



WEB COPY



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-12-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CRP Nos.4230 to 4233, 3539 and 3540 of 2022

And

CMP Nos.18843 and 18844 of 2022

M/s.Benze Vaccation Club,
Represented by its Authorised Signatory/
Chief Secretary, Present Authorised
Signatory Mr.Thananjayan
Having its Corporate Office at
New No.23, Old No.11,
Jambulingam Street,
Nungambakkam,
Chennai-600 034 Also having
address at No.90, Wellington Plaza,
Anna Salai,
Chennai-600 002.

.. Petitioner No.1 in all CRPs

Mr.Thananjayan

.. Petitioner No.2 in all CRPs

VS.

Mr.Dynshaw Fareed Italia

.. R-1 in all CRPs

Mr.Shayam Fareed Italia

.. R-2 in all CRPs



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

CRP 4230 of 2022 is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5686 of 2022 dated 01.11.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.

CRP 4231 of 2022 is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5689 of 2022 dated 01.11.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.

CRP 4232 of 2022 is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5688 of 2022 dated 01.11.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.

CRP 4233 of 2022 is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5687 of 2022 dated 01.11.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

CRP 3539 of 2022 is filed under Article 227 of the Constitution of India, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5687 of 2022 dated 30.09.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.

CRP 3540 of 2022 is filed under Article 227 of the Constitution of India, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5688 of 2022 dated 30.09.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.

For Petitioners in all CRPs : Mr.Adinarayana Rao

For Respondents in all CRPs : Mr.P.B.Suresh Babu

COMMON ORDER

CRP 4230 of 2022 is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5686 of 2022 dated 01.11.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

WEB COPY

2. CRP 4231 of 2022 is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5689 of 2022 dated 01.11.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.

3. CRP 4232 of 2022 is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5688 of 2022 dated 01.11.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.

4. CRP 4233 of 2022 is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5687 of 2022 dated 01.11.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

5. CRP 3539 of 2022 is filed under Article 227 of the Constitution of India, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5687 of 2022 dated 30.09.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.

6. CRP 3540 of 2022 is filed under Article 227 of the Constitution of India, against the conditional order passed in MP No.1 of 2022 in RCA SR No.5688 of 2022 dated 30.09.2022 on the file of the learned VII Judge, Small Causes Court, Chennai.

7. The revision petitioner, who is the tenant, filed Rent Control Appeal challenging the order of eviction passed by the Rent Control Court in RCOP Nos.1480 and 1481 of 2018.

8. The Rent Control Court has passed an order of eviction against the revision petitioner, who in turn filed Rent Control Appeal with the delay of 95 days for condoning the delay in preferring an appeal.



WEB COPY

9. In the meanwhile, the respondent-landlord filed execution proceedings in EP Nos.639 and 640 of 2022 and delivery was ordered by the Execution Court and when the bailiff went for taking possession and to handover delivery to the respondent-landlord, there was an objection by the revision petitioner.

10. The respondents have already filed petition for police protection and that also has been ordered. Therefore, the respondent-landlord claims that he is entitled for the implementation of the order of delivery with the assistance of the police protection already ordered by the Execution Court.

11. The miscellaneous petition filed by the revision petitioner-tenant to condone the delay of 95 days in preferring an appeal was also considered by the Rent Appellate Court and an order was passed on 30.09.2022, allowing the miscellaneous petition on certain conditions as



under:-

“(i) The petitioner shall deposit 50% of the rental arrears of rent arrived at by the learned rent controller (i.e.,) a sum of Rs.48,55,419/- on or before 14.10.2022 to the credit of RCOP No.1480 of 2018 on the file of XI Judge, Court of Small Causes, Chennai.

(ii) The petitioner shall deposit the remaining 50% of the amount filed by the learned rent controller (i.e.,) a sum of Rs.48,55,419/- on or before 31.10.2022 to the credit of RCOP No.1480 of 2018 on the file of XI Judge, Court of Small Causes, Chennai.

(iii) The petitioner shall continue to deposit the monthly rent to the credit of RCOP on or before the 5th day of every succeeding calendar month.

