



CRP.No. 1223 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM:

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

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1. B. Rangalakshmi

2. J. Lohith

3. J. Hemanth

.. Petitioners

Versus

S. Krishnamurthi

.. Respondent

Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act to set aside the fair and decreetal order dated 05.03.2021 and made in RCA.No.02 of 2018 on the file of the Subordinate Judge and The Rent Control Appellate Authority Court at Nilgiris reversing the fair and decreetal order in RCOP. No.02 of 2009 dated 23.11.2017 on the file of the learned Rent Controller Court at Coonoor and allow this Civil Revision Petition.

For Petitioner : Mr. M.Rajasekar

For Respondents : Mr. A. Immanuvel



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ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 05.03.2021 made in RCA.No.02 of 2018 on the file of the Subordinate Judge and The Rent Control Appellate Authority Court at Nilgiris reversing the fair and decreetal order in RCOP. No.02 of 2009 dated 23.11.2017 on the file of the learned Rent Controller Court at Coonoor and allow this Civil Revision Petition

2. The revision petitioners herein are the respondents and the respondent is the appellant in RCA.No.02 of 2018 on the file of the Subordinate Judge and The Rent Control Appellate Authority Court at Nilgiris. The petitioners herein are the owners of the subject property and they have let the subject property to the respondent herein and the respondent was default in payment of rent. Further the subject property is a very old and the same requires for demolition and reconstruction, due to which the first petitioner herein issued a legal notice to the respondent to vacate the subject property. However, the respondent/tenant has not turned up to the legal notice and also not vacated from the premises.



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Therefore, the Revision petitioner/landlords have filed RCOP.No.02 of 2009 before the Rent Controller Court at Coonoor. After perusing the records, the RCOP was allowed vide order dated 23.11.2017 with a direction that the respondent/tenant should vacate and handover the possession of the subject property to the petitioners within a period of two months. Challenging the same, the respondent /tenant has preferred an appeal in RCA.No.02 of 2018 before the Subordinate Judge and The Rent Control Appellate Authority Court at Nilgiris, wherein the learned Judge set aside the order passed in RCOP.No.02 of 2009. Aggrieved over the same, the petitioners/land lord have filed the present Civil Revision Petition.

3. The learned counsel for the Revision petitioner submits that the schedule property bearing Door No.79 (New Door No.127) and the adjacent house property bearing Door No.78A (New Door No.126) absolutely belongs to one B. Jogheesan by virtue of Registered partition deed and he was in possession and enjoyment of the same. The said B.Jogheesan is the husband of the first petitioner and the father of the second and third petitioners who died on 15.06.1989 leaving behind the



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petitioners as legal heirs and the petitioners became absolute owners thereof.

4. The learned counsel for the Respondent contend that this Respondent is the son of said Sivalingam who is the brother of the said B.Jogheesan. He further contend that the property in question was not sub divided among the existing legal heirs and there was no partition deed to say that the subject property belongs to the Revision petitioners. He further submits that he is not a tenant and he has right over the subject property and there is no necessity for him to pay the rent. Hence, he prays to dismiss the above Revision.

5. Heard the learned counsel for the Revision Petitioners/landlords and the learned counsel for the Respondent/Tenant and perused materials available on record carefully and meticulously.

6. On going through the Judgment passed by the Rent Controller, Coonoor it is seen that two witness on the side of the Revision petitioners



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and three witness on the side of the Respondents were examined. ExP.1 to P10 were marked on the side of the petitioners and Ex.R1 to R9 were marked on the side of the Respondents. With regard to the evidence adduced before the Rent controller it is seen that R.W-1/ Krishnamoorthy/Respondent/tenant R.W.1/ in his evidence has stated that as he is paying water tax and electricity tax due to which he is not paying the rent, which evidence is ample enough that there was a land lord tenant relationship exists between the Revision petitioners and the Respondent. Even in the counter filed by the respondent before the Rent controller it has been stated that there is a partition deed and no possession was transferred as per the allotments made.

