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C.R.P.No.3065 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

CORAM

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3065 of 2015

N. Perumal ... Petitioner-Landlord
/ Appellant/Petitioner

Vs.

1.Rock City Finance,
Namakkal,
by its Managing Partner,
Door No.55, Trichy Main Road,
Namakkal.

2.M.Gunasekaran ... Respondents-Tenants
/ Respondents/Respondents

Prayer: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 as amended by Act 23 of 1973 and Act 1 of 1980, as against the order and decreetal Order dated 08.04.2015 in R.C.A.No.1 of 2011 on the file of the learned Subordinate Judge, Namakkal, confirming the Order and Decreetal order dated 07.01.2011 in R.C.O.P.No.9 of 2006 on the file of the learned Principal District Munsif, Namakkal.



C.R.P.No.3065 of 2015

For Petitioner : Mr.T.Dhanyakumar
For Respondents : Mr.C. Kasirajan for R1
No appearance for R2

ORDER

The landlord is the petitioner. He has filed an application under Section 10(2)(i) and (ii a) of the Tamil Nadu Buildings Lease and Rent Control Act, 1960.

2.It is the case of the petitioner that the 1st respondent had been inducted as a tenant on 14.06.1993 to do finance business. Since the tenant was irregular in payment of rents O.S.No.560 of 2000 on the file of the learned District Munsif, Namakkal, had been presented by the petitioner for recovery of rents from September 1999 to October 2000.

3.According to him, the suit was decreed on 01.03.2002. Later, the petitioner filed O.S.No.529 of 2005 on the file of the learned District Munsif, Namakkal, for recovery of arrears for 36 months. The said suit was decreed on 17.01.2006. He would allege that the 1st respondent is a chronic defaulter in payment of rents. He would further state that



C.R.P.No.3065 of 2015

WEB COPY

the 1st respondent and the 2nd respondent are in possession of the property and therefore, he is liable to be vacated on the ground of sub tenancy.

4.Rejecting the case of the petitioner, the 1st respondent would file a counter that the property belonged to one Salem District Tamil (Strict) Baptist Trust Society, Namakkal. They had leased the land in favour of Ramanathan and one Jayapal. The said Ramanathan and Jayapal had given them the possession of the property and therefore, he would state that there is no relationship of landlord and tenant between the petitioner and the respondents.

5.He would allege that he had already vacated the premises in the year 2000 and therefore, he is not in possession of the property on the date of filing of the case. Since he has vacated the premises in the year 2000 he would allege that he is not aware who put the 2nd respondent in possession of the property. The 2nd respondent remained *ex parte*.



C.R.P.No.3065 of 2015

WEB COPY

6.The matter went for trial and during the course of trial, the petitioner examined himself as PW1 and one document was marked. The respondent did not enter the witness box and on his side, two documents were marked.

7.The trial Court came to the conclusion that there was no relationship of landlord and tenant between the petitioner and the 1st respondent and therefore, the question of sub-letting the property by the 1st respondent to 2nd respondent does not arise. This finding was confirmed by the Lower Appellate Court. Against the concurrent finding, the present revision has been filed.

8.It is pertinent to note that PW1 had admitted in his cross examination that he had filed O.S.No.520 of 2005 on the file of the learned District Munsif, Namakkal. The said suit was dismissed on 28.01.2010. Ex.R1 and Ex.R2 are the certified copies of the Judgment and Decree in the said suit. PW1 would also admit that there was a



C.R.P.No.3065 of 2015

WEB COPY

Lease Agreement between himself Jayapal and Ramanathan which came to an end on 30.06.1998. The petitioner has not let in any evidence to show that he is the landlord of the premises nor the relationship between the petitioner, 1st respondent and the 2nd respondent as landlord and the tenants.

9.The condition precedent to the Rent Controller to decide the issue is that the petitioner and the respondent must be landlord and tenant and only on satisfaction of the jurisdictional fact the rent Controller obtains the jurisdiction on the other issues.

10.Here is a case where the alleged landlord has not proved the jurisdictional fact. Therefore, the Trial Court as well as the Lower Appellate Court have correctly dismissed the Rent Control Petition. I find no reason to interfere with the view taken by the Trial Court as well as the Lower Appellate Court.



C.R.P.No.3065 of 2015

This Civil Revision Petition is dismissed. There shall be no order

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as to Costs.

19.07.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
mps

To

1.The Subordinate Judge,
Namakkal,

2.The Principal District Munsif,
Namakkal.



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C.R.P.No.3065 of 2015

V. LAKSHMINARAYANAN, J.

mps

C.R.P.No.3065 of 2015

**19.07.2023
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