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CRP.No.1954 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:07.11.2025

Pronounced on:12.12.2025

CORAM

THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP. No.1954 of 2025

1.Mrs.Faritha Beevi
2.Mrs.Rabica Beei
3.Mr.Haj Mohamed
4.Mrs.Inul Jarina,
represented by their Power Agent,
Mr.Mohamed Mohideen

Petitioner(s)

Vs

Mr.Alex Varghese

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order and decree dated 21.03.2025 and made in R.C.A. No.42 of 2024 on the file of IX Judge (FAC), Court of Small Causes, Chennai affirming the order and decree dated 29.04.2024 and made in R.C.O.P. No.129 fo 2018 on the file of X Court, Small Causes Court, Chennai.

For Petitioners : Mr.G.Ravisankar

For Respondent : Mr.R.Ramanlaal

ORDER



The unsuccessful landlords whose petition for eviction for demolition and re-construction came to be dismissed concurrently by the Rent Controller as well as Rent Control Appellate Authority, are the revision petitioners.

2. I have heard Mr.G.Ravisankar, learned counsel for the petitioners and Mr.R.Ramanlal, learned counsel appearing respondent/tenant.

3. Mr.G.Ravisankar, learned counsel for the petitioners would submit that the petition building belonging to the petitioners comprised of six portions and the petitioners initiated eviction proceedings against all the tenants occupying various portions of the building, on the ground of the building being required for purposes of demolition and re-construction. The learned counsel for the petitioners would submit that the other five tenants against whom eviction petitions were filed on similar lines came to be allowed and as on date all the other tenants have vacated and the respondent is the only tenant occupying the building. The learned counsel would further state that the building is in a very highly dilapidated condition warranting immediate demolition and re-



construction. However, the Courts below have erroneously held that the petitioners have not established bonafide and consequently, dismissed the Eviction petition.

4. Mr.G.Ravisankar, learned counsel for the petitioners would submit that in a petition for eviction under Section 14(i)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 (in short 'Act'), it is not necessary for the landlords to produce currency before the Court and jingle the coins. He would also state that the petitioners have produced the approved plan which clearly indicated their bonafide requirement. He would further state that though the Courts have held that the petitioners have not established that the other tenants have already been evicted and this Court can take judicial notice under Section 13 of the Indian Evidence Act, 1872.

5. The learned counsel would rely on the following decisions, in support his contentions:-

(i) *Tirumala Tirupati Devasthanams Vs. K.M.Krishnaiah*, reported in *AIR 1998 SC 1132*; and

(ii) *Sridharan Vs. S.Natarajan and two others*, reported in 2007 (3)



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6. Per contra, Mr.R.Ramanlal, learned counsel appearing for the respondent/tenant would submit that the landlords have not come to Court and they have only appointed a power agent. Even the application to represent the landlords was not properly presented before the Rent Controller and the same was challenged by the respondent/tenant, though he was unsuccessful before the Rent Controller, according to Mr.Ramanlal, in revision, C.R.P. Nos.2764 and 2765 of 2022, this Court reserved the right of the tenant, by cross examining P.W.1. Mr.Ramanlal would further state that despite the directions of this Court, P.W.1 did not offer himself for cross examination and the Courts have therefore rightly drawn adverse inference against the petitioners.

7. It is also the contention of Mr.Ramanlal, learned counsel that the powers of attorney are unregistered and cannot be valid, empowering the power agent to represent the landlords. The learned counsel would further state that the petitioners have not let in any evidence whatsoever, to establish sufficient means to meet the cost of demolition and reconstruction, which have been rightly considered by the Courts below.



He would further state that even insofar as the plan that was produced by the landlords, through their power agent by filing the reply received by the respondent under provisions of Right to Information Act, 2005, the respondent had brought it to the notice of the Court that there was no such sanction given by the planning authorities. In such circumstances, Mr.Ramanlal would contend that the petitioner ought to have established the truth and genuineness of the sanction plan, which also they have failed to do in the present case.

8. In such circumstances, it is argued by Mr.Ramanlal, that under Section 25 of the Act, this Court does not have the power to interfere with the concurrent findings of fact which are based on the materials available before the Courts below. Mr.Ramanlal, would further contend that the undertaking given under Section 14(2)(b) of the Act is also defective and viewed from any angle, the petitioners are not entitled to an order of eviction. He would therefore pray for dismissal of the revision petition. The learned counsel has relied on the following decisions, in support of his contention:-

(i) *C.Chellakoma Vs. Arunachalam*, reported in *2017 SCC Online Mad* 27955;



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(ii) *Duraisamy and others Vs. R.Sureshlal and another*, reported in 2006 (3) CTC 147;

(iii) *M.Abu Tahir Vs. M.Rahamathulla*, reported in 2005 (5) CTC 585;and

(iv) *Confederation of Real Estate Developers' Association of India, (CREDAI TAMILNADU), Rep. by its President Vs. State of Tamil Nadu and another*, reported in 2014-4-L.W.347.

9. I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the order passed by the Rent Controller and the Judgment passed by the Appellate Authority.

