



CRP. No.3811 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

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

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Devadoss Reddian (Since deceased)
by legal representative
D.Sugumar
Proprietor
B.R.R. Lorry Service
No.1, (Old Nos. 35 & 36),
Chinna Thambi Street,
Chennai 600 001.

...Petitioner

Vs.

1.S.Mohamed Ali
2.Amroj Beevi
3.M.Syed Ismail
4.M.Syed Rafique
5.Zuvaria(minor)
Rep by Natural
Guardian S.Mohammed Ali

...Respondents.

PRAYER : This Civil Revision Petition is filed under Section 25(1) of The Tamil Nadu Buildings (Leased & Rent Control) Act 18 of 1960, to set aside



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the judgment and decree order dated 04.09.2019 made in R.C.A 408 of 2017 dated 04.09.2019 on the file of VIII Judge, Court of Small Causes, Chennai, confirming the order of decree order of eviction made in R.C.O.P 2372 of 2008 dated 28.03.2017, on the file of XIV Court of Small Causes (Rent Cotroller) Chennai.

For Petitioner : Mr.R.Thiagarajan

For Respondents : Mr.M.Saravaa Kumar

ORDER

This petition has been filed to set aside the judgment and decree order dated 04.09.2019 passed by the VIII Judge, Court of Small Causes, Chennai, in R.C.A 408 of 2017 by confirming the order of XIV Court of Small Causes (Rent Cotroller) Chennai, in R.C.O.P 2372 of 2008 dated 28.03.2017.

2. Originally RCOP No. 2372 of 2008 has been filed by the respondent herein in order to evict the petitioner herein from the premises bearing Door No. 1 (old No. 35 & 36), Chinna Thambi Street, Chennai – 600 001. For the sake of convenience the petitioner herein referred as tenant and the respondents herein are referred as land lord. The contention of the land lord before the Court below is that they have filed Fair rent



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proceedings against the tenant in RCOP No. 2043 of 2003, while pending proceedings the land lords filed CRP No. 2639 of 2007 and the respondents filed CRP Nos. 2478 and 2479 of 2007 before this Court. Thereafter, the said CRP proceedings were ended up in compromise and rent was fixed as Rs.4,750/-. Further the land lord stated that the above said premises is in dilapidated condition which is aged about more than 75 years. Hence the land lords wants to reconstruct the building according to their plans and scheme. Further, the land lords have sufficient means to construct the building. Hence he prays the Court to vacate the tenant from the above said premises.

3. On the other side, the tenant denied the age of the premises and also stated that premises is in stable condition and also stated that the land lords have no means to put up new construction. Further, with a view to evict the tenant the land lord filed the rent control proceedings. Hence he prays to dismiss the rent control proceedings.

4. After hearing the submissions on either side, the Rent Controller allowed the petition in favour of the land lord. Aggrieved over the same, the tenant preferred an appeal before VIII Judge, Court of Small Causes, Chennai, which independently analysed the facts and circumstances of the



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case and dismissed the appeal. Challenging the concurrent findings the tenant preferred this revision petition.

4. The learned counsel for the tenant submitted that the court below failed to appreciate the fact that age of the building was not been proved by the land lord with material evidence, in spite of that the order of eviction was granted in favour of the land lord as such is totally unfair and liable to be set aside. Further, he submitted that the land lord bound to prove the age of the building with qualified engineer but they failed to do so. Hence he prays to allow this petition.

5. By way of reply, the learned counsel for the land lord submitted that tenant himself admits that he was enjoyed the premises for more than 60 to 65 years under the land lords and also in fair rent proceedings Engineer who examined the premises and certified that building is more than 110 year old and the same was not objected by the tenant at that time. Due to the dilapidated condition of the building and to build the new building the land lords preferred the rent control proceedings to vacate the tenant. Hence, the Court below rightly appreciated this facts need no interference.



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6. Considering the fact that there is no dispute with regard to land lord tenant relationship. Admittedly, the fair rent proceedings was initiated by the land lords and the same was ended in compromise before this Court in CRP No.2639 of 2007 and CRP Nos. 2478 and 2479 of 2007. During the fair rent proceedings the Engineer was appointed by the Court and the said engineer examined the age of the building and filed his report which marked as Ex.R12 wherein it was stated as age of the building is 110 years. In fact, the said engineer was appointed by the tenant. Besides, before the Trial court tenant evidence is marked as R.W.1, who stated that they are in occupation of the building for more than 72 year. So, they also admits the age of the building which itself consider as best evidence, which was rightly appreciated by the Court below needs no interference. Furthermore, the land lord also produced bank pass book /Ex.B5 which itself shows that they have sufficient means to built the building and also they are having other properties that document were marked as Ex.B6 to Ex.B10. Therefore, it established that land lords are having sufficient means therefore the findings of the Court below needs no interference.



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9. In result, the Civil Revision petition is dismissed. The tenant is directed to vacate the premise within a period of three months from the date of receipt of a copy of this order. No cost. Consequentially, connected miscellaneous petition is closed.

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