buildings (Lease & Rent Control Act) Act 18 of 1960 Amended Act 23/1973 praying to set-aside the judgment and decree passed by the Hon'ble VII Judge, Court of Small Causes, Chennai dated 29.06.2022 in RCA.No.825/2018, confirming the order and decree dated 08.10.2018 in RCOP.No.132 of 2014 on the file of Rent Controller (Hon'ble X Judge, Court of Small Causes, Chennai)

C.R.P.No.3410 of 2022:

Mrs.Kavitha

... Petitioner

Vs.

N.Vijayalakshmi
Rep.by her Power of Attorney,
Mr.N.Parthasarathy,
No.15, Jagadeeshwaran Street,
T.Nagar, Chennai – 600 017.

... Respondent



Prayer: Civil Revision Petition filed under Section 25 (2) of Tamil Nadu Buildings (Lease & Rent Control Act) Act 18 of 1960 Amended Act 23/1973 praying to set-aside the judgment and decree passed by the Hon'ble VII Judge, Court of Small Causes, Chennai dated 29.06.2022 in RCA.No.824/2018, confirming the order and decree dated 08.10.2018 in RCOP.No.131 of 2014 on the file of Rent Controller (Hon'ble X Judge, Court of Small Causes, Chennai)

C.R.P.No.3411 of 2022:

Mr.K.Ravikumar

... Petitioner

Vs.

N.Vijayalakshmi
Rep.by her Power of Attorney,
Mr.N.Parthasarathy,
No.15, Jagadeeshwaran Street,
T.Nagar, Chennai – 600 017.

... Respondent

Prayer: Civil Revision Petition filed under Section 25 (2) of Tamil Nadu Buildings (Lease & Rent Control Act) Act 18 of 1960 Amended Act 23/1973 praying to set-aside the judgment and decree passed by the Hon'ble VII Judge, Court of Small Causes, Chennai dated 29.06.2022 in RCA.No.823/2018, confirming the order and decree dated 08.10.2018 in RCOP.No.130 of 2014 on the file of Rent Controller (Hon'ble X Judge, Court of Small Causes, Chennai)



C.R.P.No.3467 of 2022:

A.Manickaraj

... Petitioner

WEB COPY

Vs.

N.Vijayalakshmi
Rep.by her Power of Attorney,
Mr.N.Parthasarathy,
No.15, Jagadeeshwaran Street,
T.Nagar, Chennai – 600 017.

... Respondent

Prayer: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease & Rent Control Act) praying to set-aside the judgment and decree dated 29.06.2022 made in RCA.No.337/2019 by the Hon'ble VII Judge, Court of Small Causes, Chennai and consequently, dismiss the RCOP.No.136 of 2014 on the file of the Hon'ble X Judge, Court of Small Causes at Chennai.

For Petitioners

(in C.R.P.Nos.3407, 3409,
3410 & 3411 of 2022)

: Mr.T.Viswanatha Rao

(in C.R.P.No.3467 of 2022)

: Mr.M.Stalin

For Respondents

: Mr.R.Prasanna Vineeth Durai
[in all C.R.Ps]



COMMON ORDER

The present Civil Revision Petitions are filed to set-aside the judgment and decree dated 29.06.2022 passed in R.C.A.Nos.826, 825, 824, 823 of 2022 and 337 of 2019 by the Hon'ble VII Judge, Court of Small Causes, Chennai, confirming the orders and decrees dated 08.10.2018 in R.C.O.P.Nos.133, 132, 131, 130 & 136 of 2014 by the Rent Controller (Hon'ble X Judge, Court of Small Causes, Chennai) respectively.

2. The petitioners are the tenants under the respondent. The petitioners are paying the rent regularly and there is no arrears of rent due to the respondent/landlord. On earlier occasion, the respondent/landlord filed a petition for fixation of fair rent for the portion of the premises occupied by the revision petitioners, contending that the premises was in good and tenantable condition. Accordingly, fair rent was fixed and the rent fixed was being paid by the revision petitioners without any arrears. While so, the respondent/landlord filed R.C.O.P.Nos.133, 132, 131, 130 & 136 of 2014 before the Rent Controller (Hon'ble X Judge, Court of Small Causes, Chennai) for eviction of the premises rented out. The reason for eviction as stated by the respondent/landlord is for demolition and reconstruction of the building. The Rent Control Original Petitions filed by the



respondent/landlord were allowed and the revision petitioners / tenants filed Rent Control Appeals before the Rent Control Appellate Authority/VII Court of Small Causes, Chennai, which were as also dismissed, against which, the present revision petitions are filed.

3. The learned counsel appearing on behalf of the revision petitioners mainly contended that though the building is old and in a dilapidated condition, the trial Court and the Appellate Court failed to consider the fact that the Advocate Commissioner was not appointed to examine the condition of the building. Per contra, Civil Engineer's report was taken into consideration in order to support the case of the respondent/landlord and thus, the orders are perverse and to be set aside.

