



WEB COPY

C.R.P.No.32 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.32 of 2023

and

C.M.P.No.267 of 2023

S.Rajarithnam

... Petitioner

Vs.

V.A.G.Sathriya Perumal

... Respondent

Prayer: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960, to set aside the order and decree dated 26.08.2022 in R.C.A.No.136 of 2020 on the file of Hon'ble IX Small Causes Court, Chennai, confirming the order and decree dated 29.01.2020 R.C.O.P.No.845 of 2018 on the file XVI Small Causes Court, Chennai.

For Petitioner : Mr.K.S.Ilangovan
For M/s.Achari and Antoni Associates



WEB COPY

C.R.P.No.32 of 2



ORDER

The Civil Revision Petition has been filed against the order and decree dated 26.08.2022 in R.C.A.No.136 of 2020, confirming the order and decree dated 29.01.2020 passed in R.C.O.P.No.845 of 2018.

2. The revision petitioner is the tenant and the respondent / landlord instituted eviction proceedings against the revision petitioner in R.C.O.P.No.845 of 2018, on the ground for owner's occupation. The subject property leased out to the revision petitioner is a shop measuring about 155 Sq.ft. at No.73, Baskaran Colony, Virugambakkam, Chennai-93. The revision petitioner / tenant occupied the said premises on the monthly rent of Rs.3,000/- by rental agreement dated 29.10.2014 and an advance amount of Rs.25,000/- was paid. The respondent / landlord filed eviction proceedings by stating that the revision petitioner / tenant had failed to pay the monthly rent from January 2015 and thereafter, he made a request to vacate the subject premises for his own use. However, the revision petitioner / tenant took long time and filed a Suit in O.S.No.1861 of 2017 on the file of XI Assistant City Civil Court, Chennai and thereafter, sent the monthly rent through money order and filed R.C.O.P.No.1338 of 2017 under Section 8(5) of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960. The



WEB COPY

landlord has raised an allegation that the revision petitioner / tenant was running the business in the name and style of 'Sreeram Stores' without obtaining proper license from the competent authorities and without paying CGST and SGST Taxes. Since the respondent / landlord required the subject premises for his own use and occupation for the purpose of starting his own provisional stores, he is not in possession of any other premises of his own in the city of Chennai. Thus, he filed a petition for eviction.

3. The revision petitioner objected the contentions raised on behalf of the respondent/landlord by stating that originally he entered into a rental agreement with one Smt.T.Umadevi, who was the erstwhile owner of the premises in the year 2007 for running his business in telecommunication, electronic goods and mobile phone sales services under the name and style of 'Sreeram Stores' on a monthly rent of Rs.1,500/-. The said Smt.T.Umadevi sold the shop to the respondent / landlord and subsequently, he entered into a fresh rental agreement in the year 2013. The revision petitioner states that the landlord suddenly came to the shop and insisted the him to vacate the premises and therefore, the revision petitioner filed O.S.No.1861 of 2017 and R.C.O.P.No.1338 of 2017 to deposit the monthly rent and the same was allowed on 31.10.2018. The other allegations set out by the landlord was



objected by the revision petitioner / tenant.

WEB COPY

4. The Trial Court considered the issues with reference to the documents and evidences placed by the respective parties to the *lis*, made a finding that as per the evidence of PW1 and RW1, the respondent / landlord has established his *bonafide* requirement of the subject premises for his own use. The revision petitioner / tenant has not elicited any facts regarding the motive or *mala fide* intention on the part of the landlord to evict the revision petitioner / tenant from the premises. Accordingly, the R.C.O.P. was allowed and the revision petitioner / tenant was directed to vacate the premises within a period of two months.

5. The revision petitioner filed an Appeal in R.C.A.No.136 of 2020 and the Appellate Court considered the grounds raised by the revision petitioner / tenant. Before the Appellate Authority, no oral or documentary evidences were placed on either side and therefore, the Appellate Court considered the grounds raised by the revision petitioner / tenant. The contention of the revision petitioner was that the respondent / landlord was not doing any business during the relevant point of time and therefore, the eviction sought for on the ground of owner's occupation is untenable.



