



CRP NPD.No.4376 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 24.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP NPD No.4376 of 2024 & CMP.No.24367 of 2024

P.Selvaraj

... Petitioner

Versus

1. Poongothai
2. Ramalingam
3. Balu Mahendra

... Respondents

PRAYER : Petition filed under section 115 of Code of Civil Procedure to set aside the Order dated 24.01.2024 made in E.P.No.45 of 2021 in O.S.No.19 of 2011 on the file of the Principal District Munsif Court, Erode by allowing this Civil Revision Petition.

For petitioner : Mr.M.Ashwin Kumar

For respondents : Mr.D.Gopal – R1 & R2

ORDER



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Challenge has been made against against the concurrent finding of the rent controller as well as the appellate authority in Ordering eviction of the petitioner under section 10 [3] [c] of Tamilnadu Buildings [Lease and Rent Control] Act.

2. The respondents have filed an application under 10[3][a] and 10[3][c] of Tamilnadu Buildings [Lease and Rent Control] Act for eviction of the revision petitioner. It is the contention of the learned counsel appearing for the petitioner that one Muralidharan and his sisters owned the premises. The said Muralidharan during his life time has let out the property to the petitioner and the petitioner is inducted as a tenant and is running a fruit shop in the premises from 08.06.2014. After the death of said Murlidharan, as the third respondent required the rented premises for running his office, eviction is sought. Counter has been filed by the revision petitioner opposing the petition. The trial Court after considering the evidence of P.W.1 and Ex.P.1 to Ex.P.8 Ordered eviction. The appellate authority confirmed the Order of eviction by the trial Court. Challenging the concurrent finding of the Courts below, the



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present Civil Revision Petition has been filed mainly on the ground that the trial Court shifted the burden on the tenant to prove certain facts. When the landlord has failed to prove the nature of business, shifting the burden on the tenant is not valid in the eye of law. Hence, the present revision petition.

3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused entire materials available on record.

4. Though eviction has been ordered under section 10[3][c] of the Tamilnadu Buildings [Lease and Rent Control] Act, the fact remains that the pleading of the parties clearly indicate that eviction is ordered under section 10[3][a][iii] of Tamilnadu Buildings [Lease and Rent Control] Act for own use and occupation. It is not the case of the landlord that a portion of the building in the ground floor is required for their residential purpose under section 10[3][c] of Tamilnadu Buildings [Lease and Rent Control] Act. Therefore, it has to be concluded that eviction is sought only for the purpose of running own business. Therefore, merely quoting wrong provision of law will not be a



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ground to disbelieve the case of the landlord. P.W.1 in his cross examination has clearly stated that the third petitioner was running business in a rented premises and hence, they need the premises for their business. Therefore, when the landlord has clearly established that they require the premises for their business and the Courts below had concurrently held that one of the landlord is running a business in a rented premises and he require the premises for his own purpose, the concurrent finding cannot be interfered in a revision. Merely because some other portion is also rented out, the tenant cannot dictate the landlord in which portion he has to do his business. It is also stated by both sides, the tenant has already been evicted from the premises in the execution proceedings. In such view of the matter, I do not find any merits in this revision.

5. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.01.2025



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Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

1. The Principal Sub Judge,
Coimbatore.
2. The I Additional District Munsif,
Coimbatore.



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N. SATHISH KUMAR, J.

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