

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2010

CORAM

The Hon'ble Mr.Justice R.S.Ramanathan

C.R.P(NPD)No.3411 of 2009
and
M.P.No.1 of 2009

O. Manoharan ... Petitioner/Tenant

Vs.

M.Subramani ... Respondent/Landlord

Civil Revision Petition filed Section 25 of T.N.Buildings (Lease and Rent Control)Act,1960 as against the order dated 31.01.2008 made in R.C.O.P.No.918 of 2007 on the file of the X Judge Court of Small Causes, Chennai and partly allowed in R.C.A.No.160 of 2008 dated 04.08.2009 on the file of the VII Judge Court of Small Causes, Chennai.

For Petitioner : Mr.K.S.Lakshmi Kumaran

For Respondent : Ms. A.Sathya Bama for
Mr.T.R.Rajaraman

ORDER

The tenant in R.C.O.P.No.918 of 2007 on the file of the City Civil Court, is the revision petitioner herein.

2. The respondent/landlord filed a petition in R.C.O.P.918 of 2007, for eviction on the ground of wilful default and owner's occupation. The Learned Rent Controller allowed the petition on both the grounds and ordered eviction. Being aggrieved, the revision petitioner/tenant filed an appeal in R.C.A.No.160 of 2008 on the file of the Rent Control/Appellate Authority [VII Judge, Court of Small Causes] Chennai and the Learned Appellate Authority reversed the finding in respect of wilful default with payment of rent and confirmed the finding that the building is required for the own use and *bonafide* occupation of the landlord and confirmed the order of eviction. This order is challenged in this revision petition by the revision petitioner/tenant.

3. It is submitted by the learned counsel appearing for the

revision petitioner that the respondent/landlord has relied upon Exs.P2 and P3, to prove that his son is doing business in a rented premises and that landlord's son threatened to take action against his son. Therefore, he needs the premises for his son's own occupation. It is the further submission of the learned counsel for the revision petitioner that Exs.P2 & P3, would make it clear that those documents were created only for the purpose of the eviction proceedings and the signature found in Exs.P2 & P3, are patently different and therefore, it cannot be stated that the son of the landlord was threatened by his landlord to vacate the premises and it is the specific case of the revision petitioner/tenant that the son of the landlord is working in a private concern and he is not doing any business and therefore, the eviction on the ground of owner's occupation is not sustainable.

4. On the other hand, the learned counsel appearing for the respondent/landlord submitted that even in the reply notice, Ex.P6, the tenant has admitted that the landlord's son is doing business of his own and presently he is engaged in other occupation. Therefore, the revision petitioner has admitted that the landlord's son is doing business and it is not the case of the revision petitioner that the landlord's son is doing business in his own premises or in the premises belonging to his father. In the absence of any evidence adduced by the tenant that the landlord's son is doing business in premises of his own, it can be presumed that the landlord's son is doing business in other premises. Even assuming without admitting that there is no threat of eviction by his landlord, that cannot be a reason to doubt the *bona fide* of the landlord, as the landlord wants his son to do business in his own premise. Further, both the Learned Rent Controller and the Rent Control Appellate Authority have concurrently held that the requirement of the premise by the landlord for his son's own use and occupation is *bona fide* and as stated supra, the tenant has also admitted in the reply notice that the landlord's son is doing business. Considering all these aspects, I do not find any merit in the contention of the learned counsel for the revision petitioner and the order of the Lower Court does not call for any interference and hence the findings of the Court below are confirmed. The Civil Revision Petition is dismissed.

5. Considering the fact that the tenant is doing business, I am inclined to grant six months time for vacating the premise on condition of filing an undertaking affidavit by the tenant agreeing to vacate the premise on or before the expiry of six months from this date and continue to pay the rent without any default. In case if the affidavit is not filed within a period of four weeks, it is open to the landlord to execute the order of eviction.

6. With the above observation, the Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

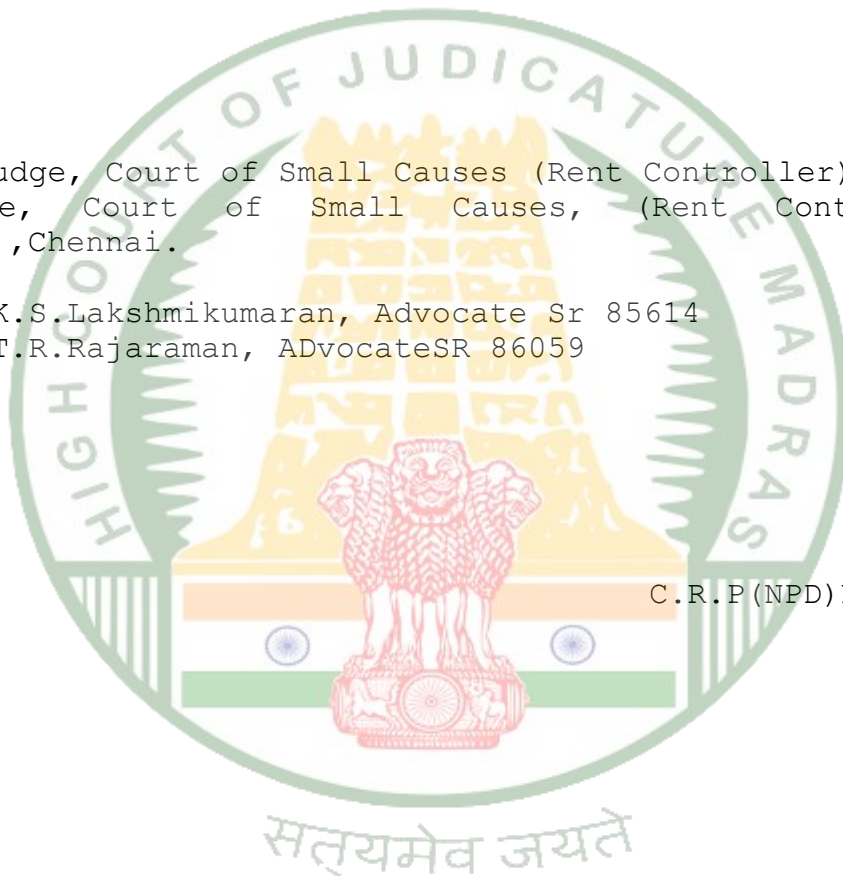
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To

1. The X Judge, Court of Small Causes (Rent Controller), Chennai.
- 2.VII Judge, Court of Small Causes, (Rent Control Appellate Authority), Chennai.

+1cc to Mr.K.S.Lakshmikumaran, Advocate Sr 85614
+1cc to Mr.T.R.Rajaraman, ADvocateSR 86059

NG (CO)
km/11.1.



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