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C.R.P.Nos.112 and 163 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22..01..2025

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P.Nos.112 and 163 of 2025

and

C.M.P.Nos.861 & 1204 of 2025

.....

Mr.Ganesh,

As proprietor carrying on Business

Under the name and style of

M/s.Kannan Stores

At Shop No.5 in Ground Floor, facing Road

and Shop No.7, in middle portion on First Floor,

in premises bearing Door No.44, Malaperumal Street,

Chennai 600 001.

.... Petitioner in both CRPs

-Versus-

1.T.Niranjan

2.T.Badrinath

..... Respondents in both CRPs

Prayer in C.R.P.No.112 of 2025: Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (Act XVIII of 1960, as amended by Act, 23 of 1973), praying to set aside the judgement and decree dated 25.10.2024 passed by the learned VIII Judge, Court of Small Causes at Chennai, in R.C.A.No.29 of 2024, confirming the order and decree of eviction dated 04.01.2024 passed by the learned XI Judge, Court of Small Causes at Chennai, in R.C.O.P.No.123 of 2018.

Prayer in C.R.P.No.163 of 2025: Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (Act XVIII of 1960, as amended by Act, 23 of 1973), praying to set aside the judgement and decree dated 25.10.2024 passed by the learned VIII Judge, Court of Small Causes at Chennai, in R.C.A.No.24 of 2024, confirming the order and decree of eviction dated 04.01.2024 passed by the learned XI Judge, Court of Small Causes at



C.R.P.Nos.112 and 163 of 2025

Chennai, in R.C.O.P.No.121 of 2018.

For Petitioner in both CRPs : Mr.M.V.Vijaya Baskar

*For Respondent in both CRPs : Mr.S.R.Rajagopal,
Senior Counsel for
Mr.T.Srikanth for RR1 & 2*

COMMON ORDER

The present revision petitions have been filed by the tenant challenging the concurrent findings of eviction ordered by the Rent Controller as well as by the appellate authority. The respondent in the revision petition is the landlord.

2. The parties in the revisions will hereinafter be referred to as per their jural relationship as tenant and landlord for the sake of convenience.

3. The brief facts leading to the filing of the present civil revision petition are as follows:

(i) The tenanted premises are non-residential character. The landlord filed two original petition under Section 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 [for short “the Rent Control Act”] for eviction of the tenant from two different premises bearing Shop Nos.5 & 7 in the premises situated at Door No.44, Malaperumal Street, Chennai 600 001 on the ground that the premises require for demolition and reconstruction.



C.R.P.Nos.112 and 163 of 2025

(ii) The subject shops were let out on a monthly rent of Rs.5550/- for each. A sum of Rs.99,000/- in respect each premises paid by the tenant as advance. The landlord pleaded in the eviction petition that the subject premises are more than 80 years old and that the same are not yielding income commensurate to the present-day value and hence, they decided to demolish the entire commercial complex and put up a new construction to augment the income as the same would benefit them in all aspects.

4. The tenant filed his counter *inter alia* contending that no basic amenities, like water and drainage except electricity, are available. There is only one common restroom on the first floor for the entire commercial complex. The property is aged about 50 years and there is no crack or leakage in the ground and first floors. The building consisting of the tenanted premises is very strong, and the same does not require immediate demolition and reconstruction. Even if permission is granted, it would be very difficult for the landlord to get the construction completed in time.

5. Based on the above pleadings, the parties let in oral and documentary evidence in the eviction petitions separately. The abovementioned eviction petitions were taken up by the rent controller for enquiry separately. (i) During the enquiry of the eviction petition in R.C.O.P.No.121 of 2018, on the side of



C.R.P.Nos.112 and 163 of 2025

the landlords, the 2nd respondent-T.Badrinath examined himself as P.W.1 and in support of his claim he examined one M.Ajeez Mohideen as P.W.2 and marked Ex.P.1 to Ex.P.15 and on the side of the tenant, the tenant himself examined as R.W.1 and support of his defense, he examined one A.Sivakumar as R.W.2 and marked Ex.R.1 to Ex.R.4; (ii) Similarly, during the enquiry of the other eviction petition in R.C.O.P.No.123 of 2018, on the side of the landlords, the 2nd respondent-T.Badrinath examined himself as P.W.1 and in support of his claim he examined one M.Ajeez Mohideen as P.W.2 and marked Ex.P.1 to Ex.P.15 and on the side of the tenant, the tenant himself examined as R.W.1 and support of his defense, he examined one A.Sivakumar as R.W.2 and marked Ex.R.1 to Ex.R.4.

