



CRP.No. 947 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

CRP.No. 947 of 2021

and

CMP.No. 7657 of 2021

A. Dinesh Kumar

.. Petitioner

Versus

1. Tmt. N. Banuchitra

2. Tmt. N. Uma Devi

3. Thiru Sabarinath

.. Respondents

Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act 18 of 1960 to set aside the order and decreetal order dated 02.02.2021 passed in RCA 234 of 2016 by the VII Judge (Appellate Authority) Court of Small Causes, Chennai, confirming the order and decreetal order dated 31.03.2016 made in RCOP 1462 of 2014 by the XIII Judge, Court of Small Causes, Chennai.

For Petitioner : Mr. K. Thangavelu

For Respondents : Mr. V. Ramana Reddy

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**ORDER**

This Civil Revision Petition has been filed to set aside the order and decreetal order dated 02.02.2021 passed in RCA.No. 234 of 2016 by the



CRP.No. 947 of 2021

learned VIII Judge (Appellate Authority), Court of Small Causes, Chennai, confirming the order and decretal order dated 31.03.2016 passed in RCOP.No. 1462 of 2014 by the learned XIII Judge, Court of Small Causes, Chennai. .

**2. Brief facts set out in the petition are as follows:**

The revision petitioner herein is the appellant and the respondents herein are the respondents in RCA.No. 234 of 2016 before the learned VIII Judge (Appellate Authority), Court of Small Causes, Chennai. The petitioner is the tenant and the respondents are the landlords. The petitioner is running in the name and style of “Dinesh Jewellery Shop” from 01.08.2006 on the premises owned by the respondents/landlords. While so, notice was issued to the petitioner/tenant by the landlords on 28.07.2014 seeking to vacate from the subject property as the said property is required for their own occupation. However, the petitioner/tenant has not vacated from the premises. Therefore, the respondents/landlords have filed RCOP.No. 1462 of 2012 before the Court of Small Causes, Chennai. After perusing the records, the RCOP



CRP.No. 947 of 2021

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was allowed by order dated 31.03.2016 directing the petitioner/tenant to vacate from the premises owned by the landlords. Challenging the same, the petitioner/tenant has preferred an appeal in RCA.No.234 of 2016 before the learned Judge, VIII Court of Small Causes, Chennai, and the same was dismissed by order dated 02.02.2021 and confirmed the same by order dated 31.03.2016 in RCOP.No. 1462 of 2012 by the Court below. Aggrieved by the said order in RCA.No. 234 of 2016 dated 02.02.2021 passed by the VIII Court of Small Causes, Chennai, the petitioner/tenant has filed the present Civil Revision Petition.

3. The learned counsel for the revision petitioner submitted that the respondents/landlords have filed the RCOP under Section 10(3)(1)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 [hereinafter referred to as "the Act" for short] seeking to require the subject property for their own occupation. But, in the evidence of PW1, she admitted that they are going to do a business in the subject property, but, they have failed to prove any of the essential ingredients required under the said section. He further submitted that the respondents have



CRP.No. 947 of 2021

admitted that they have demanded monthly rent of Rs.7,500/- per month instead of Rs.3,750/- and even after the respondents/landlords eviction petition was filed, they admitted for getting Rs.8,750/- per month from the revision petitioner/tenant. Hence, the plea of the respondents/landlords that the subject property has to be used for residential purposes, has not been proved. Therefore, he prays to allow the above Civil Revision Petition.

4. The learned counsel for the respondents/landlords submitted that in spite of notice was issued to the petitioner/tenant by the landlords seeking to vacate him from the premises, but, he has not turned up. He further submits that the Court below has rightly allowed the RCOP directing the petitioner/tenant to vacate from the premises owned by the landlords and there is no necessity to interfere with the order passed by the Court below. Hence, he prays to dismiss the above Revision.

5. Heard the learned counsel for the revision petitioner/tenant and



the learned counsel for the respondents/landlords and perused materials available on record.

6. Before advertizing further it would be relevant to extract Section 10(3)(10(i) and 10(3)(a)(iii) of the Act and the same is extracted hereunder:-

*Section 10(3)(a) – A landlord may subject to the provisions of clause (d), apply to the controller for an order directing the tenant to put the landlord in possession of the building.*

*(i) In case it is residential building, if the landlord requires “ it” for his own occupation or for the occupation of ( any members of his family) and if he or ( any member of his family) is not occupying a residential building of his own in the city, town or village concerned;*

*(iii)- In case it is any other non-residential building, if the landlord or ( any member of his family) is not occupying for purposes of a business which he or ( any member of his family) is carrying on, a non-residential building in the city, town or village concerned in his own.*



CRP.No. 947 of 2021

WEB COPY

7. On a bare reading of the above provisions, makes it clear that if the landlords require their building for their own use and occupation for residential purpose who are not occupying the residential building of their own occupation. Therefore, the landlords are entitled to file a petition under Section 10(3)(a)(i) of the Act, similarly, if the landlords require the building for non-residential purposes who are not occupying any building for their business for their own in the City and they are entitled to file a petition under Section 10(3)(a)(iii) of the Act.

8. Further, mere on a perusal of the order passed in RCOP.No. 1462 of 2014 by the learned XIII Judge, Court of Small Causes, Chennai, it is seen that PW1-Banuchitra was examined and Ex.P1 to Ex.P3 have been marked on the side of the petitioner therein. Mr.Dinesh Kumar was examined as RW1 and no documents have been marked on the side of the respondents therein. PW1-Banuchitra has deposed that the subject property is required for her own purposes and the second and third respondents are her brother and sister, and they have right over the subject property and further deposed that if the petitioner/tenant evicts from the subject property, there would be partition among them in respect



CRP.No. 947 of 2021

of subject property. RW1-Dinesh Kumar/tenant has deposed in his evidence that he was not able to find a suitable place to run his business. Considering the deposition made by PW1 and RW1 as well as taking note of the findings of the learned Judge that the *bona fide* intention of the landlords is clearly established by them through oral and documentary evidence of PW1. Hence, the finding of the learned Judge cannot be brushed aside easily, this Court is not inclined to interfere with the orders passed by the Court below.

9. Considering the aforesaid facts and circumstances of the case, that the respondents/landlords have let the subject property for rent with a *bona fide* intention and the petitioner/tenant ought to have vacated from the premises as the landlords require the subject property.

10. In view of the forgoing reasons this C.R.P is dismissed and the fair and decreetal order dated 02.02.2021 passed in RCA.No.234 of 2016 by the learned VIII Judge (Appellate Authority) Court of Small Causes, Chennai, arising out of the order dated 31.03.2016 made in



CRP.No. 947 of 2021

WEB COPY

RCOP.No. 1462 of 2014 passed by the learned XIII Judge, Court of Small Causes, Chennai, is confirmed. This Court further directs the petitioner/tenant to vacate from the premises in question and handover the possession of the same to the respondents/landlords on or before 30.06.2023 without fail, failing which the Respondents can evict the tenant through the help of local police if necessary. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

**23.01.2023**

Speaking order : Yes/No

Neutral citation : Yes/No

Index : Yes/No

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To

1. The VIII Judge (Appellate Authority),  
Court of Small Causes, Chennai.
2. The XIII Judge, Court of Small Causes, Chennai.
3. The Section Officer, V.R.Section,  
High Court, Madras.



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CRP.No. 947 of 2021

**V.BHAVANI SUBBAROYAN, J.**

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