



C.R.P.(MD).Nos.2163 & 2164 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 11.09.2023

DELIVERED ON: 22.09.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD).Nos.2163 & 2164 of 2013
and MP(MD).No.2 of 2013

1.K.Esakkiappan

2.M.M.Feroze

...Petitioners in both revisions

Vs

1.Krishnaveni

2.Subbulakshmi

3.Devaki

4.Srinivasan

5.Subramanian

6.Muthukrishnan

....Respondents in both revisions

PRAYER in CRP(MD).No.2163 of 2013: Civil Revision Petition filed under Section 25 of Tamil Nadu Building (Lease & Rent Control) Act,



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1960, against the fair and decreetal ordated dated 24.09.2012 passed in RCA.No.51 of 2011 on the file of the Rent Control Appellate Authority (Principal Sub Court) Tirunelveli confirming the fair and decreetal order dated 03.12.2010 in RCOP.No.65 of 2006 on the file of the Rent Controller (Principal District Munsif), Tirunelveli.

PRAYER in CRP(MD).No.2164 of 2013: Civil Revision Petition filed under Section 25 of Tamil Nadu Building (Lease & Rent Control) Act, 1960, against the fair and decreetal order dated 24.09.2012 passed in RCA.No.50 of 2011 on the file of the Rent Control Appellate Authority (Principal Sub Court) Tirunelveli confirming the fair and decreetal order dated 03.12.2010 in RCOP.No.3 of 2007 on the file of the Rent Controller (Principal District Munsif), Tirunelveli.

(In both the revision petitions)

For Petitioners : Mr.Balamurugan
For M/s.Jeyapaul Associates

For R1, R2, R4
& R5 : No appearance

For R3 & R6 : Mr.S.A.Ganapathyraman

COMMON ORDER

Both the revision petitions arise out of Tamil Nadu Building (Lease & Rent Control) Act, 1960.



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2.The tenants are the revision petitioners in both the revision petitions. The tenants had filed RCOP.No.65 of 2006 before the Rent Controller, Tirunelveli under Section 8(5) of Tamil Nadu Building (Lease & Rent Control) Act, 1960 to permit them to deposit the rent before the Court.

3.The landlords had filed RCOP.No.3 of 2007 before the same Court to evict the tenants on the ground of willful default and owners' occupation.

4.The Rent Controller had passed a common order allowing the eviction petition filed by the landlords and dismissed the rental deposit petition filed by the tenants. Challenging the same, the tenants had filed RCA.Nos.50 & 51 of 2011 before the Rent Control Appellate Authority, Tirunelveli. The Appellate Authority dismissed both the appeals. Challenging the same, the present civil revision petitions have been filed by the tenants.

5.In the eviction petition, the landlords had contended that the tenants are chronic defaulters and the monthly rent was paid only up to December 2005 and thereafter from January 2006 onwards, the tenants are in arrears of monthly rent of Rs.750/-. The landlords had further contended



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that the building is a commercial premises and it is required for the first petitioner and his son to carry on gold smith profession.

6.The tenants had disputed the said contention by filing a counter that they had already filed RCOP.No.65 of 2006 to deposit the rent in view of refusal of the landlords to receive the rent. They had further contended that the landlords do not bonafidely require the building for carrying out the business.

7.During pendency of RCOP.Nos.65 of 2006 and 3 of 2007, the Rent Controller had passed an interim order permitting the tenants to deposit the rent. In paragraph No.11, the Rent Controller after perusing the Court records had found that the tenants had deposited the rent in lump sum once in 4 months or 10 months. Therefore, it is clear that even after the order of the Court, the tenant has not deposited the rent every month. The Rent Controller further found that the petitioners have been carrying on gold smith profession from their home along with their brothers. Therefore, their requirement for owners' occupation is bonafide. On both the grounds of willful default and owner's occupation, the Rent Controller ordered eviction and dismissed the RCOPs filed by the tenants on the ground that the tenants are not regularly depositing the rent before the



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Court.

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8.The Appellate Authority in Paragraph No.16 had found that the requirement of the landlord for owners' occupation is bonafide in nature and confirmed the findings of the Rent Controller. In Paragraph No.18 of the order, the Appellate Authority relied upon the trial Court records to arrive at a finding that the tenants had not deposited the rent regularly and found that the said ground as against the tenants. Since the tenants are not regular in depositing their rent before the Court, the appeals filed by the tenant as against the dismissal of RCOP.Nos.65 of 2006 and 3 of 2007 were also dismissed.

9.The learned counsel for the revision petitioners/tenants had contended that the Courts below have not properly appreciated the fact that the landlords used physical violence to evict the tenants and landlord lacked bonafides. The Courts below have not properly considered the undue-hardship to the tenants, if they are vacated. He had further pointed out that with an ulterior motive, the landlords had refused to receive the rent and therefore, the tenants were constrained to file the applications under Section 8(5) of the Act to deposit the same before the Court. Only as a counter blast to the said petition, the eviction petition was filed by the



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landlords and therefore, there are no bonafide. Hence, he prayed for allowing both the revision petitions.

10.Per contra, the learned counsel for the respondents had contended that admittedly the landlords are carrying on gold smith profession in their house and therefore, they bonafidely require the premises for their commercial activities. He had further pointed out that the Court records would reveal the sporadic nature of deposit of the rent by the tenants. Hence, he prayed for confirming the orders passed by the Courts below.

11.I have considered the submissions made on either side and perused the material records.

12.Alleging that the landlords are refusing to receive the rent, the tenants had filed RCOP.No.65 of 2006 seeking permission of the Court to deposit the rent. However, even after the interim orders of the Rent Controller, the tenants had chosen to deposit the rent once in four months or ten months. The default committed by the tenants during the pendency of the eviction proceedings have also to be taken into consideration. Therefore, there cannot be any dispute that the tenants had committed willful default. That apart, the landlords have established that they are



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carrying on gold smith profession from their home and they bonafidely require the premises for commercial operation. When the default of the tenants in depositing of the rent is fortified by the Court records, this Court has no hesitation to confirm the order of eviction passed by the Courts below. The intermittent deposit of rent by the tenants would certainly disqualify them from seeking an order to deposit the rent before the Court.

13.In view of the above said deliberations, there are no merits in the revisions. Both the Civil Revision Petitions stand dismissed. Considering the fact that the tenants are running a construction business in the building premises, time is granted till 31.03.2024 to vacate and hand over the vacant possession to the landlords. No costs. Consequently, connected miscellaneous petition is closed.

22 .09.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To

- 1.The Principal Subordinate Judge
Tirunelveli
- 2.The Principal District Munsif
Tirunelveli.
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

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Pre-delivery common order made in
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and MP(MD).No.2 of 2013

22.09.2023