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CRP.Nos. 1879 & 1366 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

CRP.Nos. 1879 and 1366 of 2023

and

CMP Nos. 9134 and 11999 of 2023

1.A. Khaja Mohideen

.. Petitioner in 1879/2023

2.R. Prem Sagar

.. Petitioner in 1366/2023

Versus

1.H. Kushal Chand Shiyal

2.K. Oormila Shiyal

3.K. Anil Kumar Shiyal

4.K. Kamal Chand Shiyal

5.K. Vimal Kumar Shiyal

.. Respondents

[in both CRPs]

(i) CRP.No. 1879 of 2023 is filed under Article 227 of the Constitution of India, prays to set aside the Judgment and Decree dated 09.03.2023 in RCA No. 77 of 2022 on the file of IX Small Causes Court, Chennai, dismissing the appeal preferred by the petitioner herein and confirming the order of eviction and decreetal order dated 10.02.2022 made in RCOP.No.935 of 2017 on the file of XV Small Causes Court, Chennai.



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(ii) CRP.No. 1366 of 2023 is filed under Article 227 of the Constitution of India, prays to set aside the Judgment and Decree dated 09.03.2023 in RCA No. 87 of 2022 on the file of VII Small Causes Court, Chennai, confirming the Judgment and Decree dated 10.02.2022 made in RCOP.No.934 of 2017 on the file of XV Small Causes Court, Chennai.

CRP.No. 1879 of 2023:

For Petitioners : Mr.A. Sheik Peer

For Respondents : Mr.E. Prabu

CRP.No. 1366 of 2023:

For Petitioners : Mr.M.R. Gopinath

For Mcgan Law Firm

For Respondents : Mr.E. Prabu

COMMON ORDER

(i) CRP.No. 1366 of 2023 is filed seeking to set aside the Judgment and Decree dated 09.03.2023 in RCA No. 87 of 2022 on the file of VII Small Causes Court, Chennai, confirming the Judgment and Decree dated 10.02.2022 made in RCOP.No.934 of 2017 on the file of XV Small Causes Court, Chennai.

(ii) CRP.No. 1879 of 2023 is filed seeking to set aside the Judgment



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and Decree dated 09.03.2023 in RCA No. 77 of 2022 on the file of IX Small Causes Court, Chennai, dismissing the appeal preferred by the petitioner herein and confirming the order of eviction and decreetal order dated 10.02.2022 made in RCOP.No.935 of 2017 on the file of XV Small Causes Court, Chennai.

2. Heard both sides and perused the records.

3. On a perusal of the records, it is seen that the respondents/landlords have filed RCOP.Nos. 934 and 935 of 2017 under Section 10(3)(c) of the Tamil Nadu Buildings [Lease and Rent Control] Act, 1960, as Amended by the Act, 23 of 1973, before the XVI Court of Small Causes, Chennai, for eviction against the revision petitioners herein on the ground of additional accommodation from the petition building described in the schedule. The revision petitioners have contested the RCOPs by filing counter affidavit denying all the averments made in the RCOPs. After perusing the records, the Court below allowed the RCOPs by order dated 10.02.2022 directing the revision petitioners to evict from the petition mentioned premises within two months. Against which, the revision petitioners/tenants have preferred an Appeal in RCA.Nos.77 and 87 of 2022



under Section 23(1)(b) of the Tamil Nadu Buildings [Lease and Rent Control] Act, before the IX Court of Small Causes, Chennai. After analyzing the entire materials, the Rent Control Appellate Authority dismissed the Appeal by Judgment and Decree dated 09.03.2023. Challenging the said order, the revision petitioners/tenants have come forward with the present Civil Revision Petitions under Article 227 of the Constitution of India.

4. The learned counsel appearing for the revision petitioners/tenants contended that the Courts below failed to consider that the revision petitioners became tenants under the respondents in respect of petition mentioned premises on monthly rent basis. Thereafter, the revision petitioners were regular in payment of monthly rent and they have not committed any default in payment of rent at any point of time. The revision petitioners were inducted as tenants. He further submitted that the Courts below failed to note that though the respondents herein owned several commercial shops in the building, they only opted to file RCOPs for eviction only against the revision petitioners and other tenants are still carrying on business thereon in a peaceful manner. Hence, the learned counsel for the petitioners/tenants prayed for setting aside the impugned orders passed by the Courts below.



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5. The learned counsel for the respondents/landlords submitted that they are carrying on business under the name and style of “K.C. & Sons” in the premises in electrical goods as well as in other allied electrical goods and parts both in retails and wholesales for a long period. The shop portion facing the said Govindappa Naicken Street is the main entrance for the premises and the said entrance is very small for their business through which alone goods can be taken into the shop for stocking, much less from the same entrance goods has to be taken out of the shop after sale to be delivered to their customers. He further submitted that they have no show room to exhibit their goods to attract the customers of both retail and wholesale and they have no office room also and as such, they have to sit in a crunched portion on the front side, and that apart from these short comings, the inside of their shop portion i.e. on the back side of the respondent's shop portion, have no ventilation and light, because of which they are suffering a lot both mentally and physically. Therefore, the respondents/landlords informed the tenants about the requirement of the said portions and requested them to handover the vacant possession for own use and occupation by way of additional accommodation, for which all the tenants accepted. He further submitted that the respondents/landlords approached the tenants and



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requested to vacate the petition mentioned premises to carry on business, but the revision petitioners/tenants have failed to vacate the same. Therefore, the Courts below have rightly allowing the Original Petitions and directing the revision petitioners/tenants to evict from the petition mentioned premises.

6. It is to be noted that there is no dispute with regard to the landlords/tenancy relationship. During the course of hearing, the learned counsel for the revision petitioners/tenants contended that the revision petitioners/tenants are ready and willing to vacate the petition mentioned premises and sought one year time, to which, the respondents submitted that instead of one year, the tenants may be directed to vacate the premises within a period of five months.

7. In the meanwhile, the revision petitioners/tenants are directed to deposit a sum of **Rs.1,00,000/- [Rupees One Lakh Only]** to the Credit of RCOP.Nos. 934 & 935 of 2017 on the file of XVI Court of Small Causes, Chennai, on or before 15.12.2023.



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8. Taking into the above facts and circumstances of the case and the submissions made by the learned counsel on either side, this Court is of the view that the orders passed by the Courts below, which are impugned in these Civil Revision Petitions, are not required to be interfered with and they are confirmed. The revision petitioners/tenants are directed to vacate the petition mentioned premises on or before 31.12.2023, failing which, the respondents/landlords are at liberty to proceed with the help of the Police Officials concerned.

9. With the above directions, the Civil Revision Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

26.07.2023

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

MSM

To

1. The VII 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.
MSM

C.R.P.Nos.1366 & 1879 of 2023



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