(iv) Subject to payment of the abovesaid amount as stipulated above, this petition shall stand allowed.

(v) In case of non compliance of any of the conditions in this order at any stage, the petition will automatically stand dismissed without any



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

further reference of this Court.

Call on 17.10.2022.”

12. The revision petitioner challenging the conditions imposed in order dated 30.09.2022 filed CRP Nos.3539 and 3540 of 2022 and this Court passed an interim order on 04.11.2022 granting interim stay on condition that the petitioner shall deposit a sum of Rs.40 lakhs to the credit of EP No.639 of 2022 on the file of the XI Small Causes Court at Chennai, within a period of four weeks.

13. The learned counsel for the revision petitioner states that the said sum of Rs.40 lakhs had already been deposited.

14. The grievance of the revision petitioner is that the Rent Appellate Court passed an order impugned in all these Civil Revision Petitions, dismissing the said MP No.1 of 2022 on the ground that the conditions imposed in the order on 30.09.2022 has not been complied with. The said order dated 01.11.2022 is under challenge in all these Civil



Revision Petitions.

WEB COPY

15. The learned counsel for the revision petitioner states that a sum of Rs.40 lakhs towards rental arrears had already been deposited and the revision petitioner is ready to comply with any other lenient condition, if any, imposed by this Court.

16. The learned counsel for the respondents raised an objection by stating that the revision petitioner is a chronic defaulter in payment of rent and further eviction was already ordered in execution proceedings. Delivery was also ordered along with the police protection and therefore, the revision petitioner is not entitled for any relief from the hands of this Court.

17. The learned counsel for the revision petitioner mainly contended that these Civil Revision Petitions were about to be taken up for final hearing and at that point of time, the Appellate Court has passed the order impugned on 01.11.2022 dismissing the MP No.1 of 2022 and



therefore, all these Civil Revision Petitions are to be considered.

WEB COPY

18. The revision petitioners are continuing in the premises for considerable length of time. It is not in dispute that the Rental Agreement came to an end and not renewed by the landlord.

19. When there is no Rental Agreement between the parties, the tenant has no right to continue and any litigious continuance in the rented premises cannot be encouraged by the Courts.

20. The property right of a citizen is a constitutional right under Article 300-A of the Constitution of India and such a right cannot be taken away except by due process of law. Right of a landlord is to be protected, since it is a constitutional right.

21. No doubt, the Courts are bound to protect the interest of the tenants and to prevent any sort of exploitation by the landlords. However,



the property right being the constitutional right under Article 300-A of the Constitution of India and such constitutional right is to be balanced with reference to the tenancy right under the terms and conditions of the Rental Agreement under the Statute concerned.

22. The interest of tenant is to be protected with reference to the terms and conditions agreed between the parties in Rental Agreement and not beyond that. However, the right of property of a citizen of our Great Nation is to be protected from any abuse by any person, including the tenants. In order to prevent such abuse of process of law and lengthy procedures prevailing earlier, the Legislators thought fit and enacted Tamil Nadu Act 42 of 2017 and prescribed summary procedures to resolve the dispute between the landlords and tenants. The growing practice of instituting litigations with a motive to prolong and protract the issue and abuse the property right and continue in the property under the guise of litigious continuance at no circumstances be tolerated. Thus the right of the tenant is to be restricted with reference to the terms and conditions of the



Rental Agreement and in the absence of any Rental Agreement under the New Act, the landlord is entitled to evict the tenant. On expiry of any Rental Agreement in writing, the tenant is bound to vacate the premises or renew the Rental Agreement if the landlord agrees for such renewal and not otherwise.

23. The tenant has no right to compel the landlord for renewal of the Rental Agreement. Extension or renewal of Rental Agreement is the prerogative of the landlord, since it is a property right. The offer made by the tenant for renewal may be accepted or rejected, which is the prerogative of the landlord concerned and thus the tenant cannot compel or insist the landlord to enter into an agreement or to renew the agreement by claiming any enforceable right. No such enforceable right is conferred on the tenant. Thus, the tenant has got a right, which is to be limited to the extent of the terms and conditions agreed between the landlord and the tenant and such right cannot be extended for the purpose of compelling the landlord or to continue in the premises for an unspecified period without any agreement,



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

which is not only in violation of the Statute, but infringement of the property right of the landlord. Thus the Courts are expected to be vigilant and consider those property rights, which is a constitutional right.

