

Daniel Vs. Dr.P. Muthuswamy and Others

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Court : Chennai

Decided On : Dec-21-2015

Judge : M. Duraiswamy

Appeal No. : C.R.P.(PD)Nos. 1762 & 1763 of 2015 & M.P.Nos. 1 of 2015 (2 in Nos.) & 2 of 2015 (2 in Nos.)

Appellant : Daniel

Respondent : Dr.P. Muthuswamy and Others

Judgement :

(Prayer: Civil Revision Petitions filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 against the judgment and decree of the Rent Control Appellate Authority, IX Judge, Court of Small Causes, Chennai dated 19.12.2014 made in R.C.A.No.603 of 2014 and 604 of 2014, confirming the fair and decreetal order of the Rent Controller, XI Judge, Court of Small Causes, Chennai dated 5.8.2014 made in RCOP Nos.1183 and 1185 of 2012.)

Common Order

1. C.R.P.(NPD)No.1762 of 2015 arises against the judgment and decree passed in R.C.A No.603 of 2014 on the file of Rent Control Appellate Authority, IX Judge, Court of Small Causes, Chennai, confirming the order passed in R.C.O.P No.1183 of 2012 on the file of Rent Controller, XI Judge, Court of Small Causes, Chennai. The tenant is the petitioner.

2. C.R.P.(NPD)No.1763 of 2015 arises against the judgment and decree passed in R.C.A No.604 of 2014 on the file of Rent Control Appellate Authority, IX Judge, Court of Small Causes, Chennai, confirming the order passed in R.C.O.P No.1185 of 2012 on the file of Rent Controller, XI Judge, Court of Small Causes, Chennai. The tenant is the petitioner.

3. RCOP No.1183 of 2012 was filed by the landlords for eviction on the ground of wilful default and owners occupation in respect of the ground floor.

4. RCOP No.1185 of 2012 was filed by the landlords for eviction on the ground of wilful default and additional accommodation for the 6th petitioner in RCOP No.1185 of 2012. The tenant is the petitioner in respect of the first floor.

5. Since both these matters arise between the same parties, they are disposed of by this common order.

6. It is not in dispute that the rent in respect of the ground floor portion was Rs.1,500/- and in respect of first floor portion was Rs.1,700/-. The premises was let out for non-residential purpose.

7. According to the landlords, the tenant committed default in paying the rent for the period from July 2011 to May 2012. The tenant has also filed petitions in R.C.O.P Nos.2269 and 2270 of 2012 under Sec.8(5) of Tamil Nadu Buildings (Lease and Rent Control) Act for depositing the rent into Court. The landlords require the premises for the use of the 6th respondent in these Civil Revision Petitions, who is a practicing Advocate in the High Court of Madras.

8. According to the landlords, since the premises, now occupied by the 6th respondent, is very small, he requires the petition premises for his own use and as an additional accommodation. Though the landlords contended that the tenant has defaulted in paying the monthly rent from July 2011 to May 2012, the tenant contended that by filing Original Petitions under Sec.8(5) of Tamil Nadu Buildings (Lease and Rent Control) Act, they have shown their bonafides in contending that they have not committed any wilful default. However, it is pertinent to note that even in R.C.O.P. Nos.2269 and 2270 of 2012, they sought to deposit the rent from

August 2012 only. Therefore, the Rent Controller rightly dismissed the petitions.

9. In order to establish that the tenants have not committed any default, the tenant has miserably failed to prove such contention by any acceptable evidence. The landlords have clearly established that the tenants have committed wilful default in paying the monthly rents. Therefore, the order of eviction, passed by the courts below, are perfectly right.

10. With regard to the ground of owner's occupation is concerned, the landlords have established that they require the Ground floor portion for their own use and occupation by adducing proper evidence before the Rent Controller. The landlords require the premises for the use of the 5th petitioner in the Rent Control Original Petition. Therefore, when the landlords have proved the ground of owners occupation, the order of eviction by the Courts below on this ground, is just and proper.

11. With regard to additional accommodation, the landlords were able to establish that they require the First floor portion for the use of the 6th respondent, who is a practicing Advocate and that he is in occupation of a small portion at present. Therefore, for having a spacious place to run the Office, the 6th respondent requires the premises. The landlords have established the plea of additional accommodation by oral and documentary evidence. In these circumstances, the order of eviction, passed by the Courts below , on this ground is also proper.

12. In these circumstances, I do not find any ground to interfere with the concurrent findings of the Court below. Hence the Civil Revision petitions are liable to be dismissed as devoid of merits. Accordingly, the both the Civil Revision petitions are dismissed. No costs. Consequently, connected MPs are closed.

13. Mr..N. Anand Venkatesh, learned counsel appearing for the petitioner/tenant submitted that the tenant is willing to vacate the premises in nine months time and therefore, this Court may grant nine months time to vacate the premises. However, the learned counsel for the respondents/landlords submitted that since the landlords require the premises urgently, six months time may be granted. Having regard to the submissions made by the learned counsel on either side, I grant six

months time to the petitioner/tenant to vacate and hand over the vacant possession of both the portions to the respondents/landlords, without driving them to initiate execution proceedings.

14. The petitioner/tenant shall file an affidavit of undertaking to that effect before the Registry of this Court on or before 5.1.2016. The affidavit of undertaking, to be filed by the petitioner, shall form part of the record in the Civil Revision Petitions.

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