4. The learned counsel for the revision petitioners are of an opinion that beyond the report of the Civil Engineer, which was relied upon by the Courts, appointment of an Advocate Commissioner became just and necessary for the purpose of ascertaining the condition of the building, which was not done by the trial Court and the First Appellate Court and therefore, the revision petitions are to be considered.



5. The revision petitioners have stated that they are small traders in occupation of the rented building and leading their livelihood and vacating the premises would cause serious loss to them.

6. The learned counsel for the respondent/landlord objected the said contentions by stating that the subject building is more than 50 years old and in a dilapidated condition. In respect of the portion of the building, the other tenants vacated and handed over the possession, since the building was not in good condition. When the other tenants have vacated the premises as the building was in a bad condition, the respondent instituted the proceedings for eviction of the remaining tenants. The trial Court considered the report of the Civil Engineer and arrived a conclusion that the building is in a bad condition and therefore, there is no safety in respect of the occupants. The trial Court considered the report of the Civil Engineer and also considered the age of the building and accordingly, directed for eviction, which was confirmed by the First Appellate Court.

7. The learned counsel for the respondent/landlord further contended that the revision petitioners have already fixed alternate accommodation and running the business in the other premises and therefore, there may not be



any difficulty for them to vacate and handover the premises to the respondent/landlord.

WEB COPY

8. Considering the arguments, it is not in dispute that the revision petitioners are tenants. Further, it is not in dispute that the building is aged more than 50 years. The subject premises are within the Chennai City and even in case, the building is in good condition, the respondent/landlord is entitled to develop the property by way of demolition and reconstruction. The property right of the landlord need not be taken away unnecessarily, since the owner has decided to demolish and reconstruct the property in order to develop the same either to earn better income or for any other purposes. The revision petitioners are continuing as tenants for more than four decades and the building is also very old. Thus, it is not advisable to allow the tenants to continue in such building for longer period. Tenants, no doubt, have got restricted right to possess the building, till such time, they are authorized by the landlord through lease.

9. In the present cases, the respondent/landlord has instituted proceedings for demolition and reconstruction of the building based on the age of the building. The trial Court as well as the First Appellate Court



considered the age, nature and condition of the building with reference to the report of the Civil Engineer and thus, this Court do not find any perversity in making assessment of the condition of the building both by the trial Court and as well as by the First Appellate Court.

10. The First Appellate Court relied on the judgment of this Court with reference to Section 14 (1) (b) of the Tamil Nadu Buildings Lease and Rent Control Act. The Court held that non-examination of a Commissioner or an Engineer, is not fatal to the case of the landlord. Likewise, the motive for demolition and reconstruction is wholly irrelevant in a petition for eviction under Section 14 (1) (b) of the Act. For the landlord, Section 14 (1) (b) of the Act is not rendered inapplicable merely because building is not dilapidated, but is in good condition. In other words, if the intention of the landlord is proved to be genuine regarding the ground of demolition and reconstruction and not spurious or specious, the landlord would be entitled to obtain an order of eviction under Section 14 (1) (b) of the Act, whether or not the condition of the building is such as to require immediate demolition, the age and dilapidated condition of the building not being sine qua non for such eviction.



11. In the present cases, both the trial Court as well as the First Appellate Court categorically found that the building was aged more than 50 years and in a bad condition. The intention of the respondent/landlord for demolition and reconstruction was established both before the trial Court, which was confirmed by the First Appellate Court. The First Appellate Court relying on the judgments in this aspect, considered the grounds raised and accordingly, arrived a conclusion that the trial Court's decision is in consonance with the established principles and in accordance with the provisions of the Act. The facts considered by the trial Court, which was confirmed by the First Appellate Court are candid and convincing and there is no acceptable ground raised in the present Civil Revision Petitions for the purpose of interfering with the findings of the trial Court as well as the First Appellate Court. Thus, the Civil Revision Petitions deserve no merit consideration.

12. The learned counsel for the revision petitioners made a submission that time may be granted for vacating the premises and handover the vacant possession to the respondent/landlord.



13. Considering the fact that the revision petitioners are running business in the subject premises, they are granted four months time to vacate the premises and handover the possession to the respondent/landlord.

14. In view of the fact that the revision petitioners have given an oral undertaking before this Court, this Court is inclined to grant four months time for the tenants to vacate and handover the possession to the landlord. However, it is made clear that the revision petitioners shall pay the rent till the date of their handing over of possession to the respondent/landlord.

15. With these observations, all the Civil Revision Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

09.12.2022

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



To

1. The VII Judge,
Court of Small Causes,
Chennai.
2. The Rent Controller, (X Judge)
Court of Small Causes, Chennai.



C.R.P.Nos.3407, 3409, 3410, 3411 & 3467 of 2



S.M.SUBRAMANIAM, J.

kak

**C.R.P.Nos.3407, 3409, 3410,
3411 & 3467 of 2022**

09.12.2022