



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	27.04.2022
DELIVERED ON	10.06.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P(MD)No.1662 of 2018

PR.AL.N.M.A.N.Muthukaruppan Chettiar ...Petitioner/Landlord/
Landlord

Vs.

Yogesh Goyal ...Respondent/Tenant/Tenant

PRAYER: Civil Revision Petition under Section 25 of Tamil Nadu Buildings (Lease & Rent Control) Act 1960 to set aside the fair and decreetal order passed in R.C.A.No.61 of 2014 dated 22.09.2017 on the file of the Rent Control Appellate Authority/Principal Sub Court, Madurai by reversing the decreetal Judgment in R.C.O.P.No.40 of 2003 dated 08.08.2014, on the file of the learned Rent Controller/District Munsif Court, Madurai Taluk by allowing this Revision.

For Petitioner : Mr.S.Lakshmanasamy
For Respondent : Mr.R.Janakiramulu

ORDER

The revision petitioner/respondent/petitioner/landlord filed this revision to set aside order in RCA No.61 of 2014 which reverses the order in RCOP No.40 of 2003.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The landlord has filed a petition in RCOP No.40 of 2003 for eviction on the ground of demolition and reconstruction and the same was allowed. Against the said order, the tenant has filed an appeal in RCA No.61 of 2014 and the same was allowed on the ground that the landlord was not deposed on his behalf and there is no evidence was adduced by the landlord to prove the damaged condition of the building. Aggrieved over the same the petitioner is before this Court.

4.Heard on either side and perused the material documents available on record.

<https://hcservices.ecourts.gov.in/hcservices/>



5. This Civil Revision is filed on the ground that the learned Rent Controller Appellate Authority failed to frame the question of law regarding the development of the property and not decided rights of the landlord for the development of the property and hence, it is liable to be set aside. The Appellate Authority has not appreciated that the tenant has enjoyed the property in the meager rental value of the past 50 years, its illegal. The learned Appellate Authority passed the order without considering the material produced by the petitioner and not properly appreciated the evidence given on the side of the petitioner. The findings of the learned Appellate Authority is against law, irregular and not correct.

6. The landlord wants to demolish the building since it is 100 years old. Further the building is situated in commercial place. If reconstructed with new building the landlord can earn more rent.

7. Admittedly the respondent/tenant is in tenancy from 1965. It shows the age of the building. Now, the landlord wants to reconstruct to increase his income. Power agent can depose on behalf of the landlord and there is no bar for that.

8. The relevant portion of the Judgment reported in **2014(2) RCR (RENT) 115, G.S.Dhandapani and Others Vs. G.D.Selvaraj**, this Court held as follows:

.....

"C. Tamil Nadu Buildings (Lease and Rent Control) Act, Sections 10(3)(a)(iii), 10(3)(c) and 14(1)(b) Bonafide need - Eviction - Reconstruction of Building - Building bonafidely requires for demolition and reconstruction - Landlord wants to put up a multi-storeyed commercial building - If the building is not demolished, as per the undertaking given under Section 14(2)(b) the tenant can always insist upon for reoccupation under Section 16 of the Act - Thus, the interest of the petitioners/tenants are well protected under Section 16 itself".

11. As rightly pointed out by the learned senior counsel for the landlord, the bonafide referred under section 10(3)(c) is the bonafide of the landlord whereas the bonafide referred under section 14(1)(b) is referable to the building. In other words, under section 10(3)(c), the landlord has to prove that the requirement for his personal occupation is bonafide. If the landlord requires the building for demolition and reconstruction in order to



WEB COPY

doubted as the same is inbuilt in such purpose. If the landlord wants to demolish by taking note of the condition on the building, then the bonafide is referable to the building. That is why, in such cases, while considering the petition under section 14(1) (b), the age and condition of the building and other aspects such as means, etc., are taken into consideration to decide as to whether the building really requires demolition and reconstruction. Therefore, merely because the landlord filed petition under both grounds, it does not mean that there is no bonafide on his part. Even I can go to an extent of saying that section 10(3) under the said Act does not contemplate that the landlord has to immediately occupy the building on the day on which the tenant is evicted. He may even opt to occupy after reconstructing the building also".

9.The relevant paragraph of the Judgment reported in **2019(2) RCR(Rent) 174, M/s.Zubaidha Stores represented by its Partners and Others Vs. K.Ponnuswamy**, this Court held as follows:

...
" 59.In fact, even if there is scope for enhanced rental prospect by demolishing the existing building and by putting up a new construction in view of the changes in the locality, even if the building is not old or in a dilapidated conditions, bonafide requirement of the landlord can be inferred as long as the landlord intends to put up new construction and puts of construction."

10.Every person buy a property only for profit. Admittedly the landlord's property is situated in main commercial place. If the landlord reconstructed a multi storied building, he can get more income. Further admittedly the building is in custody of the tenant from 1965.

11.So the landlord has filed eviction petition with bonafide intention. But the appellate Court decided only on the condition of the building.

12.Finally, this Civil Revision Petition is allowed by setting aside order dated 22.09.2017 in R.C.A.No.61 of 2014 passed by the learned Rent Control Appellate Authority/Principal Sub Judge, Madurai by reversing the decreetal Judgment dated 08.08.2014 in

<https://hcservices.ecourts.gov.in/hcservices/>



R.C.O.P.No.40 of 2003 passed by the learned Rent Controller/District Munsif, Madurai Taluk. The tenant is directed to hand over the possession to the landlord, within a period of three months, from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS-)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

ksa

Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The Rent Control Appellate Authority/
Principal Sub Corut, Madurai.

2.The Rent Controller/District Munsif Court,
Madurai Taluk.

Copy to

The Section Officer,V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

+1 CC to M/s.R.JANAKI RAMULU, Advocate (SR-25057[F] dated 10/06/2022)

+1 CC to M/s.S.LAKSHMANASAMY, Advocate (SR-25123[F] dated 10/06/2022)

**Order made in
C.R.P(MD)No.1662 of 2018
10.06.2022**

SG(CO)

TR(22.06.2022) 4P 7C