



C.R.P.(NPD)Nos.3601 & 3604 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)Nos.3601 & 3604 of 2019
and C.M.P.Nos.23616 & 23620 of 2019

B.Elumalai

.. Petitioner in C.R.P.No.3601 of 2019

K.Manohar
2019

.. Petitioner in C.R.P.No.3604 of

Vs.

S.Prathap Raju

.. Respondent in both CRPs.

COMMON PRAYER: Civil Revision Petitions are filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as Amended under Act 23 of 1973, against the judgment and decree made in R.C.A.Nos.846 & 847 of 2017 dated 11.07.2019 by the learned VII Judge, Court of Small Causes, Chennai, reversing the judgment and



C.R.P.(NPD)Nos.3601 & 3604 of 2019

decree in R.C.O.P.Nos.506 & 507 of 2016 dated 28.07.2017 on the file of the learned XIII Judge, Court of Small Causes, Chennai, dismissing the said petitions filed by the respondent for eviction under Section 10(3)(c) of the Act.

In both CRPs.

For Petitioner : Mr.G.Saravanan

For Respondent : Mr.Y.Arul Manickam

COMMON ORDER

The revisions arise against the judgment in R.C.A.Nos.846 & 847 of 2017 dated 11.07.2019 in reversing the order and decree in R.C.O.P.Nos.506 & 507 of 2016 dated 28.07.2017.

2. The jural relationship between the petitioners and respondent as the tenants and landlord is not denied. The fact that the respondent is running a hospital in the same premises is also not denied. It is the case of the landlord that there is only a narrow access from the road to reach his clinic that is being run by him in the rear portion. This is denied by



C.R.P.(NPD)Nos.3601 & 3604 of 2019

the tenants on the ground that they have been in occupation of the property for nearly 33 years. They plead that if eviction is ordered, they would be put to irreparable loss and prejudice.

3. The factum that the patients, visiting the respondent's clinic have to park their vehicles on the road causing inconvenience to the public has to be taken note of by me. This factum has been specifically pleaded by the landlord and had found acceptance before the lower Appellate Court.

4. The further fact is that the tenants had agreed to vacate and handover the possession of the property in the year 2012 itself, but continued to be in possession shows their willingness to vacate the premises. The landlord, being a Doctor, would obviously want to have a convenient parking for his patients so that his practice improves and the patients are not driven away due to lack of a parking area. The landlord has only 4.5 feet passage way to his clinic is a finding of fact entered into



C.R.P.(NPD)Nos.3601 & 3604 of 2019

by the lower Appellate Court. I am able to visualise the fact that 4.5 feet is inadequate even for a stretcher to be brought in. It is possible that the Doctor might attend to emergencies and at that stage, he cannot come on to the road and treat the patients.

5. The petitioners, who are the tenants can always relocate their business elsewhere and their loyal clients would always follow them. It is not as if the landlord wants to evict the petitioners and put some one else in possession of the property. It is for the own use of the Doctor, who is running a clinic and the relative hardship that will be caused by not evicting the petitioners from the premises would be more to the landlord. The business of the tenants would, no doubt, suffer a bump, but the same can be rectified, if it is relocated elsewhere.

6. For a petition under Section 10(3)(c) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, all that I have to see is whether it is bonafide and whether the hardship that will be caused by the



C.R.P.(NPD)Nos.3601 & 3604 of 2019

tenant will be more than the hardship that will be caused to the landlord.

WEB COPY

On the factum of “bonafides”, I am convinced that a Doctor running a clinic is entitled to enjoy the space that he requires and it is not for the tenants to dictate how the landlord must use his property.

7. On the aspect of the relative hardship also, I am of the view that the tenants would not be affected so much than the suffering of the patients, the public as well as the landlord himself. Therefore, the order of eviction passed by the Court below does not suffer from any infirmity and the same necessarily has to be confirmed.

8. The learned counsel for the petitioners at this point requests that sufficient time be granted for the purpose of vacating and handing over the possession and for the said purpose, he requests nine months time.

9. The learned counsel for the landlord resists the same and says that the landlord has been suffering from the year 2012 and therefore, he



C.R.P.(NPD)Nos.3601 & 3604 of 2019

says that not more than three months time be granted.

10. However, I feel if six months time is granted on filing of an undertaking affidavit, the benefit of time can be granted to the tenants. The tenants in both C.R.P.(NPD)Nos.3601 and 3604 of 2019 are granted six months time on filing of an affidavit of undertaking that they will not default in payment of rents and they will handover peaceful vacant possession of the property to the landlord on or before 01.03.2024. Time for filing the affidavits is granted till 10.09.2023.

11. With the above directions, both the Civil Revision Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.08.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

kj

6/7



WEB COPY



C.R.P.(NPD)Nos.3601 & 3604 of 2019

V.LAKSHMINARAYANAN,J.

Kj

To

1.XIII Judge, Court of Small Causes, Chennai.

2.VII Judge, Court of Small Causes, Chennai.

C.R.P.(NPD)Nos.3601 & 3604 of 2019
and C.M.P.Nos.23616 & 23620 of 2019

18.08.2023

7/7