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C.R.P.(NPD).No.2703 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

C O R A M

THE HONOURABLE MRS.JUSTICE BHAVANI SUBBAROYAN

C.R.P.(NPD).No.2703 of 2023

and C.M.P.No.16672 of 2023

Geetha Kuruvilla @
Geetha Susan

... Petitioner

Vs.

K.Selvaraj

... Respondent

PRAYER: This Civil Revision Petition has been filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the judgment and decree passed in R.C.A.No.65 of 2018 dated 01.08.2022 by the learned Rent Control Appellate Authority Cum Principal Sub Judge, Coimbatore confirming the fair and decreetal order passed in R.C.O.P.No.138 of 2011 dated 13.02.2018 by the learned Rent Controller Cum I - Additional District Munsif at Coimbatore.

For Petitioner : Mr.V.Meenakshi Sundaram

ORDER

The Revision Petitioner is the tenant and the respondent is the landlord in the R.C.O.P.

2. The respondent/landlord filed R.C.O.P.138 of 2011 under Section 10(2) (iii), 10(3)(i) of Tamil Nadu Buildings (Lease and Rent Control) Act, 2017 to evict the Revision Petitioner from the petition schedule mentioned property on



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the ground of own use and occupation. Before the Court below the respondent examined himself as P.W.1 and the Revision Petitioner was examined as R.W.1 and Exhibits P1 to P6 were marked. After pursuing the records, the Court below allowed the petition vide its order dated 13.02.2018, directing the Revision Petitioner to vacate the petition schedule mentioned premises and hand over the possession of the petition mentioned property to the landlord within a period of two months.

3. Aggrieved over the same, the Revision Petitioner preferred an appeal in R.C.A.No.65 of 2018 before the Principal Subordinate Judge, Coimbatore under Section 23 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 2017, praying to set aside the order of the Rent Controller in R.C.O.P.138 of 2011, dated 13.02.2018. After scrutinising the records, the learned Judge had dismissed the said appeal vide his order dated 01.08.2022, directing the Revision Petitioner to vacate the petition mentioned premises and hand over the same to the respondent/landlord. Challenging the same, the Revision Petitioner has come forward with the present Civil Revision Petition.

4. Heard both sides and perused the materials available on record.



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5. On perusal of the records, it is seen that the Revision Petitioner was a tenant under the respondent/landlord since 01.03.1999, on the basis of the oral agreement. She has paid a sum of Rs.2,300/- per month as rent for occupying the petition mentioned property. The respondent's son was doing higher studies in Coimbatore and after completion of his higher studies, he sought to get placement for a better job. Therefore, the respondent/landlord required the petition mentioned property for his own need and occupation.

6. On the other hand, the Revision Petitioner is a statutory tenant under the respondent/landlord since 1999 and he was regularly paying the rents. But the landlord has filed the R.C.O.P for vacating the Revision Petitioner from the petition mentioned property. The contention of the Revision Petitioner is that the said building got damaged and it is in a dilapidated condition. Though the respondent has not let-in any documentary evidence to prove that his son was looking for a job in Coimbatore and that the Revision Petitioner proved through the documentary evidence his desire to settle in Coimbatore.

7. Per contra, the learned counsel for the respondent submitted that there was a rental agreement entered into between the parties in respect of the petition schedule mentioned property. There was no dispute between the Revision Petitioner regarding the quantum of the rent and towards the arrears of rent.



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According to the respondent/landlord he was working as a officer in a banking sector and now he retired from service. According to the Revision Petitioner, at the time of filing of R.C.O.P., he was aged about 65 years and she was working in a export company located in Tiruppur. During the course of the cross-examination the respondent, the Revision Petitioner was examined as R.W.1 in the R.C.O.P proceedings before the Rent Controller. The Revision Petitioner had admitted that she was travelling to and fro from Coimbatore to Tiruppur.

8. On further perusal of records, it reveals that there is no dispute between the Revision Petitioner and the respondent regarding their relationship as landlord and tenant. No evidence have been adduced so as to show that the landlord is having other properties in Coimbatore. Moreover, in her chief evidence and proof affidavit in para 4, she had deposed that the landlord is not related to Coimbatore and purchased the property as an investment.

9. Per contra the landlord has proved his case that he needs the petition scheduled mentioned property for his own use and occupation to settle down for better opportunities for his son. Even though the report of the Advocate Commissioner have not been marked as one of the exhibits in the R.C.O.P proceedings, the report of the Advocate Commissioner shows and confirms the contentions of the landlord that the building is required for repair work and for his



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own use and occupation. Hence, there is no illegality and irregularity in the order passed.

10. In view of the above discussions, the Revision Petitioner is directed to vacate the petition mentioned property on or before 30.11.2023, failing which the respondent/landlord is at liberty to evict the Revision Petitioner with the help of the Police Officials. No Costs. Consequently, connected miscellaneous petition is closed. With the above direction, this Civil Revision Petition is disposed of.

07.08.2023

Index: Yes/No

Internet: Yes/No

Speaking Order/Non Speaking Order

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To

1. The Rent Control Appellate Authority
Cum Principal Sub Judge, Coimbatore
2. The Additional District Munsif -I,
Coimbatore.



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V.BHAVANI SUBBAROYAN., J.

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