



C.R.P.No.400 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.400 of 2014

E.Venkatraman

... Petitioner

-Versus-

K.Prabadevi Ammal

... Respondent

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act, 1960 to set aside the judgment and decree of the appellate authority in RCA.No.2 of 2011 dated 13.12.2013 on the file of the Rent Controller, Vellore (Sub Court, Vellore), confirming the Judgment and Decree of the learned Rent Controller, Vellore, (In the court of Principal District Munsif, Vellore) made in RCOP.No.56 of 1998 dated 06.12.2010.

For petitioner : *Mr.P.Seshadri*

For Respondent : *Mr.T.M.Hariharan*

ORDER

This civil revision petition arises against the concurrent orders of eviction passed by the learned rent control appellate authority at Vellore.



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2. RCOP.No.56 of 1998 was filed by the landlady under section

10(3)(A)(iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act. The landlady became the owner of the property, pursuant to the purchase made from the original landlady of the tenant viz., one S.Sanjeevi Ammal by virtue of registered sale deed dated 18.09.1996. The civil revision petitioner/tenant had taken possession of the property, pursuant to the lease agreement dated 21.11.1996 for a monthly rent of Rs.2,000/-. The present landlady intended to shift her existing business in the name of “Banaras Sweets”, which she was running at a rented premises.

3. The tenant was served and he filed a counter to the said RCOP pleading that he had filed a suit for specific performance against the original landlady as well as the subsequent purchaser who is the present landlady and had also pleaded that till the disposal of the specific performance suit, the RCOP should not be tried. In addition, he has also pleaded that the landlady's husband and two sons were living together at No.12-13, Mitta Ananda Rao Street, Vellore and all of them are carrying out the business of Banaras Sweets at No.29, Katpadi Road, Bogipattarai Street. The respondent has stated that as the property is non-residential property, the requirement of the landlady is neither bonafide nor does she require the property as she has other properties in



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the town of Vellore.

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4. The learned Rent Controller, before whom the petitioner was taken up for enquiry, examined the landlady Prabhadevi as PW1 and the respondent Venkatraman as RW1. On the side of the landlady, Ex.P1 to Ex.P5 were marked and on the side of the respondent, Ex.R1 to Ex.R8 were marked.

5. Considering the oral and documentary evidence that have been let in before the learned Rent Controller, the learned Rent Controller came to conclusion that the ground of Section 10(3)(A)(iii) had been made out and therefore, ordered eviction.

6. Aggrieved by the order of eviction, the tenant preferred RCA.No.2 of 2011. The Rent Control Appellate Authority concurred with the findings of the Rent Controller and dismissed the appeal on 13.12.2013. Against the concurrent orders of eviction, the present revision has been filed.

7. Mr.P.Seshadri, would submit that the landlady has got other properties and hence, the requirement under section 10(3)(A)(iii) is not made out. He would also point out that the parties had been litigating with respect to specific performance in O.S.No.276 of 1996 on the file of the learned Subordinate Judge



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at Vellore. He would state that since the requirement is not bonafide, eviction must not have been ordered.

8. Mr.T.M.Hariharan, would point out from the evidence of PW1 that since the landlady seeks to occupy the suit schedule premises because of the availability of water supply which is essential for the purpose of running her business in sweet meats. He would also point out that it is not in dispute that the landlady and her family are running sweet meat shop, even as on the date of filing of the rent control petition. Being a concurrent finding of the fact, this Court does not interfere with the exercise of powers under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act.

9. I have carefully considered the arguments on either side.

10. The purchase made by Prabhadevi/the landlady has been upheld by me, while dismissing the appeal filed by the tenant in S.A.No.776 of 2013. By virtue of her purchase of the property, there is a statutory attornment of tenancy from the Civil Revision Petitioner in favour of the respondent/landlady. This is by virtue of Section 108 of Transfer of Property Act.



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11. When the relationship between the landlord and tenant had not been disputed, I only have to see if the requirement of the landlord is bonafide.

12. The building has been used for non residential purposes, which is not in dispute because it is the case of the tenant himself that he is running a lodge in the said premises. The landlady has already also running a sweet meat shop under the name and style of “Banaras Sweets” and she wants to shift her business to the demised premises as there is availability of water.

13. On the argument that the landlady has other premises, Mr.T.M.Hariharan would rely upon the judgment in ***T.K.V.S.L. Mahadevan vs. Lathif Moosa, 2009 5 LW 264*** to submit that the Act does not say that the landlord should not own more than one building in the premises, but the requirement is that the landlord must not be in occupation of the own building for the purpose of seeking eviction under section 10(3)(A)(iii).

14. As seen from the evidence, the landlady had let out her premises to a third parties and does not have any property of her own, where she is carrying out the business. Apart from that, where the landlady's business has to run is entirely the choice of the landlady and the tenant cannot dictate the same.



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15. Therefore, I do not find any reason to interfere with the orders passed in RCA.No.2 of 2011 on the file of the Rent Control Appellate Authority at Vellore on 13.12.2013 in confirming the judgment and decree of the learned Rent Controller cum Principal District Munsif at Vellore in RCOP.No.56 of 1998 dated 06.12.2010 is confirmed. Accordingly, the Civil Revision Petition is dismissed. The time for eviction is nine months. No costs.

16. The tenant will be entitled to the benefit of time of nine months to vacate the premises, if he files an affidavit of undertaking on or before 28.03.2024. It is made clear that in case affidavit of undertaking is not filed on or before 28.03.2024, the landlady is at liberty to proceed in accordance with law.

17. Call on 28.03.2024 for compliance.

19.03.2024

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order



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To

- 1.The Rent Controller, Vellore (Sub Court, Vellore)
- 2.The Principal District Munsif, Vellore



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V.LAKSHMINARAYANAN, J.

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