



WEB COPY



C.R.P.No.3658 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3658 of 2023

and

C.M.P.No.22945 of 2023

1. M. Sirajudeen
2. Selvi

... Petitioners

-Vs-

S.Jothi (deceased)

S.Thangavel

... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 08.08.2023 passed in R.C.A.No.349 of 2019 passed by learned VII Small Causes Judge, Chennai confirmed the order dated 01.03.2019 passed in R.C.O.P. No. 438 of 2015 by the learned XV Judge, Court of Small Causes, Chennai.

For Petitioners

: Mr.P.Babu

For Respondent

: Mr.V.Sivakumar for

M/s. P.B.Ramanujam Associates



WEB COPY



C.R.P.No.3658 of 2023

ORDER

Challenging the impugned order passed in R.C.A. No. 349 of 2019 passed by the learned VII Small Causes Judge, Chennai, confirming the order passed in R.C.O.P.No. 438 of 2015 by the learned XV Judge, Court of Small Causes, Chennai, the Revision Petitioners/tenants preferred this Civil Revision Petition.

2. The learned counsel for Revision Petitioners would submit that the 1st Revision Petitioner is running a textile business in the suit premises and the 2nd Revision Petitioner is a working partner in respect of the property admeasuring an extent of 328 sq.ft. approximately bearing No.103, Old No.35, M.C.Road, Old Washermanpet, Chennai. He would also submit that having no other business, he is wholly depending on the aforesaid business and he is paying the rent regularly to the respondents/landlords. However, they have filed an Rent Control Original Petition for eviction on two grounds viz., for their own occupation and for subletting to others. In the meanwhile, the 1st respondent/landlady died during the pendency of the proceedings. But the same was not considered by the courts below, since because at the time of filing R.C.O.P., she



C.R.P.No.3658 of 2023

wanted the said premises for her own occupation and now she is no more, as such the owner's occupation is not maintainable. But, the Rent Control Appellate Authority failed to consider the same and erroneously ordered for eviction. Hence, they prayed to set aside the findings of courts below.

3. The learned counsel for respondent/landlord would submit that in the year of 2015, the main Original Petition was filed and during the year of 2013, they have sent notice to them to vacate the premises as the 1st Revision Petitioner subletted the premises to the 2nd Revision Petitioner herein. Though the 1st respondent would content that he is a working partner in the business, but before the courts below, he has not produced any partnership deed, however he has subletted the property to him. Therefore, the trial court has rightly observed that he is not entitled to occupy the premises and prayed to dismiss this Revision Petition.

4. Admittedly, on the ground of subletting as well as owner's occupation, the Revision Petitioners are not entitled to occupy the premises. Hence, I do not find any merit in this Civil Revision Petition. However, the respondent/landlord agreed to return the advance amount of



C.R.P.No.3658 of 2023

Rs.4,50,000/- to the 1st Revision Petitioner. Furthermore, on considering

the fact that the 1st Revision Petitioner is running a textile business.

Therefore, this Court is inclined to grant three months time to vacate the premises from the date of receipt of copy of this order and on the day of handing over the key to the Respondent/landlord, he is directed to return the advance amount of Rs.4,50,000/- by way of demand draft to him and until then, the Revision Petitioners are directed to pay monthly rent to the respondents/landlords for the said period of three months without any default, failing which landlord entitled to execute the same directly through E.P. Accordingly, this Civil Revision Petition is disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

03.11.2023

Index : Yes/No

Speaking Order : Yes/No

rpp

To

VII Judge, Court of Small Causes, Chennai.



WEB COPY



C.R.P.No.3658 of 2023

T.V.THAMILSELVI, J.

rpp

C.R.P.No.3658 of 2023

03.11.2023