



C.R.P.(NPD)No.2778 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.2778 of 2023
and C.M.P.No.17156 of 2023

1.C.Saaji

2.C.Dilip Kumar

.. Petitioners

Vs.

1.V.K.Krishnamoorthy

2.Priya Rao

.. Respondents

PRAYER: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, against the judgment and decree dated 13.04.2023 in R.C.A.No.152 of 2019 passed by the VII Court of Small Causes (lower Appellate Court), Chennai, confirming the judgment and decree dated 24.09.2018 in R.C.O.P.No.331 of 2016 on the



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file of the XI Court of Small Causes (Trial Court) at Chennai.

For Petitioners : Mr. R.Pravesh
for Mr.M.P.Muthukumaran

ORDER

The petitioners are the tenants, who have failed concurrently before the trial Court as well as the lower Appellate Court in R.C.O.P.No.331 of 2016 and R.C.A.No.152 of 2019 respectively.

2. The plea of the petitioners/tenants is as follows:

(i) The demolition plan obtained by the 1st respondent/landlord has expired.

(ii) The landlord had put the demolition plan into execution by demolishing the upper floor.

(iii) Considering the age of the building, demolition of the upper floor would affect the building in the ground floor.

(iv) There is no bonafide on the part of the landlord in filing the RCOP.



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3. Heard the learned counsel appearing for the petitioners. I went through the orders of the trial Court as well as the lower Appellate Court.

4. In so far as age of the building is concerned, there is no dispute. There is also no dispute that the landlord had in fact applied and obtained a demolition plan. The demolition plan had expired, because the RCOP had been pending from the year 2016 onwards. It is settled position of law that a landlord need not produce the demolition plan for the purpose of obtaining eviction. In fact, even if no demolition plan had been obtained, as held by the Supreme Court, it can be produced at the time of execution. Fortunately, for the 1st respondent/landlord in the present case, even during the pendency of the RCOP, he had obtained a demolition plan and put the same into execution.

5. That leaves out two other tests namely, the means of the landlord for the purpose of putting up the construction. The means of the landlord has been proved before the Rent Controller by producing Exs.P9 to P14,



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which are Fixed Deposit receipts, Income Tax returns as well as the Pass book of the landlord. One other factor is the bonafide of the landlord, which has to be tested. In so far as the bonafide is concerned, the landlord, who has the means and when the building is admittedly aged about 56 years, he has proved his bonafides by not only examining himself, but also one K.Natarajan as P.W.2.

6. The trial Court as well as the lower Appellate Court have concurrently found that the bonafides have been proved and therefore, sitting in revision under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, I cannot revise the same. This is as per the judgment of the Constitutional Bench in ***Hindustan Petroleum Corporation Limited vs. Dilbahar Singh (2014) 9 SCC 78.***

7. Learned counsel for the petitioners would urge that the landlord has not extended the demolition plan, which had been obtained by him. Obtaining of demolition plan itself is a very laborious as well as an



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expensive endeavour. In order to satisfy the tenants, the landlord need not keep on paying extension amounts for the purpose of keeping the demolition plan alive.

8. As I have already pointed out, the very fact that the landlord has the means and has obtained demolition plan shows that he has bonafides not only in demolishing the building, but also putting up a new superstructure.

9. I do not find any merits in the revision and therefore, I am dismissing the revision.

10. Learned counsel for the petitioners would submit that Mr.C.Dilip Kumar, the 2nd revision petitioner is visually challenged and therefore, evicting him from the premises would cause him hardship.

11. Taking into consideration this plea, I am inclined to grant nine months time from today till 30.04.2024 for the petitioners to vacate and



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handover the peaceful possession of the property to the landlord. This shall be on the ground that the petitioners shall file an affidavit of undertaking that they shall not put any third party into possession of the property nor will be in default in payment of rents. For filing of an undertaking affidavit, time is granted till 31.08.2023. It is made clear that in case, affidavit of undertaking is not filed on or before 31.08.2023, the time granted shall automatically vacated and the 1st respondent/landlord is free to execute the decree.

12. With the above directions with respect to handing over the possession, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.08.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
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V.LAKSHMINARAYANAN,J.

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To

1. VII Judge, Small Causes Court, Chennai.
2. XI Judge, Small Causes Court, Chennai.

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