7. Furthermore, the Rent Controller, Coonoor in RCOP.No.02 of 2009 had gone through the Ex.P.1/partition deed and found that the petitioners were shown as title holders for the subject property. Hence the contention of the petitioner that the schedule property belong to them absolutely by way of inheritance is evident from ExP.1 partition deed which establishes the fact that the Rent Controller, Coonoor has analysed all the materials and exhibits in a proper perspective manner and



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concluded that the Revisions petitioners are the owners of the subject property. Hence the finding of the Rent Controller, Coonoor cannot be brushed aside easily and the same is hereby confirmed.

8. In view of the above it is made clear that the Revision petitioners are the landlords of the subject property and there was a land lord tenancy relationship between the Revision petitioners and the respondent . Therefore, the landlords are entitled to file a petition under Section 10(2)(i),10(3)(c) and 14(1)(b) of Tamil Nadu Buildings (Lease and Rent Control Act, 1960) to evict the respondent from the subject property on the ground of willful default in payment of agreed rent to the petitioners and for demolition and reconstruction.

9. Before advertng further it would be relevant to extract Section 10(2)(i),10(3)(c) and 14(1)(b) of Tamil Nadu Buildings (Lease and Rent Control Act, 1960) of the Act and the same is extracted hereunder:-

Section 10 . Eviction of tenants:

(2) A landlord who seeks to evict his tenant



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shall apply to the Controller for a direction in that behalf. If the Controller, after giving the tenant a reasonable opportunity of showing cause against the application is satisfied-

(i) That the tenant has not paid or tendered the rent due by him in respect of the building within fifteen days after the expiry of the time fixed in the agreement of tenancy with his landlord or in the absence of any such agreement, by the last day of the month next following that for which the rent is payable or

Section 10(3) (c)

A landlord who is occupying only a part of building, whether residential or non-residential, may notwithstanding anything contained in clause (a), apply to the controller for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the land lord in possession thereof, if he requires additional accommodation for residential purposes or for purposes of a business which he is carrying on, as the case may be

Section 14(1) (b)

Section 14 Recovery of possession by landlord for repairs or for construction

Section 14(1)(b)

That the building is bona fide required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the site of the building sought to be demolished pass an order directing the tenant to deliver possession of the building to the landlord before a specified



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date.

10. On a bare reading of the above provisions, it is clear that if the landlords want to vacate the tenant under the above provisions, they are entitled to file a petition and the same is maintainable. Hence the petition filed by the Revision petitioners under the above provisions before the Rent Controller, Coonoor, The Nilgris in R.C.O.P.No. 2 of 2009 as there was a Landlord tenant relationship exists between the Revisions petitioners/landlord and the Respondent/ Tenant.

11. Considering the aforesaid facts and circumstances of the case, that the Revision petitioners/landlords have let the subject property for rent with a *bona fide* intention and the Respondent/tenant ought to have vacated from the premises as the landlords require the subject property and there is no merit in the submissions made by the Respondents.

13. In view of the forgoing reasons this Civil Revision Petition is allowed and the fair and decreetal order dated 23.11.2017 passed in



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R.C.O.P.No.02 of 2009 on the file of the Rent Controller Court at Coonoor is confirmed and the order passed in R.CA.No. 02 of 2018 dated 05.03.2021 on the file of Subordinate Judge and the Rent Control Appellate Authority Court at Nilgiris is set aside. This Court further directs the Respondent/tenant to vacate from the premises in question and handover the possession of the same to the Revision petitioners/landlords on or before 30.07.2023 without fail, failing which the Revision petitioners can evict the tenant through the help of local police if necessary There shall be no order as to costs.

23.02.2023

Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
smn

To

1. The Subordinate Judge and The Rent Control Appellate Authority at Nilgiri
2. The Rent Controller Court at Coonoor
3. The Section Officer, V.R.Section,
High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

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