



CRP(MD)Nos.1653, 1662 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)Nos.1653, 1662 of 2022

and

CMP(MD)Nos.7248, 7260 of 2022

A.Natarajan : Petitioner in both CRPs

Vs.

1.Abdul Salam

2.Yasmin Nisha : Respondents in both CRPs

COMMON PRAYER: Civil Revision Petitions filed under Section 115 of the Code of Civil Procedure read with Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act to call for the records pertaining to the orders dated 12.01.2022 passed in RCA.Nos.3 & 4 of 2013, respectively, on the file of the Rent Control Appellate Authority / Principal Sub Court, Kumbakonam, confirming the fair and decreetal orders dated 22.08.2013 passed in RCOP.Nos.29 & 28 of 2001, respectively, on the file of the Rent Controller / Principal District Munsif, Kumbakonam and set aside the same.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.M.V.Santharaman



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COMMON ORDER

The respondents are the landlords and the petitioner is their tenant. The respondents / landlords have filed RCOP.Nos.29 & 28 of 2001 before the Principal District Munsif Court, Kumbakonam, for eviction on the grounds that the suit buildings are used by different user; causing damage to the buildings; and for the purpose of demolition and reconstruction of a Marriage Hall in the suit properties. The Rent Controller, by orders dated 22.08.2013, negatived the pleas of buildings used by different user and causing damage to the buildings, but has acceded the plea of demolition and reconstruction and ordered for eviction.

2.Challenging the orders of the Rent Controller, the petitioner / tenant has preferred RCA.Nos.3 & 4 of 2013 before the learned Principal Subordinate Judge, Kumbakonam and and the Rent Control Appellate Authority, by orders dated 12.01.2022, dismissed both the appeals, thereby, confirmed the orders of eviction passed by the Rent Controller.

3.As against the concurrent findings of the Courts below, the petitioner / tenant has moved the instant revision petitions.



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4.Learned Counsel for the petitioner / tenant submitted that the petitioner has not committed any default in payment of rent, nor the landlords have substantiated that the buildings are in dilapidated condition and that the buildings have to be demolished. The Rent Controller has rejected the pleas of the landlords that the buildings are used by different user and are causing damages to the buildings, however, ordered for eviction on the ground of demolition and reconstruction of a Marriage Hall. The extent of the suit properties is only 1500 sq.ft and the landlords have already sold the adjacent areas. Therefore, the submission of the landlords that they are planning to construct a Marriage Hall in the suit properties lacks merit. In fact, not even the building plan for constructing a Marriage Hall was produced by the respondents / landlords. Without considering these aspects, both the Courts below have ordered for eviction and therefore, the learned Counsel prayed for allowing these revision petitions.

5.Learned Counsel for the respondents / landlords submitted that the suit buildings are more than 60 years old and are in a dilapidated condition. In the counter statement filed by the petitioner / tenant, there is no specific denial for this crucial point. The Rent Controller, though negatived the plea of different user and



causing damages to the buildings, after taking note of the Advocate Commissioner's reports, gave a finding that the buildings are in dilapidated condition and only thereafter, ordered for eviction. He further submitted that the petitioner / tenant has not even filed any objections to the Advocate Commissioner's report.

6.He further submitted that the respondents / landlords have sold a portion of land around 7500 sq.ft situated in the opposite side of the suit properties. The remaining portion is 15900 sq.ft, of which, the petitioner / tenant is in occupation of 1500 sq.ft. The remaining tenants have already vacated the premises. Once the petitioner / tenant vacates the subject premises, they would demolish and construct a Marriage Hall therein. To show that the respondents / landlords are having sufficient funds for constructing a Marriage Hall, the Bank Passbook was also marked before the Rent Controller. Taking note of these facts, both the Courts below have ordered for eviction and therefore, he prayed for dismissal of these revision petitions.

7.This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.



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8.The respondents / landlords have filed petitions for eviction on the grounds of different user; causing damages to the buildings; and demolition and reconstruction. The Rent Controller negated the plea of eviction on the grounds of different user and causing damages to the buildings, however, ordered for eviction on the ground of demolition and reconstruction. It appears that an Advocate Commissioner was appointed before the Rent Controller, who, after inspection, gave reports that the wooden fixtures and beams are damaged; the walls of the buildings are damaged with cracks and openings in several places. For the Advocate Commissioner's report, the petitioner / tenant has not filed any objections. Based on the reports of the Advocate Commissioner, the Rent Controller gave a finding that the buildings are in dilapidated condition and are not fit to be run as a godown or a shop. Therefore, the Rent Controller has rightly ordered for eviction, which was also rightly confirmed by the Appellate Authority.

9.This Court, in the decision in ***M.Ashokan v. M.Dhanasekara Pandian (Died) and Others***, reported in ***2009 (5) MLJ 1230***, has held as follows:-

“27.It is relevant to make a mention that to maintain a petition under Section 14(1)(b) of Tamil Nadu Buildings (Lease and Rent



Control) Act, 1960, a landlord must satisfy three things:

- (1) bona fide intention, far from the main aim of getting rid of the tenants;*
- (2) the age and condition of the building; and*
- (3) the financial position to demolish and reconstruct.”*

10. Here, the respondents / landlord have pleaded before the Rent Controller that they are intending to demolish and to construct a Marriage Hall in the subject properties. The condition of the buildings has been ascertained from the report of the Advocate Commissioner and the respondents / landlords have also marked their Bank Passbook to show that they are having sufficient funds to demolish and reconstruct in the subject properties. Therefore, all these aspects have been proved by the respondents / landlords.

11. In **M.Ashokan's** case (supra), this Court has also held as follows:-

“38. This Court in the interest of justice pertinently points out that the non-production of sanctioned plan will not by itself disentitle the landlords to get an eviction order under Section 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act. Even for want of sanctioned plan or lack of preparation for the work of demolition and reconstruction by itself, will not negative the bona fides of the



landlords.”

Therefore, the non-production of building plan by the respondents / landlords for constructing a Marriage Hall will not disentitle them from seeking an order of eviction, when they have proved their *bona fide* requirement.

12.It is the specific stand of the respondents / landlords that they have sold a portion of land around 7500 sq.ft situated in the opposite side of the suit properties. The remaining portion is 15900 sq.ft. [including the area of 1500 sq.ft. which is in occupation of the petitioner / tenant] and all other tenants, excepting the petitioner, have already vacated the premises. Once the petitioner / tenant vacates the subject premises, they would demolish and construct a Marriage Hall therein.

13.When the intention of the landlords has been found to be *bona fide*, coupled with the fact that the buildings are in dilapidated condition, the eviction order passed by the Courts below need not be disturbed. For the foregoing discussions and reasonings, this Court does not find any error in the orders of the Courts below warranting interference.



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B.PUGALENDHI, J.

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Accordingly, both the revision petitions stand dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions stand closed.

Index : Yes / No
Internet : Yes
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02.12.2022

To

- 1.The Principal Subordinate Judge,
Kumbakonam.
- 2.The Principal District Munsif,
Kumbakonam.

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