



C.R.P.(MD).No.1853 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.11.2023

Delivered on: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.(MD)No.1853 of 2019

and

C.M.P.(MD)No.9504 of 2019 & 10850 of 2021

Kutralam ... Petitioner/Appellant / Respondent - Tenant
Vs.

1.Rukmani Devi

2.Radhamani ... Respondents / Respondents / Petitioners-
Landlords

Prayer:-Civil Revision Petition filed under Section 25 of Tamilnadu Building Lease and Rent Control Act, against the judgment and decree passed in R.C.A.No.2 of 2018, on the file of the Rent Control Appellate Authority / Sub Court, Sankarankovil, dated 20.08.2019, confirming the judgment and decree passed in R.C.O.P.No.4 of 2009, on the file of the Rent Control Tribunal / Principal District Munsif, Sankarankovil, dated 29.10.2018.



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For Petitioner : Mr.T.Selvan
For Respondents : Mr.A.Srinivasan for R2
: No appearance for R1

ORDER

The unsuccessful tenant is the revision petitioner herein. The respondents as landlords filed R.C.O.P.No.4 of 2009 on the file of the Rent Controller, Sankarankovil, for eviction on the ground of wilful default and own occupation and acts of waste, different user. Eviction was ordered by the Rent Controller.

2. Against the said order of eviction, the tenant / revision petitioner preferred R.C.A.No.2 of 2018 before the Sub Court, Sankarankovil. In the said R.C.A proceedings, the Rent Control Appellate Authority confirmed the findings rendered by the Rent Controller and dismissed the Appeal filed by the revision petitioner.

3. Aggrieved by the said concurrent findings rendered by the Authorities, the present Civil Revision Petition has been preferred on the ground that the authorities have not appreciated the contention of the



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revision petitioner that there is no privity of contract between the respondents and the revision petitioner; the authorities failed to see that P.W.1 did not produce the original of Ex.A1 to establish that he was entitled to claim himself to be a landlord; the authorities erroneously disbelieved Exs.R1, R2, R6 and R7 filed by the revision petitioner to show that there is no privity of contract; the authorities failed to see that Ex.B2 – lawyer's notice issued by the landlord reveals that the petition premises was only to be used as a Godown for storing manure bags, cannot satisfy the requirement of 10 (3)(a)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960; the authorities failed to see that the requirement of the respondents was not *bonafide* and the authorities also failed to see that there is no default much less, wilful default committed by the revision petitioner; the authorities also failed to apply their mind to the Commissioner's Report – Ex.C2, which made it clear that the respondents are estopped from raising the ground of acts of waste vexatiously; the Rent Control Appellate Authority also erroneously proceeded to confirm the findings of the Rent Controller, without independently appreciating the respective pleadings and evidence available on record.



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4. I have heard Mr.T.Selvan, the learned counsel for the revision petitioner and Mr.A.Srinivasan, learned counsel for the second respondent / landlord. I have also perused the records.

5. The learned counsel for the revision petitioner would state that Ex.R6 would clearly demonstrate that there was no landlord and tenant relationship between the revision petitioner and the respondent and without applying their mind, the Rent Controller as well as the Rent Control Appellate Authority have proceeded to order eviction. The learned counsel would also place reliance on Ex.R1, R2 and R7, which are communications between the revision petitioner's father, one Subramanian and one G.Selvakumar, Son of Gandhi, which also according to the revision petitioner, would conclusively prove that the revision petitioner was not a tenant under the respondents. The learned counsel for the revision petitioner would also invite my attention to the Commissioner's report Ex.C1 and C2, where from, it is clear that it was only Mr.Selvakumar, who leased the property and collected rent from the



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revision petitioner's father - Subramanian. He would also state that the authorities had wrongly placed the burden of proof on the revision petitioner, instead of calling upon the respondents to establish a jural relationship between the landlord and the tenant and would pray the petition being allowed.

6. Per contra, the learned counsel for the second respondent would state that the person with whom the revision petitioner claims to have had an agreement, is none else than the son of the first respondent and the said Selvakumar had, in fact, informed the revision petitioner in writing that he had nothing to do with the property and therefore, the learned counsel would state that there is absolutely no infirmity in the findings arrived at by the Rent Controller as well as the Rent Control Appellate Authority. Insofar as the other grounds of eviction, the learned counsel would submit that the respondents, first of all have not established the very existence of a jural relationship in order to maintain the R.C.O.P and consequently, the other grounds of eviction invoked, namely, owner's occupation and also acts of waste are not maintainable. However, in any event, the learned counsel would state that the respondents have not



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established the requirement for own use and occupation to be *bonafide* and also in view of the fact that the acts complained of to be amounting to acts of waste had been condoned by the respondents themselves and they cannot harp on something that happened several years back and contend that eviction should be ordered on the ground of acts of waste.

