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CRP No. 691 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-07-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRP No. 691 of 2025 & CMP.No.3910 of 2025

1. E.V.Zeenath (deceased),
Prop.M/s.Lily Gift House, Rep by her
legal heirs, Sajith Shahabudin (died),
1.Shinoj Shahabudin, Shop No. 23,
Ground Floor, Sowcarpet, Chennai 79,
Presently at Armaar, AP III 435, Kanoth
Post, Azhiyur, Kerala 673 309

2. Zazia Shahabudin
Shop No. 23, Ground Floor, Sowcarpet,
Chennai 79, Presently at Armaar, AP III
435, Kanoth Post, Azhiyur, Kerala 673
309

Petitioner(s)

Vs

1. M.Vedagiri
No. 34, Kasi Chetty Street, Sowcarpet,
Chennai 079

Respondent(s)



PRAYER : Petition filed under 25[1] of Tamil Nadu Buildings & Rent Control] Act 1960 to set aside the judgement and decree dated 08-12-2023 made in RCA.No.420/2018, on the file of the Small Causes Court, Chennai in confirming the order and decree dated 27-07-2017 made in RCOP.No.118/2015 on the file of the XVI Judge, Court of Small Causes Court, Chennai.

For Petitioner(s): N.S.Siva Kumar

For Respondent(s): M/s.Ralph V.Manohar

ORDER

Challenging the concurrent finding of the Rent Court as well as the Rent Tribunal Ordering eviction of the revision petitioner, this Civil Revision Petition has been filed.

2. The landlord initiated eviction proceedings for requiring the premises for own use and occupation. According to the landlord, the premises is required for his son to start his own stationery business. The petitioner/tenant took a shop in the fourth floor and is paying rent of Rs.3,500/- per month. Hence, landlord sought eviction on the ground of son's occupation and also for additional accommodation. The respondent, admitting that he is a tenant in the



non residential premises, it is the contention of the respondent that he is carrying on business of leather bags, suitcase and other articles in the petition premises for more than 25 years. It is also stated the petitioner and his son are owners of other buildings and are deriving huge rental income and they are in no need of the petition premises. However, the respondent is not in a position to get commercial space for rent since the rate is exorbitant. The rent controller has allowed the application on the ground of additional accommodation. In the appeal, the appellate Court has also allowed the application under section 10[3] [c] of Tamil Nadu Buildings [Lease and Rent] Control Act by holding that merely because wrong provision is quoted for additional accommodation before the Rent Controller, the same is not germane for consideration and allowed the appeal.

3. It is the contention of the learned counsel appearing for the petitioner that there is no bonafide established on the side of the landlord. Further, the Courts below having held that the receipts produced by the landlord has been created for the purpose of case and the Rent Court and Rent Tribunal ought to



have dismissed the application for eviction. In support of his contention he relied on the following judgments :

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1. Muttulal Vs. Radhe Lal reported in [1974] 2 Supreme Court Cases

365

2. Deena Nath Vs. Pooran Lal reported in [2001] 5 Supreme Court

Cases 705

4. Whereas, the learned counsel appearing for the respondent would submit that the revision petitioner is not in possession of the property. His grounds of the appeal itself indicate that he is not in possession of the premises and one A.Thajuddin is in possession of the premises and he had already filed an objection petition. Now the tenant, who is not in possession and set up third party, cannot contend that there is no bonafide on the part of the landlord. It is his further contention that the landlord's son doing business in a rental premises has not been disputed. In fact the same has been admitted.

5. The point that arises for consideration in this revision is



Whether the landlord has proved bonafide to seek eviction

on the ground of own use and occupation for residential purpose?

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6. Though eviction has been sought originally under section 10[3] [c] of Tamil Nadu Buildings [Lease and Rent] Control Act, the proper provision of law is Section 10[3] [a] [iii] of Tamil Nadu Buildings [Lease and Rent] Control Act to seek eviction of the non residential premises, which is required for use of any of the family members, it is the specific contention of the landlord that his son is doing business in a rental premises and some receipts filed in this regard have been disbelieved by the Courts below. The fact that the son of the landlord is doing business in a rental premises is not disputed in the counter. In the counter, it is the specific stand of the tenant that the present accommodation of the landlord's son is more than sufficient for the alleged business of the son of the petitioner and is suitable for his needs. The very pleading in the counter indicate that the son of the landlord is doing business in a tenanted premises. Therefore, merely because the landlord has other buildings, it is not for the

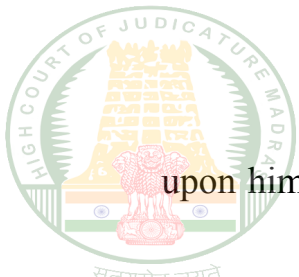


tenant to dictate terms to landlord as to which building is suitable for his son's business. The bonafides have to be tested on the basis of the real requirement.

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Merely because, some other places are available, it may not be a ground to hold that there is no bonafide on the part of the landlord to seek eviction of the non residential building for his business, when admittedly his son is running business in a rented premises. In such view of the matter, as the Courts below have concurrently found that the requirement of the landlord is a bonafide, this Court cannot reappreciate entire evidence.

7. The judgement relied on by the petitioner in **Deena Nath Vs. Pooran Lal** reported in [2001] 5 Supreme Court Cases 705, wherein the Apex Court having found that the landlord has yet another shop to run his business, held that the requirement of the landlord cannot be termed as bonafide one and hence dismissed the appeal. Similarly in the judgment in **Muttulal Vs. Radhe Lal** reported in [1974] 2 Supreme Court Cases 365 wherein it has been categorically held that mere desire on the part of the landlord is not enough but there should be an element of need and the landlord must show the burden being



upon him that he genuinely requires the non-residential accommodation for the purpose of starting or continuing his own business. Though there is no quarrel over the above judgements, these judgements are not applicable to the facts of this case. In this case, it has been established by the landlord that his son is doing business in a rented premises and hence, he is in need of additional accommodation. Hence, I do not find any merits in this revision.

8. Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

30-07-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

vrc

To

1. The IX Judge,
Court of Small Causes, Chennai.

2. The XVI Judge,
Court of Small Causes, Chennai.



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N.SATHISH KUMAR J.

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