However, the deposition of PW1 revealed that the father of the respondent was doing a business and he was assisting his father's business at that point of time. That apart, the landlord had been demanding the petitioner / tenant to vacate the premises from the 2012 onwards. However, he was prolonging the same on some pretext or other and in this regard also the deposition of the PW1 was considered.

6. Own use and occupation, not necessarily that the landlord should be carrying on any business at the time of filing of the petition. It is sufficient, if *bonafide* intention is expressed to commence the business and under those circumstances, the requirements of the landlord for his own occupation cannot be termed as intentional. The revision petitioner / tenant himself deposed before the Trial Court that the respondent / landlord requested him to vacate the premises for his own use and he had agreed to vacate the premises within three months, but had taken two and half years and not vacated the premises. The Rent Court also considered the said deposition of RW1 and arrived a conclusion that the claim of the landlord is genuine and acceptable. Accordingly, the Appellate Court also formed an opinion that the landlord has fulfilled all the requirements as contemplated under Section 10(3)(a)(iii) of the Tamil Nadu Buildings (Lease and Rent



Control) Act, 1960. Consequently, the Appeal filed by the revision petitioner was dismissed. Challenging the orders of the Trial Court and the Appellate Court, the present Civil Revision Petition has been filed.

7. The revision petitioner has not raised any new ground in the present Civil Revision Petition. The facts, circumstances and the issues adjudicated both before the Rent Court and the Appellate Court are the grounds raised in the present Civil Revision Petition also. There is no new ground for the purpose of further adjudication of the issues, which were well considered by the Rent Controller and the Rent Appellate Court.

8. Pertinently, the revision petitioner is in occupation of the subject premises for long years and the respondent / landlord is requesting the tenant to vacate the premises from the year 2012 onwards. Litigations were pending for about five years and the landlord expressed his intention to occupy the premises for own purpose from the year 2012 onwards. The lease period expired and therefore, the tenant lost his right to continue in the rental premises.



WEB COPY

9. Rights of the tenants are to be considered only with reference to the terms and conditions agreed between the parties. In the present case, the landlord was requesting the tenant to vacate the premises from the year 2012 onwards for his own occupation. The revision petitioner / tenant was prolonging the request made by the landlord one way or other and filed a Civil Suit and thereafter, filed R.C.O.P for deposit of rent. Therefore, litigious continuance of the tenant in the subject premises would not confer any right to grant the relief. He was continuing in the premises for the past about 10 years only under the pretext of the litigations and further, the respondent / landlord established his *bonafide* requirement of owner's occupation as pleaded in the petition filed by him before the Rent Controller.

10. Therefore, the revision petitioner has not established any acceptable ground for the purpose of entertaining the Civil Revision Petition and accordingly, the order and decree dated 26.08.2022 passed in R.C.A.No.136 of 2022 on the file of IX Small Causes Court, Chennai, confirming the order and decree dated 29.01.2020 passed in R.C.O.P.No.845 of 2018 on the file of the XVI Court of Small Causes, Chennai stand confirmed and consequently, the Civil Revision Petition in C.R.P.No.32 of 2023 is dismissed. No costs. Connected Miscellaneous



Petition is closed.

WEB COPY

11. The revision petitioner / tenant is directed to vacate the premises and hand over vacant possession to the respondent / landlord within a period of one (1) month from today.

24.01.2023

Jeni/kak

Index : Yes

Neutral Citation : Yes

Speaking order

To

- 1.The Judge,
IX Small Causes Court,
Chennai.
- 2.The Judge,
XVI Small Causes Court,
Chennai.



WEB COPY

C.R.P.No.32 of 2



S.M.SUBRAMANIAM, J.

Jeni/Kak

C.R.P.No.32 of 2023

24.01.2023