6. Upon considering the available evidence, the rent controller found that the tenanted premises are required for immediate demolition and reconstruction and that the landlords have established their bonafide requirement in terms of the section and as such, the learned rent controller had ordered for eviction of the tenant from the tenanted premises. Aggrieved by the same, the tenant filed two different appeals in R.C.A.Nos.163 and 112 of 2025 respectively and the rent control appellate authority dismissed the appeals by way of two separate orders. Challenging the concurrent findings of eviction,



C.R.P.Nos.112 and 163 of 2025

the present revision petitions.

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7. Heard Mr.M.V.Vijaya Baskar, learned counsel for the tenant in both revision petitions and Mr.S.R.Rajagopal, learned senior counsel for the landlords in both revision petitions.

8. The learned counsel for the tenant would submit that the respondents/landlords have not established their bonafide requirement and no permission whatsoever was obtained for the demolition of the buildings and that the document relied on by the landlords was only with regard to payment details sought by the Corporation of Chennai, that too, during the pendency of the eviction petitions.

9. The learned counsel for the tenant would further submit that the tenant on his side examined one A.Sivakumar as R.W.2 in order to show that the building is in a good condition and that the evidence of R.W.2 was not at all considered by the learned rent controller in a proper perspective. Thus, according to the learned counsel, the landlords have not established their Bonafide requirement as required under Section 14(1)(b) of the Rent Control Act, 1960 and as such, the landlord are not entitled to have the tenant evicted from the rented premises. However, the rent controller had erred in ordering for eviction and the same was confirmed. Therefore, concurrent findings of the rent



C.R.P.Nos.112and 163 of 2025

controller and the rent control appellate authority require interference at the hands of this court.

10. Per contra, the learned senior counsel for the landlords would contend that the subject rented buildings are shops situated in a commercial complex, and out of 17 tenants in the complex, 16 tenants have already been evicted, and the landlords are yet to get possession back only in respect of the subject shops, which have been rented to the petitioner/tenant, who is yet to be evicted. According to the learned senior counsel, the tenant will not have any quarrel over the fact that the building in question is more than 50 years old. This finding is based on a factual aspect. Both the courts have clearly found that the building is required for immediate demolition and for reconstruction. Therefore, such factual finding does not require any interference at the hands of this court. He, therefore, prayed for dismissal of the revision petitions.

11. This court has considered the rival submissions carefully.

12. The fact that the building is aged about 50 years is not disputed by the tenant. P.W.2 in his oral evidence had stated that the building is 80 years old. The photographs have also been produced on the side of the landlords to show the nature of the buildings. R.W.2 would also state that the buildings is more than 50 years old. According to the landlords, 16 out of 17 tenants have



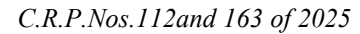
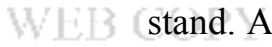
already been evicted, leaving just the subject premises to be vacated.

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13. When the landlords established that the building is more than 50 years old, this court cannot expect detailed descriptions of the structure's deteriorating circumstances by an acid test. It is common sense that if a structure is proved to be age-old, the landlords must quickly reclaim possession of the tenanted premises in order to demolish and reconstruct it.

14. It is to be noted that to seek possession under Section 14(1)(b) of the Rent Control Act, 1960, a building need not be in a dilapidated condition requiring immediate demolition and reconstruction of the same. It would be sufficient if the building's age was proved. The building's age does not require a thorough acid test.

15. It is the well settled law that even if the building is in good condition, if it is not suitable for the landlord to augment his income, still, the landlord can seek possession of the rented premises to demolish and rebuild it with a modern constructions to augment his income. Such view of the matter, this court is of the view that when both the rent controller and the rent control appellate authority have rightly appreciated the evidence available on record and found that the building is required for immediate demolition and reconstruction, the contention of the tenant that the landlords have not



17. When the landlords have complied with the requirements required under the law and established the age of the building, also established their bona fide requirement, they are certainly entitled to evict the tenant. When the statutory conditions for getting an order of eviction on the ground of demolition and reconstruction have been proved by positive evidence that the physical condition of the building is bad, and that it requires immediate



C.R.P.Nos.112 and 163 of 2025

demolition and reconstruction, the tenant cannot dictate terms to the landlords.

