
(2012) 02 MAD CK 0059

In the Madras High Court

Case No : CRP. (NPD) No. 2614 of 2010 and M.P. No. 1 of 2010

Mr. V.M. Sivakumar

APPELLANT

Vs

Mr. J. Chandrasekaran

RESPONDENT

Date of Decision : 14-02-2012

Acts Referred:

Citation : (2012) 02 MAD CK 0059

Hon'ble Judges : R.S. Ramanathan, J

Bench : Single Bench

Advocate : M. Saravanakumar, for the Appellant; M.V. Sesha Chari, for the Respondent

Final Decision : Dismissed

Judgement

Honourable Mr. Justice R.S. Ramanathan

1. Tenant is the Revision Petitioner. The respondent/landlord filed R.C.O.P. No. 21 of 2008 on the file of the Principal District Munsif

Poonamallee/Rent Controller for eviction on the ground of willful default and owner's occupation. The learned Rent Controller ordered eviction on

both the grounds and in the appeal filed by the Revision Petitioner in R.C.A.No. 26 of 2009 on the file of the Sub Court, Poonamallee, the eviction

order was confirmed only on the ground of owner's occupation. Aggrieved by the same, this Civil Revision Petition is filed by the Revision

petitioner/Tenant. It is submitted by the learned counsel appearing for the Revision Petitioner that as per the Agreement dated 05.04.2007, the

parties agreed to have lease for 2 years and without his knowledge and consent lease period was reduced to one year and as per the original

agreement, the tenancy is for 2 years and it would come to an end only on

05.04.2009 and before that, the eviction petition was filed and therefore, the petition filed by the respondent/landlord is premature. He further submitted that the revision petitioner/tenant has been paying the rent regularly and he has paid the rent up to April 2012 and the respondent/landlord is having an advance of Rs. 20,000/- and the requirement of the respondent/landlord is not bonofide and the respondent/landlord is having three houses and only in order to evict the Revision Petitioner, this petition was filed and the petition premises is not suitable for the daughter's residence and without considering these aspects both the Courts have ordered eviction.

2. I am unable to accept the contentions of the learned counsel appearing for the revision petitioner. Ex.R2 is the Rental Agreement dated 05.04.2007 filed by the Revision petitioner and as per the Ex.R2 the lease was for the period of one year. No doubt, there is a correction in Ex.R2 regarding the period of lease. In my opinion having regard to the fact that Ex.R2 was produced by the Revision Petitioner, it is not open to the Revision Petitioner to contend that the correction in Ex.R2 was made without his knowledge. I therefore, hold that the lease period is for one year and the petition for eviction was filed after expiry of one year period.

3. As regards, the owners occupation, the respondent/landlord has stated in the petition that his daughter is staying in a rental plot and therefore, he requires the premises for the occupation of his daughter and the evidence was also let in to the said effect. The daughter of the respondent/landlord was examined as P.W.2 and she also marked Ex.P2 the certificate issued by her employer. Ex.P3 the rental receipt filed to prove that she is in a rental premises. Further it was held that the revision petitioner has not proved that the respondent/landlord is having other buildings and even assuming that the respondent/landlord is having other buildings, the tenant cannot dictate the respondent/ landlord which building he has to choose.

Considering all these aspects both the Courts have rightly held that the buildings is required for the residential purpose of the respondent's daughter and ordered eviction. Hence, I do not find any infirmity in the order of the courts below.

4. In the result, this Revision Petition is dismissed. The Revision Petitioner is granted time till 30.06.2012, for vacating and handing over of the

vacant possession of the premises to the respondent/landlord, on condition of the revision petitioner filing an undertaking affidavit to the same effect within a period of two weeks from the date of receipt of a copy of the order. The respondent/landlord is also directed to return advance the amount of Rs. 20,000/- and the revision petitioner/tenant is directed to pay the admitted rent till he vacates the premises and hands over the vacant possession of the petition premises. If there is any default either in filing the undertaking affidavit or in paying the rent, it is open to the respondent / landlord to execute the order of eviction. M.P.No. 1 of 2010 is closed. No costs.