



C.R.P(MD) No.1718 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|                      |                   |
|----------------------|-------------------|
| <b>Reserved on</b>   | <b>10.08.2023</b> |
| <b>Pronounced on</b> | <b>06.12.2023</b> |

CORAM

**THE HON'BLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) No.1718 of 2023  
and  
C.M.P(MD)No.8583 of 2023

T.John Lawrence

... Revision Petitioner

Versus

D.Royalsamy

... Respondent

**Prayer :** The Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the judgment and decree, dated 27.03.2023 passed in R.C.A.No.14 of 2022 on the file of the Rent Control Appellate Authority (Principal Sub Judge), Tiruchirapalli, confirming the fair and decretal order, dated 22.12.2021 passed in R.C.O.P.No.56 of 2017 on the file of the Rent Controller (III Additional District Munsif), Tiruchirapalli.



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WEB COPY For Revision Petitioner : Mr.V.Balaji

For Respondent : Mr.S.Vashik Ali

### **ORDER**

This revision is preferred as against the judgment and decree passed in R.C.A.No.14 of 2022 on the file of the Rent Control Appellate Authority (Principal Sub Judge), Tiruchirappalli confirming the fair and decretal order dated 22.12.2021 passed in R.C.O.P.No.56 of 2017 on the file of the Rent Controller (III Additional District Munsif), Tiruchirappalli.

2. According to the Revision Petitioner, the Respondent herein filed a petition in R.C.O.P.No.56 of 2017 before the Rent Controller (III Additional District Munsif), Tiruchirappalli for eviction on the ground of own use and occupation and for other reliefs. It is submitted that the petition mentioned residential house belonged to the Respondent herein and the property consists of 2 floors in which the Respondent is residing in the ground floor and out of the two portions in the 1<sup>st</sup> floor, one portion was leased out to the Revision Petitioner on 03.02.2016 for a period of 11 months for a monthly rent of Rs.5,250/- with an option to renew the lease for a further period by enhancing the monthly rent at the



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rate of 5% for every succeeding 11 months of lease period and the other identical portion was also leased out by the Respondent herein to third party.

3. It is submitted that there is no arrears of rent till date and that the Respondent herein refused to extend the lease period as agreed in the lease agreement, dated 03.02.2016 and further, refused to renew the lease agreement which expired on 03.01.2017. In order to vacate the Revision Petitioner by one way or other, the Respondent herein filed the petition for eviction as if the Revision Petitioner was not ready to extend the lease agreement by paying the enhanced amount of rent and further stated that the Revision Petitioner frequently developed unnecessary quarrel with his neighbouring tenant at the 1<sup>st</sup> floor which is causing disturbance to the Respondent. Since the Respondent is not in good health condition, he requires the attention of his daughter and his son-in-law. Hence, he sought for eviction of the Revision Petitioner on the ground for own use and occupation in order to settle his daughter and son-in-law in the petition mentioned residential house.

4. The Respondent with a malafide intention issued a legal notice on



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09.06.2017 which was replied by the Revision Petitioner on 20.06.2017. He then gave the police complaint on 24.06.2017 in order to threaten the Revision Petitioner. Since the Respondent failed to receive the monthly rent, the Revision Petitioner was forced to pay the monthly rent by way of demand draft drawn on Indian Bank, Palakkarai Branch and the same was accepted and encashed by the Respondent herein.

5. However, the Rent Controller allowed the R.C.O.P.No.56 of 2017 against which the Revision Petitioner filed the appeal in R.C.A.No.14 of 2022 before the Rent Control Appellate Authority (Principal Sub Judge), Tiruchirappalli. The said R.C.A.No.14 of 2022 was also dismissed by confirming the order passed in R.C.O.P.No.56 of 2017 against which the present Civil Revision Petition is preferred.

6. The learned counsel appearing for the Revision Petitioner would submit that the Respondent/Landlord was not bonafide in praying for eviction on the ground of own use and occupation. The Respondent and his daughter are owning the residential buildings within the city limit and therefore, they are not



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entitled for eviction on the ground of own use and occupation. The petition under Section 10(3)(a)(i) cannot be maintained when the landlord is owning other residential building in the very same premises in addition to the residential house owned by his daughter for whom the eviction is sought for in the petition. The Petitioners are ready and willing to extend the lease agreement by paying the enhanced lease amount as per the lease agreement at the agreed rate. Moreover, the reason given by the Respondent/Landlord that he is affected by the disturbances caused by the Petitioner's quarrel with his neighbouring tenant and his wife is not at all bonafide and it is also admitted by the Respondent that the neighbouring tenant on the 1<sup>st</sup> floor has already vacated the premises.

