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C.R.P.[NPD].No.705 of 2024
and C.M.P.No.3555 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.[NPD]No.705 of 2024
and C.M.P.No.3555 of 2024

K.Sasikala Chordia

.. Petitioner

Vs.

Bijay Singh Nahata

.. Respondent

Prayer: Civil Revision Petition filed under Section 25 of the Tamilnadu Building Lease and Rent Control Act, against the impugned order dated 24.04.2023 in RCA.No.69 of 2021 on the file of the Rent Control Appellate Authority in the VIII Court of Small Causes, Chennai reversing the order dated 09.12.2020 in R.C.O.P.No.507 of 2017, on the file of the Rent Controller, XV Court of Small Causes, Chennai.

For Petitioner : Mr.G.Muthukumar

For Respondent : Mr.J.S.Arunkumar



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ORDER

Challenging the impugned order passed by the Rent Control Appellate Authority allowing the appeal filed by the landlord for eviction.

2.The brief background of the case is as follows:

The respondent is a landlord, who has let out his non-residential premises to the revision petitioner for the monthly rent of Rs.11,000/-. The contention is that the extent of these premises is 580 sq.ft in the ground floor of the shop portion. The petitioner was carrying on furniture business in the rented place at No.77, Rasappa Chetty Street, Park Town, Chennai and he is having certificate registered to run furniture business. Since the petitioner could not continue his business due to advanced age, he vacated the rented premises. Now the petitioner's son who completed his graduation, is interested to run the furniture shop, the respondent approached the revision petitioner and asked to vacate the premises. Since, the petitioner refused to acceded to respondent's request, he filed the petition for eviction.



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The said petition was opposed by the revision petitioner on the ground that the as per the rental agreement, the petitioner should not be evicted by the respondent unless and until she vacates on her own. Further, the petitioner does not require the premises for his son for the purpose of carrying on business and that the petitioner's contention is not a *bona fide* one. The learned Rent Controller has dismissed the petition filed by the respondent for eviction. Against which, the respondent preferred appeal before the Appellate Authority, which came to be allowed. Challenging the same, the petitioner/tenant filed the present Civil Revision Petition.

3.Learned counsel appearing for the petitioner submitted that the petition in R.C.O.P.No.507 of 2017 has been filed under Section 10(3)(a)(i) of the Tamil Nadu Buildings (Lease & Rent Control) Act. The provision under Section 10(3)(a)(i) of the Tamil Nadu Buildings (Lease & Rent Control) Act applies only with regard to the residential building, whereas, the eviction sought in the present case is with regard to non-residential premises. Contention was made by the respondent that the building requires for his son's business, whereas in the evidence, he has taken contrary stand.



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Therefore, there is no *bona fide* on the part of the landlord in seeking eviction. Hence, the petitioner prayed to allow the present Civil Revision Petition.

4.Learned counsel appearing for the respondent submitted that mere mentioning of a wrong provision of law does not take away the rights of the landlord to prosecute the eviction petition. Further, the contention that the learned Rent Controller has swayed away by the reasoning given by the respondent. To show his *bona fide* the entire material needs to be gone into.

5.Heard the learned counsel appearing for the petitioner as well as the respondent and perused the materials available on record.

6.In the light of the above submissions and perusal of the records, it is seen that the relationship of the landlord and the tenant is not in dispute. The application has been filed under Section 10(3)(a)(i) instead of 10(3)(a)(iii) of the Act, for eviction of the petitioner from the non-residential premises, that itself cannot be a ground to dismiss the



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application. In this regard, this Court in the case of “***D.Prema Jhansi Rani and others vs. N.Srivijayan***” reported in 2012 (24) CTC 481, held that quoting a wrong provision of law cannot be fatal to the petition. A similar view has already been taken in the case of “***S.Mohammed Iqubal vs. M.Padmanabhan***” reported in 1993 (3) CTC 116 and in the case of “***N.Dakshinamoorthy vs. Alphonsea Celestine Kamala Benjamine***” reported in 2012 (2) MLJ 72 wherein, it has been held that even if there is any lack of pleadings, if the parties understood the case and have adduced evidence, application is not liable to be rejected merely on the ground of lack of pleadings, or vague pleadings. In this case, tenant volunteered and put a contention that if he is liable to be evicted, he will be put to greater hardship than the landlord and therefore he wanted the petition to be dismissed. For the said purpose, he gave evidence that he has invested huge amounts in the business and how far he will be put to great hardship since he cannot collect his dues from the customers etc.,

7.Hence, considering the above said judgments, the contention of the revision petitioner that a wrong provision can be a ground to dismiss the



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petition, is not tenable. As far as the other contention that there is no *bona fides* on the part of the landlord for seeking recovery of the property is concerned, on perusal of the counter filed by the revision petitioner except stating that the petitioner does not require the premises for his son, there were no other details whatsoever have been mentioned. Be that as it may, the entire evidence of the petitioner clearly show that he was carrying on business in the rented building which was closed by him and he has registered certificate to run furniture business. It is the specific case of the respondent that his son needs to carry on the business in their own premises and even in the affidavit, it is clearly asserted. Whereas, the Rent Controller held that in the deposition of P.W.1 he has not deposed that the building is required for carrying business by his son. When the landlord has clearly established the fact that he was carrying on business on the rented premises and having closed the same, it cannot be said that there is no *bona fide* on the part of the landlord. Merely based on the some statement in the cross examination, it cannot be a ground to infer that there was no *bona fide* on the part of the landlord. Evidence has to seen in entirety and not selectively.



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8. Accordingly, this Court is of the view that the order of the Appellate Authority does not require any interference. The Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

To:

1. The Rent Control Appellate Authority,
VIII Court of Small Causes, Chennai.

2. The Rent Controller,
XV Court of Small Causes, Chennai.



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N.SATHISH KUMAR, J.

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