10. Insofar as the preliminary objections regarding the validity of the powers of attorney executed by the landlords in favour of the power agent and the capacity of the power agent to represent the principals and file and prosecute the eviction petition, admittedly, the powers of attorney are unregistered. The power agent moved an application even at the time of institution of the RCOP seeking permission to represent the landlords.



The Rent Controller ordered the application. However, it was challenged by the respondent before this Court in CRP. Nos.2764 and 2765 of 2022.

This Court granted two weeks time to the tenants to cross examine P.W.1 with regard to the powers of attorney. Though it is contended by Mr.G.Ravisankar, learned counsel for the petitioner that P.W1 was present in Court and it was only the respondent who did not come forward to cross examine, Mr.Ramanlal pointing out the relevant portion of the Rent Controller would state that P.W.1 never appeared subsequent to disposal of the revisions by this Court and therefore, the Rent Controller has given a clear finding that P.W.1 has failed to subject himself to the process of cross examination, despite the order passed by this Court.

11. In the appeal grounds, I do not find that the petitioners have challenged the findings of the Rent Controller regarding P.W.1 failing to subject himself to cross examination despite the orders of this Court in CRP. Nos.2764 & 2765 of 2022. In the light of the above, I am unable to countenance the argument of the Mr.Ravisankar, learned counsel for the petitioners that P.W.1 was present but it was only the tenant who did not cross examine. Be that as it may, the landlords had not questioned the act



of the power agent to file the eviction petition and give evidence. In fact, it is contended by the Mr.Ravisankar, that even the other Rent Control Petitions that were filed against the other tenants were also similarly filed only by the same power agent. No doubt, there are certain errors in the dates of the powers of attorney, as can be seen in the affidavit filed in support of the application seeking permission to permit the power agent to prosecute the RCOP. However, I do not find it to be fatal to the case of the petitioners, since the landlords have not objected to the power agent moving the Rent Controller and seeking eviction.

12. The reliance placed on the decision of this Court in *Confederation of Real Estate Developers' Association of India, (CREDAI TAMILNADU)*'s case (referred herein supra), with regard to the necessity to compulsorily register powers of attorney under Section 17 of the Registration Act, subsequent to the amendments introduced to the Registration Act, 1908 by the Tamil Nadu Government. Mr.Ramanlal, learned counsel would submit that it is not only registration which is mandatory but also Life Certificate has to be issued before the power agent can competently represent the principals. I find from decision of this Court that it was a case where this Court held that mere affixture of



photographs and fingerprints of principal may not sufficiently establish that the principal is alive on the date of presentation of documents of registration. Therefore, this Court upheld the circular passed by the Inspector General of Registration that a Life Certificate will have to be produced to establish that the principal was alive on the date of the registration of the document. Even insofar as the registration being made compulsory, I find that on and from 02.11.2012, the Tamil Nadu Government by amending the provisions of the Registration Act, has made the registration of powers of attorney compulsory, when such powers of attorney relate to sale of immovable property.

13. Subsequent to the amendment under Section 17(1)(h) of the Registration Act, as applicable to the State of Tamil Nadu reads as follows, '*17(1)(h) Instruments of Power of Attorney relating to immovable property other than those executed outside India*'. The plain reading of the provisions clearly points to the mandatory requirement of powers of attorney which are relating to immovable property. However even as discussed in the decisions of reported in *Confederation of Real Estate Developers' Association of India, (CREDAI TAMILNADU)*'s case (referred herein supra), the very object of bringing about the amendment



was only to safeguard the interest of the purchasers of immovable properties through power agents and that was the stand of the Government also in the Writ Petition.

14. In view of the above, in the present case, the powers of attorney authorizing the power agent to only represent the landlords and file eviction petition cannot be held to be fatal on account of non registration.

15. Coming to the merits of the case advanced by the parties, the landlords claimed that the petition building is more than 50 years old and they have decided to demolish and re-construct the same. According to the landlords they are possessed of sufficient funds and they have Rs.10 lakhs in their bank account, to meet the necessary expenses. They have also stated that they have sent a notice calling upon the tenants to vacate, despite which the respondent/tenant has not vacated the building. They also state that on 26.07.2016, they have obtained permission in the Corporation of Chennai for demolition and re-construction.



16. In the counter affidavit, the respondent has stated that even when the father of the tenant was in occupation, an attempt was made to evict him, however the eviction petition was dismissed and the present attempt to evict the respondent is absolutely lacking in bonafides. It is further contended that the building is in good condition and that the petitioners are also not possessed of sufficient funds. He has also stated that there is no valid plan and even to the lawyer's notice, an effective reply had been given.

17. Before the Rent Controller, the power agent examined himself as P.W.1 and marked Exhibits P1 and P2 and the tenant examined himself as R.W.1 and marked Exhibits R1 and R2, through cross examination of P.W.1 and Exhibits R3 to R5 were marked through R.W.1 when he was in the witness box, the Rent Controller found that the petitioners have not made out bonafide need for the purpose of demolition and re-construction and dismissed the Eviction petition and the Appellate Authority also concurred with the findings of the Rent Controller and dismissed the appeal preferred by the revision petitioners.