7. Moreover, the reason for vacating the Revision Petitioner from the petition mentioned premises is for accommodating his daughter and son-in-law for taking care of him is not genuine and bonafide. The daughter and his son-in-law are themselves are very old and they are not in a position to take care of the Respondent. The Courts below ought to have dismissed the petition for eviction since the landlord approached the Tribunal with malafide intention and uncleaned hands by suppressing the material facts. In addition, the Respondent herein



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approached the Court under wrong provisions which will cause serious prejudice to the tenant. The procedure under Section 10(3)(c) of the Act makes mandatory on the part of the authorities to weigh the relevant hardship of the tenant under the proviso to the Section.

8. Hence, the judgment and decree dated 27.03.2023 in R.C.A.No.14 of 2022 on the file of the Rent Control Appellate Authority (Principal Sub Judge), Tiruchirappalli confirming the fair and decretal order dated 22.12.2021 passed in R.C.O.P.No.56 of 2017 on the file of the Rent Controller (III Additional District Munsif), Tiruchirappalli is liable to be set aside.

9. On the other hand, the learned counsel appearing for the Respondent would submit that the Respondent/Landlord is a retired teacher and has undergone heart surgery in the year 2006 and he had been advised by the Doctors to take utmost care and attention to his health. While so, the Revision Petitioner/Tenant is making unnecessary quarrels with his neighbour frequently and being frustrated at one state, the Respondent asked the Tenants residing in the 1<sup>st</sup> floor to vacate.



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10. After 31.05.2017, the Revision Petitioner/Tenant expressed his inability to vacate the rented premises and requested for 15 days time to vacate. Since the Revision Petitioner failed to vacate the rented premises as promised by him, he was constrained to file a petition for eviction of the Tenant from the suit premises. It is submitted that due to the health condition of the Respondent/Landlord, he requires the attention of his daughter and son-in-law and therefore, the petition mentioned property is required for his own use and occupation as he would like to settle his daughter and son-in-law to take care of him. Hence, the claim of the Respondent/Landlord is bonafide one. The Courts below considering the bonafide requirement of the Respondent/Landlord ordered for eviction of the Revision Petitioner from the petition mentioned property which requires no interference.

11. Heard on both sides and perused the records.

12. The Respondent/Landlord filed the above petition for eviction by considering that he wants the property for his own use and occupation. Since he had undergone the heart surgery, he wanted the help of his daughter and son-in-



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law to take care of him. Admittedly, the Respondent/Landlord is a man of 80 years and wanted the property to live peacefully. The Revision Petitioner/Tenant would allege that the ground floor portion is sufficient for the Respondent/Landlord to live and since the Respondent/Landlord and his daughter are owning other residential buildings, the petition mentioned property is not required for him for his own use and occupation. To settle his daughter and son-in-law to attend his health condition is not a bonafide requirement and it is also stated that the daughter and son-in-law of the Respondent/Landlord are aged persons and therefore, the claim made by the Respondent/Landlord that they would attend his health condition cannot be believed. The claim of the Respondent/Landlord is not bonafide and his intention is only to evict the Revision Petitioner from the above premises.

13. It is well settled law that the tenant ought to have prove his bonafide need of the property and not to dictate the Respondent/Landlord where to live or how to live. Moreover, from the evidence of the parties, it is understood that there is no cordial relationship between the Landlord and the Tenant and the same is also established by the police compliant preferred by the Landlord which



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are marked as Ex.P3 and Ex.P4. Moreover, there are sufficient reasons to believe that the claim of the Respondent/Landlord is bonafide. Whereas, the Revision Petitioner/Tenant has failed to prove his bonafide requirement to stay in the suit property. Therefore, no infirmity found in the orders passed by the Courts below. No merit is found in the Revision Petition.

14. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**06.12.2023**

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Index:Yes/No  
Speaking Order : Yes/No



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**K.GOVINDARAJAN THILAKAVADI,J.**

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To

- 1.The Rent Control Appellate Authority (Principal Sub Judge),  
Tiruchirapalli.
- 2.The Rent Controller (III Additional District Munsif),  
Tiruchirapalli.

**PRE- DELIVERY JUDGEMENT MADE IN**

C.R.P.(MD) No.1718 of 2023  
and  
C.M.P(MD)No.8583 of 2023

**06 .12.2023**

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