

(2014) 07 MAD CK 0065

In the Madras High Court

Case No : CRP NPD No. 2213 of 2014 and M.P. No. 1 and 1 of 2014

Sundari

APPELLANT

Vs

R. Manjula

RESPONDENT

Date of Decision : 03-07-2014

Acts Referred:

Citation : (2014) 07 MAD CK 0065

Hon'ble Judges : N. Kirubakaran, J

Bench : Single Bench

Judgement

N. Kirubakaran, J.—The tenant is before this court challenging the order of conviction on the ground of owner's occupation concurrently by both the courts below in the petition filed by the respondent/landlord.

2. Heard Mr. H. Adaikala Arockiaraj, learned counsel appearing for the petitioner and Mr. C. Umashankar, learned counsel appearing for the respondent.

3. It is admitted case that the respondent is the landlord and the petitioner is the tenant occupying the petition premises at Old No. 34A, New No. 27A, First Main Road, Ram Nagar, Chennai 600 082, on a monthly rent of Rs. 2200/-. The respondent approached the Rent Controller to evict the petitioner on the ground of owner's occupation contending that at present she is living with her married second daughter and she is unable to live there as the in laws of the daughter are often visiting and putting the respondent in an embarrassing position.

4. The Rent Controller, considering both the pleadings and evidence of the parties, came to the conclusion that the plea of the respondent/landlord is bonafide and she is presently living with her married second daughter and she bonafidely requires the petition premises. The Rent Controller took note of the fact that except the oral evidence of the petitioner no other evidence available on the side of the petitioner/tenant to prove that the respondent/landlord is having property other than the petition premises, even though it is pleaded in the counter statement. When the respondent's husband passed away, respondent is

living with her married second daughter, definitely it will not be a conducive atmosphere for the respondent to live with her married second daughter, especially when the in laws of the daughter are often visiting. More so, when she has got a property on her own, it is not only the factum of possession of the property but also the treatment to be given to the old lady, namely the respondent, that has to be taken into consideration by the court. Certain facts cannot be proved as the treatment and other emotional issues are involved. Therefore, the order passed by the trial court as confirmed by the Appellate Court recognising the bonafide requirement of the respondent is sustainable and there is no perversity on the orders passed by the courts below. Therefore, the Civil Revision Petition fails.

5. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

6. Mr. Adaikala Arockiaraj, learned counsel appearing for the petitioner seeks six (6) months time to vacate and deliver possession of the property. However, Mr. C. Uma Shankar, learned counsel appearing for the respondent is inclined to grant three (3) months time.

7. Taking into consideration that the petition premise is used for residential purpose, five (5) months time is granted to the petitioner/tenant to vacate and hand over possession to the respondent on or before 05.10.2014 provided the petitioner/tenant files an affidavit to that effect on or before 04.07.2014.

8. Call the matter on 04.07.2014 for compliance.