



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.3983 of 2022

and

C.M.P.Nos.20713 of 2022 & 92 of 2023

S.Ramalingam

... Petitioner

Vs.

R.Girija Represented by her Power Agent
A.Radhakrishnan,
No.9, Perumal North Mada Veedhe,
Nagapattinam – 611 001.

... Respondent

Prayer: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Lease and Rent Control Act, 1960, against the Fair and Decreetal order dated 29.09.2022 in R.C.A.No.21 of 2022 on the file of the VIII Small Causes Court, Chennai, confirmed the R.C.O.P.No.211 of 2012 dated 03.01.2022 on the file the XII Small Causes Court, Chennai.

For Petitioner : Mr.Venugopal.P

For Respondent : Mr.S.N.Narasimhulu



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ORDER

The Civil Revision Petition has been filed challenging the Fair and Decretal order dated 29.09.2022 passed in R.C.A.No.21 of 2022, confirming the order dated 03.01.2022 passed in R.C.O.P.No.211 of 2012.

2. The revision petitioner is the tenant and the respondent / landlord filed R.C.O.P.No.211 of 2012 to evict the tenant on the ground of willful default in payment of Rent, owners occupation and ceased to occupy. The Rent Control Court allowed the R.C.O.P on the ground of willful default in payment of rent for the period from November 2009 to November 2011 and further on the ground ceased to occupy. In respect of the ground of owners occupation, the Rent Controller dismissed the petition. The revision petitioner preferred an appeal in R.C.A.No.21 of 2022 and the Appellate Court confirmed the eviction order and thus, the petitioner is constrained to move the present Civil Revision Petition.

3. The learned counsel for the petitioner mainly contended that the Rent Court and Rent Appellate Court have failed to consider the documents filed by the revision petitioner. The letters marked as documents have not been taken into account for the purpose of considering the the defence taken



by the revision petitioner. The revision petitioner / tenant has proposed to purchase the property and in this regard, a Civil Suit was also instituted by him. When the process for sale is in progress, the respondent / landlord filed the R.C.O.P. for eviction and the letters filed in this regard had not been considered both by the Rent Controller and by the Rent Appellate Court. The rental receipts furnished by the revision petitioner are not considered.

4. The learned counsel for the respondent objected the said contention by stating that willful default in payment of rent was established and further the revision petitioner is not in occupation of the premises leased out and therefore, both the grounds were considered by the Rent Controller and the Rent Appellate Court and the eviction was ordered. That apart, the revision petitioner is in occupation of the premises for several years and the respondent / landlord is struggling to evict the tenant for the past more than 10 years as the litigations are pending before the Rent Controller and the Rent Appellate Court.

5. The findings of the Rent Controller and the Rent Appellate Authority with reference to the facts established between the parties are unambiguous. The consistent findings of the Rent Controller and the Rent



Appellate Authority reveals that the jural relationship between the landlord and the tenant is not in dispute. The monthly rent of Rs.7,000/- is also not disputed. It is not disputed that the subject building is not exempted under the provisions of the Act. The Rent Controller and the Rent Appellate Authority considered the documents filed between the parties and elaborately considered the issues.

6. It has been admitted by the revision petitioner/tenant that in the month of October 2011, the husband of the respondent / landlady Mr.A.Radhakrishnan demanded the revision petitioner to vacate the premises. A Civil Suit was filed in O.S.No.8278 of 2011. Thereafter, the monthly rent was not received. The respondent issued legal notice. Subsequently, the tenant sent the monthly rent to the landlady's husband by way of money order after deducting money order charges, which were also refused by him. Thereafter, the revision petitioner / tenant filed R.C.O.P.No.475 of 2012 under Section 8(5) of the Act to deposit the rent to the Court.

7. Pertinently, the respondent / landlady, her husband and Kavignar Su.Ra @ C.S.Rajagham remained *exparte* in the said R.C.O.P.No.475 of



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2012. But the revision petitioner / tenant admittedly has not deposited the rent before the Rent Controller. Instead, he continued to send the monthly rent to the landlady's husband through money orders, after deducting a sum of Rs.1000/- every month towards money order charges.

8. Apparently, it was made clear before the Rent Court and the Rent Appellate Court that the revision petitioner / tenant had paid the monthly rents only as per his own whims and fancies and has claimed to adjust Rs.72,000/-, which he withheld as money order charges towards advance amount available with the landlady. Such conduct of the tenant was mischievous and in violation of the agreement between the landlord and the tenant. The revision petitioner / tenant withheld a sum of Rs.1000/- from the monthly rent for about 72 months towards money order charges. Actual money order charges collected from the Postal Department is far less than the charges of Rs.1000/- withheld by the tenant. The conduct of the tenant towards the landlord was also considered by the Rent Court and the Rent Appellate Court.

9. The landlord-tenant dispute between the petitioner and the respondent is continuing for more than 10 years and the revision petitioner /



tenant also has not paid the rent properly. Further, he ceased to occupy the subject premises and it is under lock. In the present case, the tenant has not marked any documents to prove that he is continuously using the premises before filing the petition. Thus, the Rent Controller drew an adverse inference against the tenant by quoting the judgment rendered in ***Vidhyadhar Vs. Manikrao*** reported in ***[AIR 1999 SC1441]***.

