



C.R.P. No. 658 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.07.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. Nos. 658 and 659 of 2023

and

C.M.P.Nos.5138 and 5176 of 2023

1. S. Amuthaventhana

...Petitioner in both C.R.P's

.Vs.

1. B. Prabakaran

2. G. Baskar

...Respondents in both C.R.P's

Prayer in C.R.P.No.658 of 2023: Civil Revision Petition is filed under Section 115 of C.P.C, praying to allow the Civil Revision petition, setting aside the fair and decreetal order of District Munsif Court at Ambattur, Chennai dated 12.01.2023 in I.A.No.52 of 2021 in R.C.O.P.No.34 of 2017 and to order the said I.A as prayed for and pass orders.

Prayer in C.R.P.No.659 of 2023: Civil Revision Petition is filed under Section 115 of C.P.C, praying to allow the Civil Revision petition, setting aside the fair and decreetal order of District Munsif Court at Ambattur,



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Chennai dated 12.01.2023 in I.A.No.53 of 2021 in R.C.O.P.No.34 of 2017

and to order the said I.A as prayed for and pass orders.

For Petitioner : Mr. T.N. Ranges Kanna

For Respondents : Mr.K.N. Nataraj

ORDER

These petition are filed to allow the above Civil Revision petitions, setting aside the fair and decreetal order of District Munsif Court at Ambattur, Chennai dated 12.01.2023 in I.A.Nos.52 of 2021 and 53 of 2021 in R.C.O.P.No.34 of 2017.

2. The facts of the case is that the petitioner is the tenant under the first respondent/land lord and second respondent is the power agent of the first respondent. Whiles, there was some default in payment of rents by the petitioner and the petitioner is not using the subject property for which it was rented and he is carrying out some other work and the subject property is in dilapidated condition. Hence, the first respondent/land lord has filed a petition under in R.C.O.P.No.34 of 2017 before the Rent Controller Cum District Munsif, Ambattur Sections 10(2)(i), 10(2),(ii)(b), 10(2),(iii),



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10(2),(viii) and Section 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 to evict the petitioner from the subject property and the learned Judge vide order dated 02.04.2018 directed the petitioner to vacate the subject property and hand over the possession to the first respondent/landlord within a period of two months from 02.04.2018, to set aside the same, the petitioner/tenant herein who is the respondent/tenant in R.C.O.P has filed the M.P.No.52 of 2021 with a delay of 1245 days and to condone the delay he has filed another M.P.No.53 of 2021 before the District Munsif, Ambattur and the learned Judge vide order dated 12.01.2023 has dismissed both the M.P.s with costs. Aggrieved over the same the petitioner has come up with this petition.

3. The learned counsel for the petitioner submitted that he has not issued any notice in R.C.O.P and the learned Judge had passed an ex-parte order, if he would have issued notice he would have contested the matter and proved that there is no default in payment of rent and he has not used the subject property other than residential purpose as alleged by the respondents herein. Hence, he prays to allow this petition.



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4. The learned counsel for the Respondent submitted that the petitioner is a tenant and there was default in payment of rent. He further submitted that the premises was rented for only for residential purposes, whereas, the petitioner is using the subject property for nursery garden i.e for commercial purpose. Hence he seeks a direction of this Court to the petitioner to vacate the subject property.

5. Heard the learned counsel for the revision petitioner and the learned counsel for the respondent and perused materials available on record.

6. On a perusal of records it is seen that two aspects requires consideration in this petition. Whether the petitioner was default in payment of rent. (ii) Whether the petitioner was using the subject property other than that what it is allotted.

6.1. With regard to point No.1 Whether the petitioner was default in payment of rent, it is made clear that initially there was a arrears of rent



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and the same was recorded by the learned Judge in R.C.O.P.No. 34 of 2017 vide order dated 02.04.2018 .

6.2 With regard to point No.2 Whether the petitioner used the subject property other than that what it is allotted and with regard to the same, the respondent failed to establish the same and with regard to the allegation that the property is in a dilapidated condition, the same was also not proved through any third party witness or by photographs.

7. Considering the aforesaid facts and circumstances of the case, that the Respondents have let the subject property for rent with a *bona fide* intention and the petitioner ought to have vacated from the premises as the landlord requires the subject property.

8. In view of the forgoing reasons the petitioner is directed to vacate from the premises in question and handover the possession of the same to the respondents on or before 31.10.2023 and also pay the rent from the month of August 2023 to October 2023, failing which the respondents can evict the petitioner/tenant through the help of local police if necessary.



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9. With the above directions, these Civil Revision petitions are disposed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition are closed.

10. Post the matter under the caption “ for Reporting Compliance”
on 01.11.2023.

26.07.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The District Munsif Court at Ambattur, Chennai



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