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C.R.P. No.2577 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2024

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

CRP. No.2577 of 2022
and C.M.P. No.13215 of 2022

S. Ramalingam S/o. Subburayan

...Petitioner / Appellant /
Tenant

Vs.

1. P. Ramesh Rao (died)
2. R. Vijaya W/o. Late P. Ramesh Rao
3. R. Jayalakshmi D/o. Late P. Ramesh Rao
4. Hema D/o. Late P. Ramesh Rao Respondents / Respondents /
Landlords.

PRAYER: Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act to set aside the fair and decreetal order dated 04.03.2020 in R.C.A. No.817 of 2017 on the file of VII Small Causes Court, Chennai confirming the fair and decreetal order dated 08.11.2017 in R.C.O.P. No.910 of 2016 on the file of XV Small Causes Court, Chennai.

For Petitioner : Mr.S. Madhusudanan

For Respondents : Mr. V. Manisekaran

ORDER

The Civil Revision Petition has been preferred as against the fair and decreetal order dated 04.03.2020 in R.C.A. No.817 of 2017 on the file of VII



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Small Causes Court, Chennai filed against the order dated 08.11.2017 in R.C.O.P. No.910 of 2016 on the file of XV Small Causes Court, Chennai.

2. Before the Trial Court, the petitioner is the tenant and the deceased 1st respondent is the landlord. Before the Rent controller, the deceased 1st respondent landlord herein filed a petition for eviction under Section 10(2)(i), 10(2)(ii)(b) and 10(2)(v) of the Tamil Nadu Buildings (Lease & Rent Control) Act. But the Rent Controller dismissed the claim under Section 10(2)(i) and allowed petitions under Sections 10(2)(ii)(b) and 10(2)(v) of the Act. Against which, the tenant preferred an appeal in R.C.A. No.817 of 2017. The Rent Control Appellate Authority has also dismissed the appeal filed by the tenant. Aggrieved by the said order, the present civil revision petition has been filed.

3. **The short facts necessary to dispose this petition are as follows:-**

The petitioner is the tenant and he entered into lease agreement with the deceased 1st respondent landlord in respect of the property in the ground floor, shop portion facing the Pallappa Street, Triplicane. The property was leased out for cutting electrical switch board. The rent was fixed at Rs.5,000/- per month and advance was paid at Rs.50,000/-. While so, the respondent herein has filed a petition for eviction on the grounds of wilful default, causing nuisance and different usage. Before the Trial Court, he was examined as RW1 and Ex.R1 to Ex.R5 were marked. On the side of respondent herein,



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PW1 to PW4 were examined and Ex.P.1 to Ex.P.8 were marked. After hearing both sides and perusing the records, the Trial Court dismissed the petition under Section 10(2)(i) and allowed the petition under Section 10(2)(ii)(b) and 10(2)(v) of the Act and eviction order was passed. Against which, the tenant has preferred an appeal in R.C.A. No.817 of 2017 and the same was also dismissed by the Rent Control Appellate Authority. Against which, this civil revision petition is filed by the tenant.

4. The learned counsel appearing for the petitioner tenant would contend that the respondents have filed petition for eviction on the ground of willful default, different usage and causing nuisance. Trial Court dismissed the petition on the ground of wilful default, but failed to consider the case of the petitioner that the respondent landlord has not proved that the shop was let out for some specific purpose and the same was used by the tenant for different occupation and caused nuisance. The witness examined by the respondent before the Rent Controller are not related to the suit property and not resided in the address of the schedule property and they are residing somewhere else. Therefore, their evidence cannot be looked into for the ground of nuisance. The Trial Court also failed to consider that as far as conversion of the schedule property is concerned, no such use of other use is done at all. Since the property was let out for cutting all sort of materials,



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cutting of metals will not amount as different use and occupation. The said aspects have not been considered by the Rent Controller as well as Rent Control Appellate Authority. Therefore, the order passed by both the authorities are liable to be set aside.

5. The learned counsel appearing for the respondent would contend that the Rent Controller, after taking into consideration the evidence adduced on both sides, fairly came to the conclusion that the premises was used for different purpose and the petitioner also caused nuisance and thereby, ordered for eviction. The respondent's side witnesses PW1 to PW4 have categorically deposed about the nuisance caused by the petitioner tenant and different usage of the property. Therefore, they proved the ground of different use of property and the nuisance caused by the petitioner. Therefore, the order passed by the Rent Controller and the Rent Control Appellate Authority are in order and the present civil revision petition is liable to be dismissed.

6. Heard both sides'. Perused all the materials available on record.

7. In this case, there is no dispute in respect of the relationship between the parties as tenant-landlord and also no dispute in respect of the quantum of rent fixed. According to the petitioner, he entered into agreement in respect of



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the property for making switch boards and he can use either wood or other metals for making switch boards. The condition that wood alone can be used for the purpose of making switch boards has not been mentioned in the agreement and the petitioner can use any type of materials to make switch boards. Therefore, cutting all sort of materials for making switch boards cannot be said as different use and occupation. The petition which has been filed for wilful default, was dismissed and the Rent Controller has allowed the application filed on the grounds of different use and nuisance. In order to prove the nuisance, PW1 to PW4 were examined. PW3 and PW4 are neighbours and they have deposed about the nuisance caused by the neighbour.

8. The evidence of PW1 would show that the tenant has caused noise by using the above mentioned cutting using wood and other materials. Some neighbours also gave complaint about the noise. Though there is no specific agreement in respect of the use of wood material, it is an admitted fact that the petitioner used wood material and other materials for making electrical switch boards. According to the respondent landlord, the petitioner / tenant was permitted only to make wooden switch boards. Per contra, he has been making material switch boards. The PW1 has categorically deposed that he



only let out the premises for making wood switch boards and the petitioner / tenant has not adduced any rebuttal evidence. On the other hand, he was examined as RW1 and while cross examination, he admitted that he only done wood material works and has not done all types of other materials. Moreover, he denied the averments in the counter in respect of using all materials to make switch boards. Therefore, the respondent / landlord proved his case. The Trial Court also after analysing evidence adduced on either side came to the conclusion that the loud and unbearable noise by cutting the materials even at the night time, had caused nuisance to the neighbours and the landlord. PW4 also deposed about the same. After elaborate discussion, the rent controller has come to the fair conclusion that the petition is liable to be allowed on the ground of nuisance as well as different usage of the property. The Rent Control Appellate Authority also, after elaborate discussion, dismissed the appeal by confirming the order of the Rent Controller.

9. It is well settled law that scope of revision is very limited. In the case on hand, there is no any procedural violations and no patent errors in the orders. Since both the Courts below have rendered concurrent findings based on the evidence, there is no valid grounds to interfere with the orders of Courts below. Therefore, this Court is declined to interfere with the order passed by



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the Courts below.

10. In view of the above discussions, this Court is of the opinion the civil revision petition has no merits and deserves to be dismissed.

11. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

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Index : Yes/No
Speaking order/non-speaking order
mjs

To

1. The VII Small Causes Court, Chennai .
2. The XV Small Causes Court, Chennai.



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P.DHANABAL, J.,

mjs

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