7. Insofar as the other two grounds are concerned, the learned counsel for the second respondent / landlord, the revision petitioner himself has admitted the fact that business is being carried on in the rented premises and therefore, the Rent Controller has rightly found that the requirement of the respondents was *bonafide* and ordered the eviction on the ground of own use and occupation and under Section 10(3)(a)(iii) of the Tamil Nadu Buildings (Lease and Rent Controller) Act, 1960. Even insofar as the acts of waste, the learned counsel for the second respondent would submit that the Rent Controller as well as the Rent Control Appellate Authority have found from the evidence of the revision petitioner that the acts of waste were committed by the revision petitioner and that they are liable for eviction.



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8. I have paid my anxious and careful consideration to the rival submissions and I have also perused the documents placed before me, by way of typed set of papers, including the order of the Rent Controller and the judgment of the Rent Control Appellate Authority.

9. It is the specific case of the revision petitioner that he was not a tenant and that he was a tenant only under the first respondent's son by name, Selvakumar. The revision petitioner also produced an unregistered lease agreement for a period of 3 years claiming rights under the same and contended that he has been paying rents to the said Selvakumar and that the said Selvakumar has also issued rental receipts, which have also been proved by Ex.R7. However, signature of the said Selvakumar has been denied by the respondent. Further, the Courts have also rightly not considered the unregistered agreement of lease. It was neither duly stamped nor registered as mandated under the provisions of the Registration Act.

10. I do not see any perversity in the said findings arrived at by



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the Courts below in refusing to look into the unregistered lease agreement relied on by the revision petitioner. Even insofar as the signatures of the said Selvakumar, who according to the revision petitioner is his landlord, the same having been emphatically denied by the respondents, the revision petitioner could have taken steps to examine Mr.Selvakumar and establish his defence. The Courts below have rightly appreciated the evidence available on record in this regard. Further, a reply notice is said to have been given by Selvakumar in Ex.R3, dated 12.09.2009 and it is admitted by the revision petitioner. In the said reply notice issued by the said Selvakumar, he has categorically stated that he has nothing to do with the petitioner's property and his mother and aunt alone are the owners and landlady. Despite admitting the receipt of the said reply notice, the revision petitioner has not taken any steps whatsoever to pay the rents to the respondents. Even assuming that there was a cloud on the right of the respondents, to receive rent, the revision petitioner ought to have invoked Section 9 (3) of the Tamil Nadu Buildings (Lease and Rent Controller) Act, and no steps have been taken by the revision petitioner in this regard. Even after the reply notice sent by Selvakumar in Ex.R3 and lawyer's notice issued by the respondents in Ex.R4, the revision petitioner has not



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chosen to pay rents to the respondents. The Courts below have rightly considered all these aspects and found that the respondents are the landlady and the revision petitioner is the tenant. Despite Ex.R3 and Ex.R4, dated 12.09.2009, the revision petitioner has not taken a single step to either deposit the rents into the Court or to pay the rents to the respondents. The findings arrived at by the Rent Controller as well as the Rent Controller Appellate Authority on wilful default are well reasoned and do not call for any interference.

11. Insofar as the second ground of eviction on the ground of owners' occupation, the Courts below have appreciated the evidence on record in a proper prospective and also taken into account the admission of the revision petitioner that the respondents are carrying on business viz., fertilizer, for the past 45 years and that they were doing business in a rented premises and found requirement for own occupation for genuine and *bonafide*. This finding is in order and it does not warrant any interference.

12. Insofar as the third ground for eviction, namely, acts of



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waste, the Courts below have held that the respondents have admitted that he had removed a common wall and has also referred to his evidence in this regard. Therefore eviction ordered on the ground of acts of waste is also sustained.

13. Further, exercising jurisdiction under Section 25 of the Tamil Nadu Buildings (Lease and Rent Controller) Act, (Act 18 of 1960), this Court's power is not as wide as the powers of revision available under Section 115 of the Code of Civil Procedure. When the Courts below have rightly applied their mind to the available oral and documentary evidence on record and arrived at concurrent findings, there is no scope for interference, invoking powers under Section 25 of the Act. Thus, viewing from any angle, this Revision Petition is liable to be dismissed.

14. In fine, the Civil Revision Petition is dismissed and the orders passed by the courts below are hereby confirmed. The revision petitioner shall vacate and handover the vacant possession of the rented premises, subject to the revision petitioner filing an undertaking affidavit, within 10 days from today, that he would vacate and hand over vacate



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possession to the respondent on or before **31.03.2024** without driving the respondents to execution proceedings. There shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No
Ls

01.12.2023



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To

1. The Rent Control Tribunal /
Principal District Munsif,
Sankarankovil.
2. The Rent Control Appellate Authority /
Sub Court, Sankarankovil
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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P.B.BALAJI,J.

Ls

order in
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