



C.R.P.No.975 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

Civil Revision Petition No.975 of 2023
and
CMP No. 7220 of 2023

Palaniappan

.. Petitioner

Versus

Kasi

.. Respondent

PRAYER : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the civil revision petition and set aside the fair and decretal order passed in RCA No.313 of 2017 on the file of VIII Small Causes Court, Chennai dated 22.12.2022 confirming the fair and decretal order passed in RCOP.No.632 of 2015 on the file of XVI Small Causes Court, Chennai, dated 28.03.2017.

For Petitioner : Mr. Charles Kamalesh M.Appaji

For Respondent : Mr.S.Baratha Ambethkar



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ORDER

WEB COPY This Civil Revision Petition has been filed against fair and decretal order dated 22.12.2022 passed in RCA No.313 of 2017 on the file of VIII Small Causes Court, Chennai, confirming the fair and decretal order dated 28.03.2017 passed in RCOP.No.632 of 2015 by the XVI Small Causes Court, Chennai.

2. The petitioner is the tenant and the respondent is the landlord in this civil revision petition.

3. The case of the landlord is that the petitioner herein, i.e a tenant under the respondent/landlord is occupying a shop portion i.e. Shop No.3 in the ground floor of the petition premises for running a cycle shop on a monthly rent of Rs.3,000/- per month exclusive of electricity charges. Apart from the above said portion, there are other shop portions in the ground floor, which are let out to other persons. Further, the landlord is residing in the 1st floor portion of the same premises, along with his 4 sons and their families. As the respondent/landlord's son required the shop portion to carry on business separately, the landlord informed the tenants including the petitioner herein about the requirements of the said portions and requested them to handover the



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vacant possession of the portion under their occupation for own use and occupation by way of additional accommodation for landlord's son's business and knowing the requirement of the respondent/landlord, all the tenants including the petitioner herein accepted to vacate and hand over the vacant possession. Accordingly, one of the tenant vacated and handed over the shop portion and the shop portion was occupied by the respondent's eldest son and he is carrying on his business in the said shop portion. The petitioner/tenant who agreed to vacate and hand over the vacant possession before December 2014, has been dragging on time with mala-fide intention and thereafter, the landlord approached the tenant and requested him to vacate before February 2015. In spite of the same, the revision petitioner failed to budge and therefore, the landlord has filed the Original Petition.

4. The revision petitioner/tenant disputed the averments of the respondent/landlord by filing counter.

5. On consideration of the rival pleadings, the Rent Controller, by order dated 28.03.2017 in R.C.O.P.No.632 of 2015, observed as follows:

“The landlord has also established that no relative hardship is going to be caused to the respondent by vacating the



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petition premises as the respondent owns his own building in the same street where he could establish his business further it is not the case of the respondent that he cannot find any alternate for his business. Further, the tenant cannot dictate landlord which portion will be suitable for the landlords business. Under such circumstances and based on the evidence of PW-,PW-2. RW-1 and RW-2 this Court comes to the conclusion that the requirement of the petitioner is bona fide.

In the result, this petition is allowed. Eviction ordered.

Time for eviction two months. No costs."

6. Aggrieved by the above order passed by the learned Rent Controller, the tenant filed RCA. No.313 of 2017, which was also dismissed by the Rent Control Appellate Authority. Aggrieved by the same, the tenant has filed the present Civil Revision Petition.

7. The learned counsel for the revision petitioner-tenant contended that the Courts below failed to consider that the revision petitioner became tenant under the respondent in respect of petition premises on 27.01.1991 to run a cycle repair shop on monthly rent basis and advance sum was



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periodically increased from time to time and at last Rs.1,00,000/- was paid as advance and the monthly rent was fixed at Rs.3,000/-. Thereafter, the revision petitioner was regular in payment of monthly rent and he has not committed any default in payment of rent at any point of time. During the month of 2014, the respondent herein demanded Rs.7,00,000/- from the revision petitioner by converting the same into permanent lease. He further submitted that the Courts below failed to note that though the respondent herein owned seven commercial shops in the building, he only opted to file RCOP for eviction only against the revision petitioner and other tenants are still carrying on business thereon in a peaceful manner. Hence, the learned counsel for the petitioner prayed for setting aside the impugned orders passed by the Courts below.

8. The learned counsel for the respondent/landlord submitted that the respondent is residing in the first floor at the petition premises along with his four sons and their families. The respondent's sons required the shop portions to run their business separately, hence, he informed the tenants including the petitioner herein about the requirement of the said portions and requested them to handover the vacant possession for his own use and occupation by way of additional accommodation for his sons' business, for which all the tenants accepted. He further submitted that the respondent approached the tenant and



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requested to vacate the petition premises to carry on business, the respondent's son, but the tenant failed to vacate the same. Therefore, the Courts below are right in allowing the Original Petition and directed eviction of the revision petitioner- tenant.

9. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials placed on record.

10. It is to be noted that there is no dispute with regard to the landlord-tenancy relationship. During the course of hearing, the learned counsel for the petitioner/tenant submitted that the tenant is ready to vacate the petition-premises and sought six months' time, to which, the respondent submitted that instead of six months, the tenant may be directed to vacate the premises within a period of three months.

11. Considering the above facts and circumstances and submissions made by the learned counsel for both sides, this Court is of the view that the orders passed by the court below, which are impugned in this revision petition, are not required to be interfered with and they are confirmed. The petitioner/tenant is directed to vacate the petition-premises on or before



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31.10.2023, failing which, the respondent shall take steps for attaching the properties of the tenant and recover the possession, if so advised. It is made clear that the petitioner/tenant shall report before this Court about the delivery of possession in respect of the petition-premises, to the respondent.

12. With the above observations/directions, the Civil Revision petition is disposed of. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

28.07.2023

kv

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To

1. The VIII Small Causes Court, Chennai.
2. The XVI Small Causes Court, Chennai.
3. The Section Officer,
V.R. Section,
High Court, Madras.



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V.BHAVANI SUBBAROYAN,J.

Kv

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