



C.R.P.No.2686 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.2686 of 2014

and

C.M.P.Nos. 21026 of 2017 & 5020 of 2022

K.Pandiammal

.. Petitioner

Vs.

P.Muthukumar

.. Respondent

PRAYER : Civil Revision Petition is filed under Section 25(1) of the Tamil Nadu Buildings (Lease and Rent) Control Act 18 of 1960, to set aside the Judgment and decree, dated 28.04.2014 passed by Learned Rent Control Appellate Authority cum Subordinate Court, Tiruppur in R.C.A.No.9 of 2006, reversing the judgment, dated 28.02.2006 passed by Rent Controller/District Munsif Court, Tiruppur in RCOP.No.3 of 2004.

For Petitioner : Ms.Pavithra Shini
for M/S.V.Manohar

For Respondent : Mr.K.Kishore Kumar
for Mr.N.S.Sivakumar



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ORDER

The tenant is the Civil Revision Petitioner. R.C.O.P.No.03 of 2004 was presented by the respondent/landlord. He had urged on two grounds for the purpose of eviction. The first ground being wilful default and the second ground being own occupation.

2. The relationship between the landlord and tenant is admitted. The monthly rent payable is also admitted. Apart from that, it is the accepted case of the landlord that he had received a sum of Rs.3,00,000/- (Rupees three lakhs only) as advance amount. As per the Tamil Nadu Buildings (Lease and Rent) Control Act, the landlord is entitled to receive only one month rent as advance and the remaining amount in his hands should be adjusted as against the dues payable by the tenant.

3. In this case, the allegation is from December 2002 to October 2003, the rents have not been paid. It is on record that though the tenant has stated in the counter statement, a sum of Rs.3,000/- (Rupees three thousand only) as rent, no evidences have been produced within the time before the Trial Court to substantiate the same. Furthermore, the tenant



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has nowhere stated that he called upon the landlord to adjust the advance as against the dues payable.

4. Pending the R.C.O.P., the rents were not paid and the situation prevailed during the appeal also. Even before this Court from 2014 till date amounts have not been paid towards the rentals. This has constrained the landlord to file C.M.P.No.5020 of 2022 seeking for a direction to the tenant to pay a sum of Rs.11,55,000/- (Rupees eleven lakhs and fifty five thousand only) being the rental arrears from December 2002 to February 2022.

5. The learned counsel for the petitioner submits that her client is not in a position to pay the amount and that the tenant is willing to handover the possession of the property. As on today, the arrears comes to Rs.11,90,000/- (Rupees eleven lakhs and ninety thousand only).

6. The factum that the tenant has not paid the rents despite launching of litigation against him shows that the tenant has reflected not only indifference but supine indifference in paying the rent. The Court can only come to a conclusion that there is a default and not merely a



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wilful default. In the light of the fact that the tenant himself has not asked for adjustment of the advance as against arrears payable shows he was not interested in honouring his contractual obligation of paying the rents.

7. Apart from this ground, there is yet another ground under Section 103(c) of Tamil Nadu Buildings (Lease and Rent Control) Act. It is not in dispute that the landlord is running a textile business in the name and style of 'Madhu Matching & Sarees'. The counter also proceeds in admitting that the tenant is doing wholesale and retail business. He is occupying the adjacent shop to that of the tenant. The landlord wants to expand his existing business and therefore he has presented the petition under Section 103(c).

8. The only averment of the tenant is that the landlord has occupied the premises only for the purpose of inventing a ground of eviction. Apart from that, there is no serious objections in the counter statement as regards the requirement of the additional accommodation of the landlord.



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9. A tenant cannot dictate the landlord as to how he should utilise his premises. The landlord has proved that he is running his own business and he is also occupying the adjacent property. It would be convenient to the landlord to expand his business. In the light of the above, the premises being adjacent to each other, this proves the bonafide of the landlord. The only aspect I have considered is whether, if an order of eviction is passed it would cause more damage to the tenant than to the landlord.

10. The expansion of business is always a desire of the businessmen and if the landlord is going to expand his business, it is not going to affect the tenant. On the contrary, it will benefit the landlord. Further, Tiruppur is a well-known area for textile business and if the tenant is vacated, he can always find an alternate accommodation in the very same area. In the light of the above, the comparative hardship will be more to the landlord if the tenant's eviction is not ordered. The tenant can always find an alternate accommodation in the very same area for the purpose of carrying on his business.



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11. The lower Appellate Court has appreciated the position correctly and has ordered eviction. Therefore, sitting under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, I am not in a position to re-appreciate the evidence that has been correctly appreciated by the lower Appellate Court.

12. In fine, the order of eviction passed by the learned Rent Control Appellate Authority-cum-Subordinate Judge in R.C.A.No.9 of 2006, dated 28.02.2014 in reversing the order and decretal order of the Rent Controller cum District Munsif Court, Tiruppur in R.C.O.P.No.3 of 2004, dated 28.02.2006 is confirmed.

13. The Civil Revision Petition is dismissed. At this stage, Ms.Pavithra Shini representing Mr.V.Manohar states that the tenant will vacate and handover the possession by 30.09.2023. The said submission is recorded.

14. It is open to the landlord to initiate proceedings for recovery of the amount, less the advance in his hands, as against the tenant.



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15. The Civil Revision Petition is dismissed. No costs.

Accordingly, the connected miscellaneous petitions are closed.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

MKN2/VEDA

To

1.The Rent Control Appellate Authority-cum-Subordinate Court,
Tiruppur.

2.The Rent Controller/District Munsif Court,
Tiruppur.



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V.LAKSHMINARAYANAN,J.

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