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C.R.P.Nos.4321 & 4325 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.Nos.4321 & 4325 of 2022

and

C.M.P.Nos.22728 & 22710 of 2022

Sri Krishna Corporation ... Petitioner in CRP No.4321/2022

M/s.Texm Agencies,
Rep.by Mr.M.Karthikeyan,
No.172, Dr.Nanjappa Road,
Coimbatore-641018. ... Petitioner in CRP No.4325/2022

Vs

Smt.Jayalakshmi ... Respondent in both the CRPs.

Prayer in CRP No.4321/2022: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the Judgment and Decree dated 06.10.2021 made in RCA No.29 of 2018 on the file of the



C.R.P.Nos.4321 & 4325 of 2022

Appellate Authority / Principal Subordinate Judge, Coimbatore, confirming the fair and final order dated 11.04.2018 made in RCOP No.142 of 2013 on the file of the Rent Controller – I Additional District Munsif, Coimbatore.

Prayer in CRP No.4325/2022: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the Judgment and Decree dated 06.10.2021 made in RCA No.55 of 2018 on the file of the Appellate Authority / Principal Subordinate Judge, Coimbatore, confirming the fair and final order dated 11.04.2018 made in RCOP No.102 of 2013 on the file of the Rent Controller – I Additional District Munsif, Coimbatore.

For Petitioners
in both the CRPs. : Mr.R.Bharath Kumar

COMMON ORDER

The civil revision petitions in CRP Nos. 4321 & 4325 of 2022 are filed challenging the fair and final order dated 06.10.2021, passed in RCA Nos. 29 and 55 of 2018 respectively, confirming the fair and decretal order dated 11.04.2018, passed in RCOP Nos.142 and 102 of 2013 respectively.



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2. The revision petitioners are the tenants and admittedly continuing in the rented premises for several years. The respondent landlord filed a petition for eviction under Section 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, for directing the revision petitioners / tenants to vacate and surrender the vacant possession. The Rent Controller adjudicated the issues and made a finding that the mother of the respondent was fighting against the revision petitioners / tenants regarding fixation of fair rent and she lost the matter. However, the Rent Controller found that the eviction proceedings are to be considered independently, as the case instituted by the mother of the landlord has no relevance as far as the eviction petition filed by the respondent landlord is concerned.

3. Pertinently the respondent landlord had filed similar eviction petition against the other tenants in the same property which was admitted by the petitioners / tenants during his cross-examination. Therefore, the petitioners / tenants were not singled out and the respondent landlord filed eviction petition against all the tenants in the premises of the same property



since the landlord had taken a decision to demolish the old building as it is in a dilapidated condition. The Rent Controller allowed the petition and directed the revision petitioners / tenants to vacate the subject premises within two months.

4. The first revision petitioner filed an appeal in RCA No.29 of 2018, and the second revision petitioner filed an appeal in RCA No.55 of 2018, and the Appellate Authority considered the issues and found that the respondent landlord sought eviction on the ground of demolition and reconstruction since the building is very old and in dilapidated condition.

5. The learned counsel for the petitioners mainly contended that there is no document to establish that the building is in a bad condition. In the absence of any such document, the Rent Controller and the Rent Appellate Court ought not to have ordered an eviction. It is further contended that the landlord has not filed any application for the appointment of an Advocate Commissioner to inspect the property.



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6. This Court is of an opinion that even the revision petitioners / tenants also have not filed any such application for inspecting the property. However, the respondent was able to establish that the tenants are in occupation of the subject premises for more than 50 years which would be self-evident that the building is very old and more so the tenants are continuing for several years, and thus, the Rent Controller and the Appellate Authority considered the mitigating facts and circumstances.

7. However, the landlord filed the photographs in Exhibit P6, which were considered by the Courts. In Exhibit P6 the photocopy of the building shows that the building is in a dilapidated condition and it is more than 50 years old. Thus, the Appellate Court also formed an opinion that the building needs to be demolished. The Exhibit P5 document establishes that the landlady has the financial capacity to reconstruct the building. If at all the landlady want the old building to be demolished, she is entitled to file an application for eviction and even in case, the building is not in a dilapidated



condition, then also the landlord has got a right to demolition and re-construction which cannot be taken away by the Courts.

8. Right to property is a constitutional right which cannot be denied to the landlord. The right of a tenant is statutory in nature and only in the event of violation of terms and conditions of lease alone the tenant's rights is to be protected and whenever a petition for eviction is filed on the ground for demolition and reconstruction, such a right to property to demolition and re-construction, which is a basic right of the landlord cannot be taken away by the Courts and thus, the grounds raised by the revision petitioner tenants is insufficient to interfere with the orders passed by the Rent Controller and the Rent Appellate Court.

9. Accordingly, the fair and final order dated 06.10.2021, passed in RCA Nos.29 and 55 of 2018, confirming the fair and decretal order dated 11.04.2018 passed in RCOP Nos.142 and 102 of 2013 are confirmed and thus, the Civil Revision Petitions in CRP Nos.4321 and 4325 of 2022 stands



C.R.P.Nos.4321 & 4325 of 2022

dismissed. The revision petitioners are directed to vacate the subject premises and hand over the vacant possession to the respondent/landlord within a period of one month. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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25.01.2023

Speaking Order

Internet : Yes

Index: Yes

Copy to:

1. Principal Subordinate Judge, Coimbatore,
2. Rent Controller – I Additional District Munsif, Coimbatore



WEB COPY



C.R.P.Nos.4321 & 4325 of 2022

S.M.SUBRAMANIAM, J.

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C.R.P.Nos.4321 & 4325 of 2022

25.01.2023