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C.R.P.(MD)No.615 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved : 27/03/2024

Date of Pronounced : 05/06/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

C.R.P (MD) No.615 of 2024

and

CMP (MD) No.3037 of 2024

R.Chandrasekar : Petitioner/Appellant/
Respondent (Tenant)

Vs.

P.T.Sambantham : Respondent/Respondent/
Petitioner/ (Landlord)

PRAYER:-Civil Revision Petition has been filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as Amended by Act No.23 of 1973 to set aside the fair order and decreetal order, dated 30/11/2023 passed in RCA No.18 of 2022 on the file of the Principal Sub Judge, Trichirappalli, confirming the fair and decreetal order dated 07/04/2022 passed in RCOP No. 117 of 2015 on the file of the Rent Control Tribunal (Principal District Munsif Court), Trichirappalli as illegal.

For Petitioner : Mr.C.Sundaravadivel

For Respondent : Mr.A.Robinson



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O R D E R

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This civil revision petition has been filed seeking to set aside the fair order and decreetal order, dated 30/11/2023 passed in RCA No.18 of 2022 by the Principal Sub Judge, Trichirappalli, confirming the fair and decreetal order dated 07/04/2022 passed in RCOP No.117 of 2015 by the Rent Control Tribunal (Principal District Munsif Court), Trichirappalli.

2.The facts in brief:-

RCOP No.117 of 2015 is filed by the respondent herein with the following averments:-

He is the owner of the property by virtue of the sale deed dated 10/07/2009. The petitioner was a Tenant under the vendor by name Kursith Begum. He committed willful default in the payment of rent from July 2009. After purchasing the property, the respondent approached the petitioner for payment of rent properly and also stated that it is required for his own occupation. In spite of frequent request, the petitioner did not vacate the premises and pay the arrears amount also. There is an arrear of rent from July 2009. For the past 14 years, the petitioner is in occupation and is also not maintaining the property properly. So it is in a damaged and dilapidated condition.



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5.Before the Rent Court, on the side of the Landlord, 2 witnesses were examined and 8 documents marked. On the side of the Tenant, he was examined himself as RW1. No document marked.

6.At the conclusion of the enquiry process, the Rent Court passed an order allowing the petition directing the petitioner herein to vacate and hand over the vacant possession within a period of two months. Against which, RCA No.18 of 2022 was preferred by the petitioner. That also came to be dismissed, concurrent with the findings recorded by the Rent Court.

7.Against which, this civil revision petition is preferred.

8.Heard both sides.

9.Even at the time of argument, the learned counsel appearing for the petitioner would repeatedly request this court that the petitioner may be permitted to continue as Tenant and he is also ready to pay the entire arrears amount if any.



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10. But the respondent would submit that now the property is in a dilapidated condition requires repair and not only that, he wants the property for his personal occupation and there is no possibility for considering the request made by the petitioner.

11. Regarding the rent, it was submitted by the respondent that fair rent was fixed at the rate of Rs.29,700/- with effect from 01/01/2016 in OS No.126 of 2015. It was confirmed by the Principal Sub Judge, in RCA No.4 of 2020. Against which, CRP No.1198 of 2023 was filed and it was dismissed on 02/06/2023. The total arrear amount as on February 2024 is Rs.29,10,600/-. That amount is not paid till date.

12. Now coming to the main question, the learned counsel appearing for the petitioner would straightaway rely upon the judgment of this court reported in **1997-1-L.W-527 (S.V.Periasamy & Sons by its Partner S.V.Periasamy Nadar and 3 others Vs. R.Senthil Kumar and 2 others)** and contend that re-appreciation of the evidence in the revisional stage is very limited.



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13.Here, there are two grounds upon which the eviction was sought by the respondent. As stated in the preamble portion of the order one is willful default and another one is for own occupation.

14.Regarding the first issue, the learned counsel appearing for the petitioner would rely upon the said judgment that the cause of action for the willful default will not enure to the benefit of the respondent herein after purchase. If at all cause of action for the willful payment will arise only after the purchase and not before that. So according to him, cause of action pleaded in the main petition itself is not legally sustainable.