18. Though it is contended by Mr.G.Ravisankar, learned counsel



for the petitioners that the petitioners need not established liquidity by way of producing cash or jingling coins before the Court, when the petitioners approached the Court to make out bonafide requirement under Section 14(1)(b) of the Act, it is absolutely necessary for the petitioners to not only plead but also prove such bonafide need/requirement. Excepting for the pleading in the petition, there is absolutely no evidence adduced on the side of the petitioners. Firstly, none of the landlords chose to examine themselves. It was only the power agent who was examined as P.W.1 and even the power of attorney had been disputed by the tenant and atleast one of the landlords should have thought it fit and proper should have adduced evidence to establish that the need of the petition premises, was bonafide and genuine.

19. Though it has been contended that the petitioners are possessed of Rs.10 lakhs in their bank accounts, there is absolutely not a shred of evidence adduced to establish that the petitioners are possessed of sufficient funds. Even with regard to the sanctioned plan, though Ex.P1 sanction plan has been produced, when R4 has been filed to rebut the genuineness of sanctioned plan by bringing on record a document issued under the provisions of the RTI Act, stating that no such sanctioned plan



has been issued by the Corporation of Chennai, the petitioners ought to have taken further steps to establish that the sanctioned plan was in fact, true and genuine. No such steps were also taken in this regard. Even when this Court gave an opportunity to the petitioners to P.W1 to present himself for cross examination with regard to the maintainability of the petition by the power agent, the power agent has not appeared as directed by this Court in the earlier round of revision petitions. Though the argument by Mr.Ravishankar that P.W.1 was very much present and it was only the learned counsel for the tenant who did not cross examine him, the Rent Controller has clearly given a finding to the contrary and I see no reason to disbelieve the same, especially when the said findings has not even been challenged in the grounds of the Rent Control Appeal.

20. Coming to the decision that has been relied on by Mr.G.Ravisankar, no doubt this Court in *Sridharan's* case (referred herein supra), held that the landlord need not produce currency before the Court to prove means and holding that raising of funds for construction is not difficult in modern times when there are builders, financiers as well as Banks who are willing to advance funds. However, even in the said case, the landlord has examined himself and had established availability of



sufficient cash and also that he owned immovable properties, besides jewellery which he has deposed about and stated that by selling the same, he can mobilise funds. In such circumstances, the evidence of the landlord was held to be sufficient to establish means. However, in the present case, excepting for the averments in the RCOP petition, there is and absolutely no evidence on the side of the petitioners. Moreso, when the power agent alone was examined, his evidence cannot be substituted for the evidence regarding assets and availability of funds of the petitioners about which the petitioners alone could have spoken and not the power agent, especially in the absence of documentary evidence to establish means. Even with regard to the age and condition of the building, the petitioners have not even chosen to examine an expert or an Engineer to substantiate their claim that the building is old and requires immediate demolition and construction.

21. Coming to the eviction orders passed in connected matters filed against the other tenants occupying the same building and that such tenants have also vacated, as rightly found by the Courts below, though the petitioner's claim that the other eviction petitions have been allowed and they have also taken possession, the petitioners have not filed any



documentary evidence to establish the same. In this regard, reliance is placed on in *Thirumala Tirupati Devasthanams'* case (referred herein supra). That was a case where a judgment of the Sub Court declaring the title of the Thirumala Tirupati Devasthanam was claimed to be admissible as evidence, in a subsequent suit where the plaintiff was not a party to the earlier judgment. In such context, the Hon'ble Supreme Court held that a judgment not inter se parties is admissible in evidence under Section 13 of the Indian Evidence Act as evidence of an assertion of a right to property in dispute. In the present case, there is no assertion of right to property unlike the case before the Hon'ble Supreme Court. Therefore, in my considered opinion, neither Section 13 of the Indian Evidence Act nor the ratio laid down *Thirumala Tirupati Devasthanam* case above, would apply to the facts of the present case.

22. The said ratio, in my considered opinion, may not be applicable to the present case, where it is not a right establishing title which is subject matter of the present proceedings. Having filed an eviction petition against the respondent, it is for the petitioners to establish a bonafide requirement for eviction and in the absence of proof, the petitioners are certainly not entitled to an order of eviction. Rightly, the



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Courts below have rejected the contentions of the petitioners and finding that the petitioners, have not established any bonafides in requiring the revision petitioners have proceeded to dismiss the eviction petition.

23. In exercise of powers under Section 25 of the Act, it is now settled law that this Court sitting in revision cannot re-appreciate evidence and interfere with concurrent findings of fact rendered by the Rent Court as well as the Appellate Authority, as long as such findings are based on materials available before the Rent Controller. Even from this angle, I am unable to tinker with the findings rendered by the Courts concurrently, and to interfere under Section 25 of the Act.

24. In fine, I do not find any merits and Civil Revision Petition is dismissed. However, the dismissal of this revision shall not come in the way of the petitioners invoking the provisions of Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, in the manner known to law. No costs.

12.12.2025

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1. The IX Judge (FAC), Court of Small Causes, Chennai
2. The X Court, Small Causes Court, Chennai.

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P.B.BALAJI, J.,

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Pre-delivery order in
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