



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-01-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CRP No.1108 of 2022

And

CMP No.5702 of 2022

J.Tamilselvan

... Petitioner

VS.

M.Rajendran

... Respondent

The Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decretal order of the learned Appellate Authority (Principal Subordinate Judge), Salem dated 10.12.2021 in RCA No.4 of 2018, reversing the fair and decretal order of the learned Rent Controller (Principal District Munsif), Salem dated 05.04.2018 in RCOP No.38 of 2013.

For Petitioner : Mr.K.Sivasubramanian

For Respondent : Mr.K.Raghuraman



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ORDER

The present Civil Revision is filed against the fair and decretal order of the learned Appellate Authority (Principal Subordinate Judge), Salem dated 10.12.2021 in RCA No.4 of 2018, reversing the fair and decretal order of the learned Rent Controller (Principal District Munsif), Salem dated 05.04.2018 in RCOP No.38 of 2013.

2. The respondent-landlord instituted eviction proceedings before the Rent Controller in RCOP No.38 of 2013 mainly on the ground of willful default in payment of rent. The Rent Controller-Principal Sub Court, Salem dismissed the RCOP No.38 of 2013. Challenging the said order, the revision petitioner-tenant filed an appeal in RCA No.4 of 2018.

3. The Rent Appellate Authority adjudicated the issues and reversed the order passed by the Rent Controller in RCOP. The Rent Appellate Authority formed an opinion that the ground of willful default in payment of rent is proved and the claim of the revision petitioner-tenant that he is the permissive occupant is not proved.



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4. Accordingly, eviction was ordered in favour of the respondent-landlord. Even as per the revision petitioner, he claims to be the permissive occupant merely based on the oral permission granted by the deceased wife of the respondent-landlord and such an oral permission granted to the revision petitioner, who is the relative of the deceased wife of the respondent-landlord, was rightly rejected by the Rent Appellate Authority. Any such oral claim regarding permissive occupation cannot be accepted in the event of landlord filing a petition for eviction, more specifically on the ground of willful default in payment of rent.

5. The revision petitioner could not establish that the agreement, if any, between the landlord and himself was in force even at the time of institution of the RCOP proceedings. Thus there is no agreement between the parties. More-so, the revision petitioner was a chronic defaulter in payment of monthly rent to the landlord merely on the ground that he is the permissive occupant to occupy the premises belongs to the respondent-landlord and continue in possession without any authority.



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6. Thus the Rent Control Authority has rightly ordered for eviction of the revision petitioner. In the absence of any evidence to establish the right to continue in the leased out property, the revision petitioner-tenant is not entitled for any relief from the Rent Controller or the Rent Appellate Authority.

7. In the present case, the Rent Controller failed to consider the scope of the eviction proceedings, but the said order was corrected by the Rent Appellate Authority and ordered for eviction, which is in consonance with the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. Thus this Court do not find any infirmity in respect of the eviction ordered by the Rent Appellate Authority.

8. The revision petitioner-tenant, as of now, is continuing his occupation without any authority and not paying the rent continuously even now. More-so, there is no lease agreement exist between the landlord and the revision petitioner.

9. That being the factum even now prevailing, there is no



reason to interfere with the order passed by the Rent Appellate Authority and thus the revision petitioner is liable to be evicted from the subject premises.

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10. Accordingly, the fair and decretal order passed by the Rent Appellate Authority/Principal Sub Court, Salem dated 10.12.2021 in RCA No.4 of 2018 reversing the fair and decretal order passed by the Rent Controller dated 05.04.2018 in RCOP No.38 of 2013 stands confirmed. The revision petitioner-tenant is directed to evict the petitioner from the subject premises and handover the vacant possession to the respondent-landlord, within a period of one month from the date of receipt of a copy of this order.

11. With the abovesaid directions, the present Civil Revision Petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

30-01-2023

Index : Yes / No
Internet : Yes/No.
Neutral Citation : Yes / No
Speaking order / Non-speaking order
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S.M.SUBRAMANIAM, J.

Svn

To

1.The Principal District Munsif,
Salem.

2.The Principal Sub Judge,
Salem.

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30.01.2023