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C.R.P.No.4220 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4220 of 2022

V.Ravikumar

.. Petitioner

vs

R.Jayaprakash

.. Respondent

Prayer: This Civil Revision Petition is filed under Section 25(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 seeking to allow the civil revision petition and thereon set aside the fair and decretal order in R.C.A.No.25 of 2017 dated 03.08.2022 on the file of the Subordinate Judge at Poonamallee/Rent Control Appellate Authority reversing the orders passed in R.C.O.P.no.55 of 2013 dated 03.04.2017 on the file of the Principal District Munsif Court Poonamalle / Rent Controller.

For Petitioner : Mr.A.Palaniappan

For Respondent : No Appearance



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ORDER

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The civil revision petition is filed against the fair and decretal order passed in R.C.A.No.25 of 2017 dated 3.08.2022 reversing the order passed in R.C.O.P.No.55 of 2013 dated 03.04.2017.

2. The revision petitioner is the landlord and he initiated eviction proceedings against the respondent / defendant in R.C.O.P.No.55 of 2013. The Rent Controller adjudicated the issues on merits and allowed the eviction petition mainly on the ground of demolition and reconstruction and for owner's occupation.

3. The said order passed by the Rent Controller was taken by way of an appeal by the respondent / defendant in R.C.A.No.25 of 2017. The Rent Control Appellate Authority reversed the order mainly on the ground that the relief of eviction granted on the ground of demolition and reconstruction and for owner's occupation is contrary to each other and accordingly, set aside the order passed by the Rent Controller to evict the tenant.



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4. Learned counsel for the revision petitioner mainly contended that the respondent / defendant is owning the property in the name of his wife and in this regard, the respondent / defendant is not disputing the same. The defendant has stated before the Trial Court and the Appellate Court that the property stands in the name of his wife and therefore, he cannot evict the petition premises.

5. Be that as it may, this Court is of the considered opinion that the relief of demolition and reconstruction and for owner's occupation cannot be construed as contrary. The landlord, therefore, is proper to seek relief of eviction on the ground of demolition and reconstruction and after reconstruction, he may utilize the property for his own occupation. Therefore, the grounds on which the petition was allowed by the Rent Controller cannot be said to be perverse or inconsistent or contrary. Even in such circumstances, if both the grounds are established by the landlord, the Appellate Authority ought to have considered the case of the revision



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petitioner by evicting the defendants on either of the grounds, instead of considering any one of the grounds of owner's occupation or demolition and reconstruction. However, the Rent Appellate Authority set aside the interim order of eviction passed by the Rent Controller.

6. Once the landlord is able to establish any one of the ground for eviction, he is entitled for the relief and in the present case, the eviction was issued on two grounds. The appeal was allowed, accordingly, on the ground that that grounds are contrary and such a finding is infirm and the landlord is empowered to seek both the grounds, as he can demolish and reconstruct the building and thereafter occupy the premises for owner's occupation.

7. In view of the facts and circumstances, this Court is of the opinion that the order of the Rent Control Appellate Authority is perverse and accordingly, the fair and decretal order dated 03.08.2022 in R.C.A.No.25 of 2017, reversing the order dated 03.04.2017 passed in R.C.O.P.No.55 of 2013, is set aside and thus, the civil revision petition is allowed.



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WEB COPY 8. The respondent defendant is directed to evict the subject premises and hand over the vacant possession to the revision petitioner / landlord within a period of one month from the date of receipt of a copy of this order.

9. With these directions, the revision petition is allowed. There will be no order as to costs.

Speaking Order/Non-Speaking Order.

27.01.2023

Internet : Yes/No.

Index: Yes/No.

Neutral Citation: Yes/No

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To

1. The Principal District Munsif Court, Poonamalle
2. The Subordinate Judge, Poonamallee



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S.M.SUBRAMANIAM, J.

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