15.Here, as per the judgment of this court, the arrear amount which was standing to the credit of the premises on the date of the purchase can be construed only as actionable claim by the vendor. No doubt that there can be no second opinion on the proposition of law. Now here, the respondent would submit that he purchased the property from the owner on 10/07/2009. The vendor executed a mutchhalika in favour of the respondent stating that the respondent is a Tenant under him and he paid the rent upto July 2019. By relying upon this document only, he has mentioned in the petition that the petitioner is



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liable to pay the rent from the month of July 2009. When as mentioned above, the date of purchase is 10/07/2009 from that onwards, the respondent became the owner of the property and the petitioner is a statutory Tenant. So RCOP filed by the respondent cannot be stated that it is not maintainable. Even if we can say that from the date of purchase only he can claim or demand the rent amount, it makes no difference since it is admitted by the petitioner himself that the arrear is not paid, the amount fixed in RCA No.4 of 2020 as confirmed by this court in CRP(MD)No.1198 of 2023. Why that amount was not paid by the petitioner in spite of coming to know that the property was purchased by the respondent herein is not explained.

16.Even during the course of evidence, the petitioner has stated that:-

“மனுச் சொத்தில் நான் வாடகைதாரர் என்றால் சரி தான் மனுச்சொத்திலிருந்து என்னை அடாவடியாக காலி செய்ய கூடாது என்று OS No.860/2008 என்று வழக்கு தாக்கல் செய்துள்ளேன் என்றால் சரிதான் தற்போது மாத வாடகை எவ்வளவு என்றால் 1700/- ஆகும். OS No.860/2008 வழக்கில் மாத வாடகை 1700/- என்று தான் கட்சி



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செய்கிறேன் என்றால் ஞாபகமில்லை
மேற்சொன்ன வழக்கிற்கு பின்னிட்டு
நேரடியாக யாரிடமும் வாடகை
செலுத்தவில்லை என்றால் சரிதான்
நீதிமன்றத்தில் வைப்பீடு செய்கிறேன்.

17.On the basis of the above said admission made by the petitioner, the Rent Court has recorded a finding that the petitioner failed to pay the rent even on the date of examination. It is also referring to the order passed in IA No.17 of 2016 demanding payment of arrears of rent and conditional order passed on 24/04/2017 directing the petitioner to deposit the arrears amount. From July 2009 to December 2015 that amount was not paid. So eviction was ordered on 24/04/2017. Against that order, he preferred RCA No.31 of 2017 before the Sub Court, Trichy. As per the order of this court, he deposited arrears amount for the month of July 2009 to May 2015. After that, he deposited rental amount, from July 2010 to June 2020. But even though the deposit was not regular, payments were made in lump sum. The conduct of the petitioner clearly indicates that he was not regular in payment of rent in spite of the order passed by the rent court.



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18.The contention on the part of the petitioner is that notice of admission was made only on 10/09/2015. But RCOP was filed on 04/10/2015 even without giving breathing time to the petitioner to pay the rent amount. He would further submit that two months notice must be given calling the arrears of amount. That was not done by the respondent herein. So according to him, the petition itself is not maintainable, apart from that amount stated above.

19.No doubt that notice was not given by granting two months time to the petitioner. But at the same time, he was not regular in payment of rent in spite of the order passed by the Appellate Court. So the petitioner cannot take advantage of his own wrong and say that there is no willful default on his part.

20.Regarding the personal occupation, as mentioned above, the respondent would submit that it is required for his own occupation and apart from that for accompanying his own daughter after her marriage.

21.Regarding that, the petitioner would submit that the requirement is not *bona-fide* since the respondent



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entered into an sale agreement with the third party to sell the premises. So according to him, had it been *bona-fide*, he would not have entered into a sale agreement. In-spite of selling the property to the third party, the respondent may sell the property to him since he is in occupation for more than 22 years.

22.Per contra, the learned counsel appearing for the respondent would submit that to recover Rs.29,00,000/- of arrears amount, suit is filed and to meet out the medical expenses, he need money and so entered into a sale agreement. The conduct of the petitioner dis-entitled him from claiming any consideration for purchase. So he is not interested in selling the property to the petitioner. Apart from that, it is also stated that the property is not maintained properly and heavy damage is done. Unless it is repaired and restored, the value will go down.

23.No doubt that there is an admission on the part of the respondent that he entered into a sale agreement with the third party to sell the property. That happened only subsequent to that petition. From that, no conclusion can be reached that the original cause of action itself is not *bona-fide*. It is a clear finding by the Rent Court and the Appellate Court over the personal



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requirement. So this ground is also not available to the petitioner.

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24.Remaining in the tenanted premises for more than 24 years, causing damage and committing willful default in payment of rent are all the matters, which are standing against the petitioner. No believable and acceptable reasons are assigned by him to make out the points raised. So, I find no irregularity or illegality in the order passed by the Rent Court as confirmed by the Appellate Court.

25.In the result, this civil revision petition fails and the same is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

05/06/2024

Index:Yes/No
Internet:Yes/No
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To,

1.The Principal Sub Court,
Trichy.

2.The Principal District Munsif,
Trichy.



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3. The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.

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G.ILANGOVAN, J

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