



CRP No.3564 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

**Civil Revision Petition No.3564 of 2023 &
C.M.P.No.22309 of 2023**

Abdul Azeez

... Petitioner

Vs.

1. Bade Krishnaveni
2. E.Ayub Khan
3. Junid

... Respondents

Civil Revision Petition filed under Section 25 of Tamilnadu Buildings (Lease & Rent) Control Act, 1960 to set aside the fair and decreetal order of Eviction passed by the Rent Controller in R.C.O.P. No.650 of 2012 dated 23.12.2020 on the file of learned XII Judge, Court of Small Causes, Chennai, as confirmed by the fair and decreetal order dated 04.07.2023 passed in RCA No.116 of 2021 on the file of IX Court of Small Causes, Chennai.

For Petitioner : Mr.T.N.Rajagopalan for
Mr.A.Prabhakaran

For Respondents : Mr.N.Sivaprakash for R1



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ORDER

The present Civil Revision Petition has been filed to set aside the fair and decreetal order of eviction passed by the Rent Controller in R.C.O.P. No.650 of 2012 dated 23.12.2020 on the file of the learned XII Judge, Court of Small Causes, Chennai, as confirmed by the fair and decreetal order dated 04.07.2023 passed in R.C.A. No.116 of 2021 on the file of IX Court of small causes, Chennai.

2. The brief facts of the case is that the 1st respondent, who is the owner of the property/ landlord filed R.C.O.P. No.650 of 2012 for eviction as against the petitioner, who has unauthorisedly sublet the property to the respondents 2 and 3. The court below after considering the averments, counter and the documents placed on record, had allowed the petition on 23.12.2020 by granting three weeks time from the said date for eviction. As against the said order, the petitioner preferred R.C.A.No.116 of 2021 before the Appellate Authority. The appellate court, after hearing the submissions had confirmed the order passed by the RCOP and dismissed the appeal on 04.07.2023. Aggrieved against the same, the petitioner has preferred the present Revision.

3. The learned counsel for the petitioner would submit that the rent



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controller having rejected the Exhibits P6-11, as the eviction proceedings was filed only on the ground of sub-letting, however, on erroneous assumption of power had passed an order of eviction on the ground of sub-letting and willful default. Further, the court below has also neglected to take note that the 1st respondent, to substantiate the act of sub-letting has not produced any piece of evidence.

4. The learned counsel for the petitioner also submits that the Rent Controller by travelling outside the scope and jurisdiction has held that the case of sub-letting was clearly proved and established. Thus the order of eviction passed by the Rent Controller, as confirmed by the Appellate Authority is not based on any substantial and sound principles of law and the same deserves to be set aside. That apart, the learned counsel for the petitioner has relied on the Judgment of this Court in C.R.P.No.2498 of 1976 [T.N.Unnamalai Achi Vs. Saminatha Pathar] to substantiate his case and pleaded to allow the present Revision.

5. Per contra, the learned counsel for the 1st respondent / landlord submits that the 1st respondent is the absolute owner of the property. The petitioner is the tenant in respect of the schedule premises and the petitioner unauthorisedly sublet the northern side shop portion to the 2nd



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respondent for running a shoe mart, which is purely abuse of terms. Further, the petitioner and the 2nd respondent have sublet the petition premises to the 3rd respondent, who is running the business under the name and style of 'micro solutions', which are not at all permissible, hence the court below as well as the appellate court has rightly considered the case and ordered eviction, thereby pleaded to dismiss the revision.

6. Heard the learned counsel on either side and perused the documents placed on record.

7. On going through the order passed by the court below it is seen that the court below has rightly held that the petitioner has filed petitions one after the other, viz., M.P.Nos.290 of 2012; 180 of 2017; 68 of 2017; 67 of 2017; 129 of 2019 and 1 of 2020 to set aside the exparte eviction order; to set aside the exparte order dated 23.03.2017; to recall of PW1 for cross examination; to re-open the case ; to re-open the case for respondent side evidence and to restore the M.P.No.129 of 2019 respectively only to drag on the case, thereby concluded that it was an abuse of process of court. Since the 2nd respondent has failed to produce rental receipt to show that he is in possession of another portion as tenant, the court below has also ordered eviction on the ground of sub-letting as well as willful default.



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8. It is pertinent to point out that though it is the contention of the 3rd respondent before the appellate court that the court below has not provided sufficient opportunities to enter into witness box, the appellate court has rightly taken note of the docket orders available in the RCOP and held that from 13.02.2019 till 29.04.2019 the petition was posted for evidence and it was dismissed for default, further, M.P.No.1 of 2020 was filed to restore M.P.No.129 of 2019 and it was also dismissed for default and thereby the appellate court has rightly held that tenants and subtenant wantonly not appeared before the rent controller, which cannot be found fault with.

In view of the above, this Court does not find any reasons to interfere with the orders passed by the court below and the appellate court and hence the present Revision is dismissed. Taking into consideration of the fact that the petitioner is running a shop, this Court is inclined to grant time till 31.01.2024 to vacate the subject property in question and handover the same to the 1st respondent. It is also made clear that the rent as well as rent arrears, if any, shall be paid without any default. Consequently, connected miscellaneous petition is closed. No costs.

27.09.2023

Index:Yes/No

Internet:Yes/No

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Speaking / Nonspeaking order
ssd

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V.BHAVANI SUBBAROYAN J.

ssd

To

1. The XII Judge,
Court of Small Causes,
Chennai
2. The IX Court of Small Causes,
Chennai.

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