



C.R.P.No.502 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2023

CORAM:

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.502 of 2020

Chandramohan

...Petitioner

vs.

K.M.Nowshad

...Respondent

Prayer: Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act, 1960, against the Judgment and Decree dated 31.07.2019 made in R.C.A.No.47/2015 on the file of the Court of the Principal Subordinate Judge, Coimbatore confirming the Fair and Final Order dated 02.02.2015 made in R.C.O.P.No.36/2011 on the file of the Court of the Learned Rent Controller-cum-1st Additional District Munsif, Coimbatore.

For Petitioner : Mr.R.Nandhakumar

For Respondent : Mr.B.Vijaya Kumar



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ORDER

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The Civil Revision Petition has been filed against the Judgment and Decree dated 31.07.2019 made in R.C.A.No.47 of 2015 on the file of the Principal Subordinate Judge, Coimbatore confirming the Fair and Final Order dated 02.02.2015 made in R.C.O.P.No.36 of 2011 on the file of the Learned Rent Controller-cum-1st Additional District Munsif, Coimbatore.

2.The case of the petitioner is that in the year 2009, the petitioner has filed a petition in R.C.O.P.No.316 of 2009 before the Rent Controller, Coimbatore against the respondent herein praying for fixation of fair rent for the petition mentioned premises. On 17.04.2017, the Rent Controller was pleased to order the said petition by fixing a sum of Rs.16,180/- as fair rent for the petition mentioned premises from December 2009. As the respondent fails to pay the arrears and enhanced rent fixed by the Rent Controller, the petitioner filed a suit in O.S.No.532 of 2017 before the District Court, Coimbatore for recovery of arrears of rent for a sum of Rs.11,93,280/- along with interest at 18% p.a. etc. Even after the institution of the said suit, the respondent has not come forward to pay the arrears of rent. On the other hand, the respondent preferred an



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appeal against the order passed by the Rent Controller fixing fair rent and also a petition was filed in R.C.O.P.No.187 of 2017 before the Rent Controller, Coimbatore praying to permit him to deposit a sum of Rs.4,000/- per month irrespective of fair rent of Rs.16,180/- fixed by the Rent Controller in R.C.O.P.No.316 of 2009. As a counter case to the suit for arrears of rent, the respondent herein filed a suit in O.S.No.539 of 2018 before the District Munsif Coimbatore against the petitioner herein praying for a recovery of water charges from the petitioner for a sum of Rs.64,800/- along with interest etc.

3.Learned counsel for the petitioner submitted that the Court below failed to see that the petitioner has satisfied the ingredients of Section 10 (3) (a) (iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 for eviction of the respondent from the petition premises for his own use and occupation. He submitted that the Court below ought to have seen that the petition mentioned property is a shop situated in the ground floor and the second floor, are all offices. The petitioner herein was planning to start telecommunication business for which, the petition mentioned property which is situated in the ground floor is suitable for establishing a showroom and therefore, he bonafidely requires the same



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for commencing business. He further submitted that the Court below failed to see that the respondent/tenant in his evidence in RW1 clearly admits that the petition premise is the only suitable place to have a service centre etc.

4.Learned counsel for the respondent has filed a counter in R.C.O.P.No.36 of 2011 wherein it has been stated that all the allegations made in the affidavit of the petitioner and the petitioner has to prove the averments made in the affidavit of the petition with strict proof except those that are all admitted by the respondent, the other allegations has to be proved by the petitioner. He submitted that the petition is false, frivolous, vexatious and is not maintainable both in law and on the facts of the case.

5.Heard learned counsel for the petitioner and learned counsel for the respondent and perused the material available on record.

6.On going through the typed set of papers, it is seen that in the year 2009, the petitioner has filed a petition in R.C.O.P.No.316 of 2009 before the Rent Controller, Coimbatore against the respondent herein



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praying for fixation of fair rent for the petition mentioned premises. On 17.04.2017, the Rent Controller was pleased to order the said petition by fixing a sum of Rs.16,180/- as fair rent for the petition mentioned premises from December 2009. As the respondent fails to pay the arrears and enhanced rent fixed by the Rent Controller, the petitioner has filed a suit in O.S.No.532 of 2017 before the District Court, Coimbatore for recovery of arrears of rent for a sum of Rs.11,93,280/- along with interest at 18% per annum. Even after filing the suit, the arrears of rent has not been paid by the respondent. Hence, the petitioner filed R.C.O.P.No.36 of 2011 for eviction of the respondent and the same was dismissed by R.C.O.P. Court by order dated 02.02.2015. Against which, R.C.A. was filed by the petitioner. By order dated 31.07.2019, the learned Principal Subordinate Judge, Coimbatore had dismissed the Rent Control Appeal with cost.

7.The trial Court and the Appellate Court have failed to see that the landlord requires the premises for his own use or he can do any business in his premises.



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8.This Court is of the view that the Court cannot dictate terms to the landlord as to which business he has to carry on. The tenant is sitting on the premises for the past 22 years. This Court is of the view that the tenant has not shown any bonafideness as to why he should not be evicted.

9.It is necessary to extract the relevant portion of Section 21(2)(g) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlord and Tenants Act, 2017 hereunder:

Section 21(2)(g)that the premises let for residential or non-residential purpose are required by the landlord for occupation for residential or non-residential purposes for himself or for any member of his family or for any person for whose benefit the premises were held and the landlord or such person is not in possession of any suitable accommodation within the same urban area.

10.As per the aforesaid Act, this Court feels that the landlord requires the premises for his own use or he can do any business or he can keep it vacant to store dumping for unwanted materials, no one can



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question the landlord. Considering the facts and circumstances of the case and the submissions made by the learned counsel appearing on either side, this Court is of the view that the Court can order for eviction. But, however, since the tenant has been doing business in the said premises for the past 22 years, this Court is of the view that sufficient time has to be given to the tenant for looking out for another place. Hence, three months time is granted to the tenant to vacate and handover the said premises to the landlord on or before 30.06.2023.

11.In view of the above, this Court is inclined to set aside the orders passed by the learned Principal Subordinate Judge, Coimbatore dated 31.07.2019 and the Rent Controller-cum-1st Additional District Munsif, Coimbatore dated 02.02.2015 are set aside and the Civil Revision Petition is allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Speaking Order/Non-Speaking Order
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V.BHAVANI SUBBAROYAN, J.

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To

- 1.The Principal Subordinate Judge, Coimbatore.
- 2.The Rent Controller-cum-1st Additional District Munsif, Coimbatore.

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