10. The landlord has specifically stated that the tenant has locked the premises and he is not using the same from May 2011 till filing of the R.C.O.P. Prior to May 2011, the revision petitioner / tenant has been using the premises for running his political party office and subsequently when the landlord raised an objection, locked the same and kept the premises under lock and key without putting it in to use. The revision petitioner / tenant has not produced any oral or documentary evidence to show that he was occupying the premises or using the property premises for his residential purposes. Thus, the tenant has not proved that he is using the subject premises as per the terms of the lease for his residential purpose.

11. Per contra, the respondent / landlady and her husband have stated that the petition premises was being utilised for running the political office



by the revision petitioner / tenant. The tenant has neither produced any documentary evidence or oral evidence to show that he is in occupation of the premises and he is putting it in use for the intended purposes i.e. residential purposes.

12. Under Section 10(2)(vi) of the Act, if the tenant has ceased to occupy the building for a continuous period of four months without reasonable cause, the landlord is entitled to seek eviction. In the present case, the tenant has neither shown that he had been in actual occupation of the subject premises nor offered for such non-occupation of the subject property. Thus, the Rent Controller considered the issues and ordered for eviction under Section 10(2)(vi) of the Act. The ground regarding the willful default in payment of rent is also established under Section 10(2)(vi) of the Act.

13. Considering the issues elaborately, both the Rent Controller and the Rent Appellate Court arrived a conclusion that the revision petitioner/tenant has not established his case and consequently ordered for eviction.



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14. This Court is of the considered opinion that non-occupation of the revision petitioner/tenant in the subject premises has been established both before the Rent Controller and the Rent Appellate Authority. The respondent/landlord established that the subject premises is locked and the key is with the revision petitioner/tenant. Before May 2011, the revision petitioner/tenant was using the premises for running a political party office in violation of the lease conditions that the premises must be used for residential purposes. The mental agony of the landlady in this regard is to be considered by the Court. Once, the lease came to an end and not renewed with the consent of the landlord and the tenant, then there is no reason to allow the tenant to continue in the premises.

15. In the present case, under the guise of litigation, the revision petitioner/tenant is continuing in the premises for more than 10 years without any justification and by abusing the process and by dragging on the proceedings. The eviction proceedings are pending for the past more than 10 years. Even from the year 2011, the agreed rent has not been paid properly. A sum of Rs.1,000/- per month, even at that point of time, was deducted by the revision petitioner/tenant towards money order charges in an illegal manner. He has utilized the property for running a political party office in



violation of the rent conditions. The untold mental agony of the landlord in this case deserves to be considered. On expiry of the lease, and there was no renewal or extension of such agreement, then the tenant is liable to vacate the premises and hand over the same to the landlord.

16. Right of property to the landlord cannot be denied. Taking undue advantage of the lengthy judicial procedures, the tenants are attempting to abuse the same and continuing in the premises without any authority and in the absence of any agreement. If the Courts permit such unauthorized occupation beyond a reasonable period, then the trust on the judicial system will be shaken and the people must have a faith on the system, so as to ensure that the rule of law is protected from the hands of such persons, who are attempting to abuse the process. If at all, the rental agreement has not been renewed or extended and the proceedings are initiated for eviction, continuance of the tenant beyond the expiry of the lease period is in violation of the provisions of the Act, since the landlord has not consented for such continuance. Thus, the tenant is liable to be evicted. Long delay in considering the eviction proceedings are causing untold mental agony to the landlords. Thus, the Courts are expected to dispose of such cases within a reasonable period of time.



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17. In the present case, the revision petitioner/tenant has abused the property by running a political party office, without the consent of the respondent/landlord. When serious objections were raised, he locked the premises and kept the key in his custody and not paid the rent and committed wilful default. Thus, the Rent Controller and Rent Appellate Authority rightly ordered for eviction both under the ground of wilful default in payment of rent and tenant ceased to occupy the premises for continuous period.

18. In view of the facts and circumstances, this Court do not find any acceptable ground for the purpose of considering the present Civil Revision Petition.

19. Accordingly, the Fair and Decreetal order dated 29.09.2022 passed in R.C.A.No.21 of 2022, confirming the order dated 03.01.2022 passed in R.C.O.P.No.211 of 2012 are confirmed and consequently, the Civil Revision Petition in C.R.P.No.3983 of 2022 stands dismissed.



20. The revision petitioner tenant is directed to vacate and handover the vacant possession of the subject premises to the landlady within a period of one month from the date of receipt of a copy of this order.

However, there shall be no orders as to costs. Consequently, connected Miscellaneous Petitions are closed.

12.01.2023

Jeni/Kak

Index : Yes

Neutral Citation : Yes

Speaking order

To

1.The Judge,
VIII Small Causes Court,
Chennai.

2.The Judge,
XII Small Causes Court,
Chennai.



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S.M.SUBRAMANIAM, J.

Jeni/Kak

C.R.P.No.3983 of 2022

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