



C.R.P.(MD)No.2874 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.11.2023

Delivered on : 16.02.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P(MD)No.2874 of 2023
and
C.M.P(MD)No.14923 of 2023

Ramalingam : Petitioner/Appellant/Respondent

Vs.

1.Maheswari

2.Jayakumar

3.Sivaganesh

4.Balamurugan : Respondents/Respondents/Petitioner

Prayer : This Civil Revision Petition filed under Section 115 of C.P.C., to set aside the judgment and decree passed by the learned Additional District Judge/Rent Tribunal Authority, Dindigul in R.L.T.A.No.1 of 2023, dated 03.08.2023 confirming the fair and decreetal order of the learned Principal District Munsif, Dindigul in R.C.O.P.No.6 of 2020, dated 03.11.2022.



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For Petitioner : Mr.B.Elankumaran

For Respondent : Mr.G.Gomathi Sankar, for Caveator.

ORDER

The Civil Revision Petition is directed against the order passed in R.L.T.A.No.1 of 2023, dated 03.08.2023 on the file of the learned Additional District Judge/Rent Tribunal Authority, Dindigul confirming the order passed in R.C.O.P.No.6 of 2020, dated 03.11.2022 on the file of the Principal District Munsif, Dindigul.

2. It is not in dispute that the petition mentioned building is owned by the respondents as the same was purchased on 27.11.2014 by the deceased Balasubramanian, who is husband of the first respondent and the father of the respondents 2 to 4; that one Gunasekaran has taken the petition mentioned building on lease for running a hotel and that since he vacated the premises, the revision petitioner has become the tenant for the petition mentioned building for running a hotel by executing a rental agreement on 01.10.2016.



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3.The respondents/landlords have filed the petition in R.C.O.P.No. 6 of 2020 against the revision petitioner/tenant claiming eviction on the grounds of default in payment of rent and for own use and occupation. The revision petitioner/tenant has filed a counter statement raising objections. During trial, the respondents have examined the third respondent as P.W.1 and exhibited 16 documents as Ex.P.1 to Ex.P.16. The revision petitioner/tenant has examined himself as R.W.1 and adduced no documentary evidence.

4. The learned Rent Controller, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed an order dated 03.11.2022 by holding that there was default in payment of rent and the requirement of the land for their own use and occupation is bona fide, allowed the petition and directed the revision petitioner/tenant to vacate and handover the vacant possession of the petition mentioned building within three months and to pay the rent arrears. Aggrieved by the said eviction order, the tenant has preferred an appeal in R.L.T.A.No.1 of 2023 and the learned Rent Tribunal Authority, upon perusing the materials available on record and on hearing the



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arguments of both the sides, has passed the impugned judgment, dated 03.08.2023, dismissing the appeal and thereby confirming the eviction order passed by the learned Rent Controller. Aggrieved by the dismissal of the appeal, the tenant has preferred the present Civil Revision.

5. The points that arise for consideration are as to whether the findings of the Courts below that the revision petitioner/tenant has committed default in payment of rent and that the requirement of the petition mentioned building for the own use and occupation of the respondents/ landlords is bona fide, are proper and are in accordance with law.

6. Before entering into further discussion, it is necessary to refer the following passage in the judgment of the Hon'ble Supreme Court in ***Hindustan Petroleum Corporation Ltd. Vs. Dilbahar Singh*** reported in ***(2014) 9 SCC 78***.

“45. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the First Appellate Court/First Appellate Authority because on re-appreciation of the



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evidence, its view is different from the Court/Authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the Court/Authority below is according to law and does not suffer from any error of law. A finding of fact recorded by Court/Authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to re-appreciate or re-assess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied



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that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”

7. It is pertinent to mention that the Revisional jurisdiction of this Court is confined to legality, propriety and correctness of the orders of the Courts below. The revisional Court, having supervisory jurisdiction, should not act as if it was exercising the Appellate jurisdiction, by appreciating the evidence, weigh the same and by that process come to a different conclusion and reverse a finding of the fact arrived at by the Courts below. Even if two views are possible with the same set of facts, the revisional Court cannot substitute its own view so as to interfere with the findings of the Courts below. Moreover, the revisional power is not co-extensive with the power of the appellate Court. Bearing the above legal position in mind, let us consider the case on hand.

