

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(NPD) NOS.656 AND 657 OF 2015
AND M.P.NOS.1 AND 1 OF 2015

G.Krishnamurthy ... Petitioner in
CRP (NPD) No.656/2015

K.Thara ... Petitioner in
CRP (NPD) No.657/2015

Vs.

1.M.R.Manoharan (Died)
2.M.R.Easwari
3.Rajalakshmi ... Respondents in both CRPs'

PRAYER IN CRP (NPD) NO.656/2015: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the judgment and decree passed in R.C.A.No.554 of 2013 dated 10.10.2014 by the learned VIII Judge, Court of Small Causes, Chennai, confirming the fair order and decree passed in M.P.No.530 of 2010 in R.C.O.P.No.1094 of 2009 dated 20.08.2013 by the learned X Judge, Court of Small Causes, Chennai.

PRAYER IN CRP (NPD) NO.657/2015: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the judgment and decree passed in R.C.A.No.556 of 2013 dated 10.10.2014 by the learned VIII Judge, Court of Small Causes, Chennai, confirming the fair order and decree passed in M.P.No.529 of 2010 in R.C.O.P.No.1093 of 2009 dated 20.08.2013 by the learned X Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.T.S.Rajamohan

COMMON ORDER

The petitioners are the respondents in R.C.O.P.Nos.1093 and 1094 of 2009. The respondents initiated eviction proceedings against the petitioners under Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act. The respondents have averred that they are the absolute owner of the petition premises bearing Door No.338, Wall Tax Road, Chennai and the petitioners herein are the tenants and they have committed wilful default. The petitioners filed their counter statement stating that the respondents are not the owner of the petition premises and the eviction petition is not maintainable.

2.In the eviction petition, the petitioners have filed petitions in M.P.Nos.529 and 530 of 2010 under Section 11 of the Tamil Nadu Buildings (Lease and Rent Control) Act seeking stay of further proceedings in the eviction petition. The petitioners have contended in the affidavits filed in support of the petitions that they filed writ petition viz., W.P.No.15474 of 2010 before this Court and this Court was pleased to direct the Chennai Corporation to conduct enquiry and till such time, the Chennai Corporation shall not cause eviction on the petitioners. Both the petitions were rejected by the Rent Controller and the same was confirmed by the Appellate Authority. Challenging the order, the present Civil Revision Petitions are filed.

3.Mr.T.S.Rajamohan, learned counsel for the petitioners submitted that the eviction petition filed by the respondents on the ground of wilful default is not maintainable in law. It is further contended that the Chennai Corporation is the owner of the land and the superstructure was put up by the petitioners and since the ownership is in dispute before the Chennai Corporation, a parallel proceedings cannot be permitted. The learned counsel further submitted that in W.P.No.15474 of 2010, this Court passed an order that the petitioners shall not be evicted from the place in which they are said to be running the business.

4.I am not able to agree with the contentions of the learned counsel for the petitioners. The respondents have filed eviction petition claiming that they are the absolute owner of the petition premises. Though this Court in W.P.No.15474 of 2010 issued direction to the Chennai Corporation to conduct enquiry vide order dated 03.08.2010, so far, Chennai Corporation has not passed any order. Application under Section 11 of the Tamil Nadu Buildings (Lease and Rent Control) Act can be filed only by the landlord seeking stay of original petition on the ground of non-payment of rent by the tenant. The applications filed by the petitioners are not maintainable in law. Both the authorities have rightly rejected the applications, which does not warrant interference by this Court.

5. In the result, both the Civil Revision Petitions are dismissed. The Rent Controller can decide the eviction petition on merits and in accordance with law, without being influenced by any of the observation made in these Civil Revision Petitions. No costs. Consequently, connected miscellaneous petitions are closed.

24.02.2015

Index : Yes/No
Internet : Yes/No
TK

To

1. The VIII Judge
Court of Small Causes
Chennai.
2. The X Judge
Court of Small Causes
Chennai.

K.KALYANASUNDARAM, J.
TK

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