

P.G.Thomas. Vs. K.Suseela Devi

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Court : Chennai

Decided On : Jul-23-2012

Judge : G.Rajasuria, J.

Acts : Tamil Nadu Buildings (Lease and Rent Control) Act - Section 14(1)(b)

Appeal No. : C.R.P.NPD.No.3267 of 2011 and M.P.No.1 of 2011

Appellant : P.G.Thomas

Respondent : K.Suseela Devi

Advocate for Def. : Mr.P.K.Sivasubramaniam. Adv

Advocate for Pet/Ap. : Mr.G.Ramachandran, Adv.

Judgement :

Civil revision petition filed against the judgement and decree dated 22.11.2010 passed by the VIII Small Causes Court, Chennai, in RCA No.1183 of 2004 confirming the order dated 17.9.2004 passed by the XV Judge, Court of Small Causes, Madras in RCOP No.1329 of 2002.

ORDER

1. Animadverting upon the judgement and decree dated 22.11.2010 passed by the VIII Small Causes Court, Chennai, in RCA No.1183 of 2004 confirming the order

dated 17.9.2004 passed by the XV Judge, Court of Small Causes, Madras in RCOP No.1329 of 2002, this civil revision petition is filed.

2. The parties, for the sake of convenience, are referred to hereunder according to their litigative status and ranking before the Rent Controller.

3. A summation and summarisation of the relevant facts absolutely necessary for the disposal of this civil revision petition, in a few broad strokes can be encapsulated thus:

(i) The respondent herein filed the RCOP No.1329 of 2002 for eviction, invoking Section 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, on the ground of 'demolition and reconstruction' contending that she purchased a portion of a big building, in which the revision petitioner has been occupying as a tenant, doing tailoring shop.

(ii) The petition was resisted by the revision petitioner herein/tenant to the effect that unless the landlady could prove that she purchased the entire building, of which the demised premises forms a part, she cannot seek eviction on the ground of 'demolition and reconstruction'.

(iii) During enquiry, on the landlady's side PW1 to PW3 were examined and Exs.P1 to P11 were marked. The tenant examined himself as R.W.1 and marked Exs.R1 to R37.

(iv) Ultimately, the Rent Controller ordered eviction.

(v) Being aggrieved by and dissatisfied with the said order, the appeal was filed for nothing but to be dismissed by the Rent Control Appellate Authority, confirming the order of the Rent Controller.

4. Agitating and impugning, challenging and questioning the order and judgement of the respective fora below, this revision has been focussed by the tenant on various grounds.

5. The learned counsel for the revision petitioner/tenant would pilot his arguments based on the grounds set out in the revision, which could pithily and precisely be

set out thus:

There is nothing to indicate and exemplify in the law that a person, who purchased a part of the building can seek for 'demolition and reconstruction' of that portion. Here, the sale deed-Ex.R1 in favour of the landlady was only for Rs.3,00,000/-, however, that portion itself would value more. There are mortgagors having interest over the suit property and litigations are pending. Accordingly, the learned counsel would pray for setting aside the order and judgement of both the Courts below and for dismissing the RCOP.

6. In a bid to extirpate and pulverise the arguments as put forth and set forth on the side of the learned counsel for the petitioner/tenant, the learned counsel for the respondent herein/landlady would pyramid his arguments, which could pithily and precisely be set out thus:

(i) The building concerned is down at heels and Ex.P9 Series-the photos would exemplify and demonstrate as to how the building is totally unfit for occupation.

(ii) Undoubtedly the landlady purchased an extent of 1,300 sq.feet in a building having an area of 2,159 sq.feet and the tenant is occupying a portion of the area, which was purchased by the landlady herein, and in such a case, it would not lie in the mouth of the tenant herein to raise any plea as he has raised in his counter to RCOP and also in the grounds of revision.

(iii) The landlady also got sub-divisioned of the area purchased as per the sale deed Ex.R1. The law is well settled that the landlady is expected to file before the Executing Court the current plan for demolition and reconstruction and then only the Executing Court would issue delivery order.

Accordingly, the learned counsel would pray for the dismissal of the revision.

7. The point for consideration is as to whether there is any embargo under Section 14 of the Tamil nadu Buildings (Lease and Rent Control) Act that the person, who purchased a portion of the building, is not entitled to seek for demolition and reconstruction, as it is prayed in this case?

8. The whole kit and caboodle of facts and figures as stood transpired from the records would be to the effect that the landlady herein purchased an extent of 1300 sq.feet of building area in a building measuring 2159 sq.feet, as per Ex.R1-the certified copy of the sale deed; the building is virtually down at heels and there could be no second thought over it.

9. The core question arises as to whether the landlady, who purchased the said extent of 1300 sq.feet in a building, wherein, in a portion the tenant is occupying and running a tailor shop, could maintain an application under Section 14 of the Act.

10. On the side of the respondent/landlady, the decision of the Honourable Supreme Court reported in (2002)4 SUPREME COURT CASES 437 R.V.E.VENKATACHALA GOUNDER V. VENKATESHA GUPTA AND OTHERS has been cited, an excerpt from it would run thus:

"12. Reverting back to the case at hand, we find that the six tenants are not in full occupation of the entire space available. The landlord proposes to construct a new and modern building in a busy commercial locality of a rising city. The landlord requires a part of the newly constructed building for his own personal use and such part of the newly constructed building as would be in excess of his own requirement he is willing to let out at current rate of rent to his tenants, which would obviously augment his earnings. The newly constructed double-storeyed building, would certainly provide much more total accommodation than what is available. In such circumstances the offer of the tenant that they are prepared to pay the rent at the current rate, the one which the landlord expects on reconstruction, becomes irrelevant and should not have prevailed with the High Court."

11. A mere poring over and perusal of the said decision would leave no doubt in the mind of the Court that a person, who purchased even a part of a building can be sought for 'demolition and reconstruction' and there is no embargo. Nowhere in the law it is contemplated that the entire building should be demolished and reconstructed.

12. Both the Courts adverted to the precedent concerned and correctly decided the lis, warranting no interference in revision.

13. On the side of the revision petitioner/tenant, no decision has been cited to highlight that in matters of this nature, the landlady cannot seek for demolition and reconstruction of the demised premises and as such I could see no perversity or illegality in the orders passed by the Courts below.

14. There is no denying of fact that in matters of this nature, the landlady should submit current approved plan before the Executing Court concerned and only on satisfaction of such plan, the Executing Court should issue delivery order. As such, with this finding, I am of the view that there is no merit in this revision.

15. In the result, the civil revision petition is dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is dismissed.

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