24. In the present cases, eviction was ordered. Execution proceeding was initiated. Delivery of possession was also ordered by the Execution Court. Thereafter police protection was also ordered. At that point of time, the revision petitioner filed appeal before the Appellate Court and filed miscellaneous petition to condone the delay of 95 days in filing the appeal. The delay was condoned by the Appellate Court on certain conditions. Instead of complying with the conditions imposed by the appellate Court in MP No.1 of 2022 dated 30.09.2022, the revision petitioner has chosen to file CRP No.3540 of 2022, which would establish that the revision petitioner has made an attempt to prolong and protract the issues to evade eviction through Court of Law.

25. In the said Civil Revision Petition, he obtained an interim



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

order on condition to pay Rs.40 lakhs. He paid the said amount of Rs.40 lakhs. A tenant who preferred an appeal before the Appellate Court not complying with the condition imposed by the Appellate Court but has chosen to file these Civil Revision Petitions before this Court. Thus this Court has to draw an inference that the revision petitioner is not paying the rent properly and avoiding payment of arrears of rent one way or the other by instituting proceedings either before the Appellate Court or before the High Court, which cannot be encouraged.

26. Civil Revision Petition Nos.4230 to 4233 of 2022 are filed challenging the order dated 01.11.2022, wherein the Appellate Court dismissed MP No.1 of 2022, since the conditions imposed on 30.09.2022 has not been complied with.

27. Pertinently, the Appellate Court passed an order on 01.11.2022. The interim order in CRP No.3540 of 2022 was passed on 04.11.2022 after 4 days from the dismissal of Miscellaneous Petition and



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

therefore, as on the date the interim order was passed in CRP No.3540 of 2022, the order dated 30.09.2022 in MP No.1 of 2022 was not in force and thus the said CRP No.3540 of 2022 became infructuous.

28. Probably the order passed by the Appellate Court on 01.11.2022 was not brought before the knowledge of the High Court, while passing an order in CRP No.3540 of 2022. If at all the order of dismissal passed on 01.11.2022 was brought to the notice of this Court, then this Court would not have passed the interim order of stay on 04.11.2022, since MP No.1 of 2022 as on 04.11.2022 was dismissed by the Appellate Court.

29. Therefore, for all these reasons, this Court has to draw an inference that the interim order was obtained from this Court on 04.11.2022 against an order, which was not in existence, since the Rent Appellate Court dismissed MP No.1 of 2022 on 01.11.2022, which was not brought to the notice of this Court on 04.11.2022.



WEB COPY

30. This being the conduct of the revision petitioner, who is a tenant, he is not entitled for any relief from the hands of this Court. Admittedly, the respondent-landlord has not renewed the Rental Agreement and therefore, the revision petitioner as a tenant is bound to be evicted pursuant to the order passed in the execution proceedings, wherein the delivery was ordered and police protection was also ordered by the Execution Court.

31. Considering the facts and circumstances, this Court has no hesitation in arriving a conclusion that the petitioner has not established any acceptable reason for considering the Civil Revision Petitions filed.

32. Accordingly, CRP Nos.4230, 4231, 4232, 4233, 3539 and 3540 of 2022 are dismissed. The respondent-landlord is at liberty to take possession of the subject property as per the orders passed by the Execution



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

Court. However, there shall be no order as to cost. Consequently, the connected miscellaneous petitions are also dismissed.

22-12-2022

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

Svn

To

The VII Judge,
Small Causes Court,
Chennai.



WEB COPY



CRP Nos.4230 to 4233, 3539 and 3540 of 2022

S.M.SUBRAMANIAM, J.

Svn

CRP Nos.4230 to 4233, 3539 and 3540 of 2022

22-12-2022