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C.R.P.NPD.No.1518 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.NPD.No.1518 of 2024 and
C.M.P.No.8200 of 2024

S.P.Kandasamy

... Petitioner

Vs.

R.Viswanathan

... Respondent

PRAYER: Revision filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 praying to set aside the order and Final order dated 14.03.2023 made in R.C.A.No.3 of 2019 on the file of the Court of the Rent Control Appellate Authority (Subordinate Judge), Pollachi, confirming the Fair and Final Order dated 06.12.2018 made in R.C.O.P.No.16/2014 on the file of the Court of the Rent Controller cum District Munsif of Pollachi.

For Petitioner : Mr.R.Nandha Kumar

ORDER

This revision arises against the order passed in R.C.A.No.3 of 2019 dated 14.03.20223 on the file of the learned Rent Controller Appellate Authority (Subordinate Judge), Pollachi in confirming the order and decree of the Rent Controller cum District Munsif Court at



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Pollachi in R.C.O.P.No.16 of 2014 dated 06.12.2018. The petitioner before me is the tenant.

2. The case of the landlord is that one Sangameswara Iyer, his grandfather, was the original owner. The total extent of the property is 735 sq.ft. Originally the respondent's father was running a job typing shop in the said premises. The respondent joined the Agricultural Department and on retirement wanted to restart this business. He was motivated to do so because, as seen from the evidence, the office of the Sub Registrar at Pollachi is situated right opposite to the said premises. Hence, he filed this application for eviction of the petitioner on the ground of own use and occupation.

3. The petitioner herein filed a counter stating that he is a tenant for more than 50 years. According to him, the normal practice of the respondent/landlord is to threaten the tenants with eviction. Originally, he issued a notice on the ground of demolition and reconstruction, but has filed the petition on the ground of own use and occupation. This, he would state, amounts to a contradiction and therefore he sought for dismissal of the RCOP.



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4. On the basis of these pleadings, the landlord entered the witness box and marked Exs.P.1 to P.3. The petitioner entered the witness box as R.W.1 but did not mark any document. On the basis of the evidence let in by the parties, the learned Rent Controller came to a conclusion that the requirement of the respondent/landlord is bona fide and ordered eviction. Aggrieved by the same, an appeal was preferred to the Rent Controller Appellate Authority in R.C.A.No.3 of 2019, which came to be dismissed, against which the present revision.

5. Learned counsel for the petitioner would submit that the notice that had been issued originally for eviction was for demolition and reconstruction, but when the petition was filed, it had been presented for own use and occupation.

6. A perusal of the records would show that the tenant had never marked the notice that is said to have been received by him stating that the building is in such poor condition that it requires demolition and reconstruction. The tenant also did not take out any application for appointment of an Advocate Commissioner in order to convince the Court that the building was in such a condition that it is not fit to be occupied for the purpose of the proposed business of the landlord.



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7. As pointed out from above, the building is situated right opposite to the Sub Registrar office at Pollachi. It is common knowledge that where the Registrar Office is situated, there will be a lot of persons who will be interested in doing typewriting work. The respondent has sufficient experience in this business because they were running a job typing centre in the name and style of "V.S.Raja type office"

8. Learned counsel for the petitioner would submit that the landlord has not given any proof he is making commencement of this business. A job typing business does not require a license from any person. All that it requires is the purchase of a few typewriters and few papers in order to commence the business. Therefore, the question of making some preparations which the commencement of business in other areas cannot be made applicable to a job typing one.

9. The learned Trial Judge as well as the Appellate Authority have correctly appreciated the facts and have rendered law to the present case. I do not find any error or irregularity that require interference under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act. Hence, the revision fails. Time for eviction is six months. The time is



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granted subject to the petitioner filing an affidavit into this Court on or before 29.04.2024 that he shall vacate and hand over the possession of the property without pushing the landlord to execution proceeding. He shall also not have any arrears till the date of handing over of possession. He also shall not permit any third party to have the possession of the property.

10. With the above observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

12.04.2024

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
Sgl

To

1.The Subordinate Judge,
Pollachi.

2.The District Munsif,
Pollachi.



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V.LAKSHMINARAYANAN, J.

Sgl

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