8. Taking up the ground of own use and occupation, the case of the landlords is that the father of the respondents 2 to 4 was running 'Madras Mills Store' in the building situated just opposite to the petition mentioned building; that the petition mentioned building itself was purchased to develop their business; that since the fourth respondent was in out station



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at the time of purchasing the petition mentioned property, the same was leased out to one Gunasekaran for running a hotel and subsequently to the revision petitioner for running Hotel and that they are now requiring the petition mentioned building for expanding their business.

9. The main defence of the tenant is that the said business stand in the name of the first respondent Maheswari, mother of the respondents 2 to 4 and as such she alone is competent to claim the petition mentioned building for her own use and occupation.

10. It is evident from the records that the husband of the first respondent and the father of the respondents 2 to 4 Balasubramanian was running the business as 'Madras Mills Store' and even at that time, the business was standing in the name of the first respondent. As already pointed out, admittedly the petition mentioned building is owned by the respondents. Just because, the business stands in the name of the first respondent, it cannot be stated that her sons cannot seek the petition mentioned building for expanding their business. Since the purchaser Balasubramanian has died, the respondents being his legal heirs are



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certainly entitled to seek eviction of the petition mentioned building.

Hence, the contention of the revision petitioner that since the business is in the name of the first respondent, she alone has to come to Court and depose about the bona fide requirement, cannot be accepted.

11. The revision petitioner has not shown that the requirement of the petition mentioned building by the respondents is tainted with mala fide. Considering the above, the findings of the Courts below that the requirement of the petition mentioned building for the respondents' own use and occupation is bona fide, cannot be found fault with.

12. Now turning to the ground of default in payment of rent, admittedly, the monthly rent was agreed as Rs.14,500/-. The case of the landlords is that the tenant has failed to pay the rent due from the month of June 2019 and subsequently, he has sent the rent amount, after deducting Rs.250/- allegedly towards commission and hence, the same were refused to be received.

13. The defence of the tenant is that since the landlords have refused to receive the rent from June 2019 onwards, he has sent the rent by money



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order, after deducting Rs.250/- towards commission. It is the further contention of the tenant that he has spent Rs.20 lakhs for the improvements made in the petition mentioned building. But as rightly observed by the Courts below, the tenant has not produced any iota of evidence to show that he had spent Rs.20 lakhs for the improvements.

14. The next contention of the tenant is that he has paid electricity charges, deposits and other Government taxes and as such, he is entitled to adjust the same from the rent payable to the landlords. As rightly observed by the Appellate Authority, the tenant has not produced any materials or records to show the alleged payments made towards electricity, deposits and other Government charges. Moreover, the rental agreement does not say anything about the payment of electricity security deposits and other Government dues by the tenant and for adjustment of the same in the rents payable to the landlords.

15. It is pertinent to note that though the tenant is duty bound to pay the agreed rent of Rs.14,500/-, since he has paid less amount, after deducting some amounts towards commission charges, the same were



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refused to be accepted. As per the provision of the new Act, the tenant, in case of landlords refusal to receive the rent, has to pay the rent by money order for two months and if the same is also refused, then he has to deposit the same with the Rent Authority as contemplated under Section 14 of The Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act.

16. It is not the case of the tenant that he has filed any application before the Rent Authority seeking permission for depositing the rent and the same is pending. On considering the entire pleadings and the evidence available on record, the finding of the Courts below that the tenant has committed default in payment of rent cannot be found fault with.

17. The learned counsel for the revision petitioner would submit that the appellate Court has failed to consider under which provision of law the main petition is filed, whether under old Act or under new Act and that since the landlords have filed eviction petition under both Acts, the same is not legally maintainable. The Appellate Authority has dealt with that issue elaborately and has come to a decision that the eviction petition is



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maintainable. Moreover, it is settled law that mere quoting of wrong provision of law does not disentitle the applicant to proceed with the application and to get the relief claimed and that the same does not debar or prevent the Court from granting the relief sought for.

18. Considering the above, the decision of the Courts below in ordering eviction of the revision petitioner/tenant cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

19. In the result, this Civil Revision Petition is dismissed and the revision petitioner is directed to vacate the petition mentioned building in question and handover the vacant possession of the same to the respondent within a period of one month from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed. No costs.

16.02.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
das



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To

1. The Additional District Judge/Rent Tribunal Authority,
Dindigul.
2. The Principal District Munsif, Dindigul
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
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and
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Dated : 16.02.2024