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18. In the case of **Vijay Singh and others v. Vijayalakshmi Ammal**, [(1996) 6 SCC 475], the Hon'ble Supreme Court has held that the expression “immediate purpose of demolishing” does not indicate that the building must be in a dilapidated or decrepit condition requiring its immediate demolition. The learned Rent Controller while considering an application under Section 14(1)(b) has to take into account three elements which are illustrative i.e. (1) *bonafide* intention of the landlord far from the sole object only to get rid of the tenants; (2) the age and condition of the building; and (3) the financial position of the landlord to construct a new building according to requirements of the building laws. The Hon'ble Supreme Court has held that these are some of the illustrative elements, which are to be taken into consideration before an order is passed under Section 14(1)(b). The relevant paragraph of the judgement of the Hon'ble Supreme Court reads as under:-

“10. On reading Section 14(1)(b) along with Section 16 it can be said that for eviction of a tenant on the ground of demolition of the building for erecting a new building, the building need not be dilapidated or dangerous for human habitation. If that was the requirement there is no occasion to put a condition to demolish within a specified time, and to erect a new building on the same site. Sub-



section (1) of Section 16 contemplates that permission has been granted by the Rent Controller under Section 14(1)(b) for demolition of the building, but if such demolition is not carried out in terms of the order and undertaking, then the Rent Controller can order the landlord to put the tenant in possession of the building on the original terms and conditions. If the building is dangerous and dilapidated requiring immediate demolition for safety, then there is no question of the Rent Controller directing the landlord to put the tenant in possession of such building on the original terms and conditions, on account of the failure of the landlord to commence the demolition within the period prescribed. Similarly, there was no occasion to link the demolition of such building with erection of new building and then to give the landlord freedom from the restrictive provisions of the Act for a period of five years from the date on which the construction of such new building is completed and notified to the local authorities concerned. In this background, it has to be held that neither of the extreme position taken by the respondent or the appellants can be accepted. Permission under Section 14(1)(b) cannot be granted by the Rent Controller on mere asking of the landlord, that he proposes to immediately demolish the building in question to erect a new building. At the same time it is difficult to accept the stand of the appellants that the building must be dilapidated and dangerous, unfit for



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C.R.P.Nos.112and 163 of 2025

human habitation. For granting permission under Section 14(1)(b) the Rent Controller is expected to consider all relevant materials for recording a finding whether the requirement of the landlord for demolition of the building and erection of a new building on the same site is bona fide or not. For recording a finding that requirement for demolition was bona fide, the Rent Controller has to take into account: (1) bona fide intention of the landlord far from the sole object only to get rid of the tenants; (2) the age and condition of the building; (3) the financial position of the landlord to demolish and erect a new building according to the statutory requirements of the Act. These are some of the illustrative factors which have to be taken into consideration before an order is passed under Section 14(1)(b). No court can fix any limit in respect of the age and condition of the building. That factor has to be taken into consideration along with other factors and then a conclusion one way or the other has to be arrived at by the Rent Controller. ”

19. In the light of the discussions made above and in view of the settled position of law, this court does not find any illegality or irregularity in the concurrent findings recorded by the rent controller and the rent control appellate authority and therefore, the revision petitions fail and the same deserve to be dismissed.



C.R.P.Nos.112 and 163 of 2025

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21. After some time, the learned counsel has come up with an affidavit sworn in by the tenant seeking time for vacating the subject shops. The said affidavit is taken on record.

22. Taking note of the fact that the revision has been carrying on business in the subject premises for a quite number of years and the affidavit of undertaking filed by the respondent, four months' time is granted to the respondent/tenant to vacate the premises from 01.02.2025. The respondent/tenant shall vacate the premises and hand over the vacant possession to the petitioners/landlords on or before 31.05.2024.

23. It is made clear that that in the event the respondent/tenant fails to vacate and deliver the vacant premises as agreed upon in the affidavit of undertaking filed before this Court, they would be proceeded further for



C.R.P.Nos.112and 163 of 2025

violating their undertaking.

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Index : yes / no
Neutral Citation : yes / no

22..01..2025

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To

- 1.The VIII Judge, Court of Small Causes at Chennai.
- 2.The XI Judge, Court of Small Causes at Chennai.



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C.R.P.Nos.112and 163 of 2025

N.SATHISH KUMAR.J.,
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C.R.P.Nos.112 and 163 of 2025

22..01..2025