

Reserved On: 28-09-2016

Delivered On: 20-10-2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-10-2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)Nos.4022, 4023, 4024, 4025, 4026, 4027,
4028,4029, 4030, 4031, 4032, 4033 and 4034 of 2015
and

M.P.Nos.1 of 2015 (13 in Nos.) M.P.Nos.2 of 2015 (13 in Nos.)
and

CMP Nos.10721, 10722, 10723, 10724, 10725 and
10726 of 2016 in CRP (NPD) Nos.4022, 4025, 4026,
4027, 4031 and 4034 of 2015

Deepa Prasad	... Petitioner in CRP (NPD) No.4022 of 2015
Meenakshi	... Petitioner in CRP (NPD) No.4023 of 2015
Mansoor Ansari	... Petitioner in CRP (NPD) No.4024 of 2015
K. Khaja Sheriff	... Petitioner in CRP (NPD) No.4025 of 2015
Ramesh	... Petitioner in CRP (NPD) No.4026 of 2015
Sreedhar	... Petitioner in CRP (NPD) No.4027 of 2015
R.K. Krishnamoorthy	... Petitioner in CRP (NPD) No.4028 of 2015
Abdul Rasheed	... Petitioner in CRP (NPD) No.4029 of 2015

Haji Mohideen	... Petitioner in CRP (NPD) No.4030 of 2015
Syed Abdul Haneef	... Petitioner in CRP (NPD) No.4031 of 2015
Uttramma Selvan	... Petitioner in CRP (ND) No.4032 of 2015
Zakcra	... Petitioner in CRP (NPD)No.4033 of 2015
Abdul Rasheed	... Petitioner in CRP (NPD)No.4034 of 2015

vs

1. Hafsa Zainuddin	
2. Shameena Hafsa	
3. Ayub Zainuddin	
4. Rafica Zainuddin	
5.Dr.A.K. Fazluddin	 Respondents in all the revisions

Civil Revision Petitions filed under Section 25 (1) of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960 against the fair and decreetal order dated 31.08.2015 made in MP Nos.550, 551, 552, 554, 555, 557, 558, 559, 561, 562, 563, 561, 565 of 2015 in RCA No.547, 548, 549, 551, 552, 554, 555, 556, 558, 559, 560, 561 and 562 of 2014 passed by the learned Appellate Authority, VII Judge, Court of Small Causes, Chennai

For petitioners in all the revisions :	Mr.H. Kishore
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For respondents in: all the revisions	Mr.D.S. Ramesh
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COMMON ORDER

Since the issues involved in all the Civil Revision Petitions are one and the same, all the applications, filed before the Rent Control Appellate Authority, were disposed of by common order, all the above Civil Revision Petitions are disposed of by this Common Order.

2. The petitioners are the tenants and the respondents are the landlords. The landlords filed Rent Control Original Petitions for eviction on the ground of wilful default and denial of title. The tenants filed their counter in the Rent Control Original Petitions and contested the petitions, contending that the landlords are not the owners of the property and that, they are paying the monthly rents to one Aisha Zainuddin, who was examined as R.W.2, before the Rent Controller.

3. The Rent Controller, taking into consideration the oral and documentary evidences, let in by the parties, ordered eviction in all the Rent Control Original Petition Nos.1236, 1237, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1249, 1251, 1252, 1253, 1254,

1255, 1256 and 1257 of 2009 on the file of Rent Controller/X Judge, Court of Small Causes, Chennai. Against the order of eviction, passed by the Rent Controller, the tenants preferred Rent Control Appeals in R.C.A.Nos. 547, 548, 549, 551, 552, 554, 555, 556, 558, 559, 560, 561 and 562 of 2014 on the file of Rent Control Appellate Authority/VII Judge, Court of Small Causes, Chennai.

4. In the Rent Control Appeals, the landlords filed applications under Sec.11 (4) of Tamil Nadu Buildings (Lease and Rent Control) Act to direct the tenants to pay the admitted arrears of rent for the period from 01.11.2008 till June 2015 and also for the subsequent periods, failing which, to stop all further proceedings in the Rent Control Appeals and to order eviction against the tenants.

5. The Rent Control Appellate Authority allowed the applications, filed by the landlords and directed the tenants to deposit the arrears of rent for the period from 01.11.2008 to August 2015. Against the common order, passed by the Rent Control Appellate Authority, the tenants have filed the above Civil Revision Petitions.

6. Heard Mr.H. Kishore, learned counsel appearing for the petitioners and Mr.D.S. Ramesh, learned counsel appearing for the respondents.

7. Though the revisions petitioners contended that they are paying rents to one Aisha Zainuddin, the said plea was rejected by the Rent Controller as well as the Rent Control Appellate Authority for the reason that the petitioners have not established the said contention by acceptable evidence. In the absence of any document, produced by the tenants, to establish that the said Aisha Zainuddin is the landlady, the Courts below have rightly rejected the said contention.

8. That apart, the said Aisha Zainuddin was examined, on the side of the tenants, before the Rent Controller, as R.W.2. In spite of the same, she was not in a position to establish her right over the petition property. Even in the documents produced, as Exs.R.2 to R.10, the alleged rental receipts, the Courts below noted discrepancies in the said documents and rejected the documents. The tenants contended that when there is a dispute with regard to the jural relationship between the parties, the Courts below have no power to pass the

order under Sec.11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960. According to the landlords, they are the only legal heirs of the deceased Dr.A.K.Zainudeen and after his demise, they are entitled to collect the rent.

9. On the other hand, the tenants contended that they are paying the rents to one Aisha Zainuddin. The tenants have not disputed that the respondents are the legal heirs of Dr.A.K. Zainudeen. Their contention is that Aisha Zainuddin is the second wife of Dr.A.K. Zainudeen and that she is collecting the rents from them. Therefore, she is the landlady of the petition premises.

10. When the tenants are not disputing that the respondents are the legal heirs of Dr.A.K. Zainudeen and when they have not authorised the said Aisha Zainuddin to collect rents on their behalf, the contention of the tenants cannot be accepted. It is not in dispute that the petitioners became tenants under Dr.A.K. Zainudeen. Ex.P.8 is the Legal Heir Certificate, issued by the Revenue Authorities, in which, the said Aisha Zainuddin, has not been shown as the legal heir of Dr.A.K. Zainudeen.

11. The Rent Controller, taking into consideration all these aspects, came to the conclusion that the respondents are the landlords in respect of the petition premises and not the said Aisha Zainuddin.

12. It is a settled position that the tenants are bound to pay the monthly rents to the landlords without any default. In the absence of any proof that Aisha Zainuddin is the landlady in respect of the petition premises, the tenants are liable to pay the rents to the respondents. Since the order passed by the Rent Controller is under challenge before the Rent Control Appellate Authority in Rent Control Appeals, filed by the tenants, I am not giving any finding with regard to the issues decided by the Courts below, since the said finding may affect the case of the tenants before the Rent Control Appellate Authority.

13. The learned counsel, appearing for the petitioners, in support of his contention, relied upon the following judgments:

(i) 2002(1) CTC 487 (J.J. Lal Pvt Ltd and others vs M.R.

Murali and another), wherein, the Hon'ble Supreme Court of India held that the Scheme of the Act is prevention of unreasonable eviction of tenants and the landlord has to plead and prove ground for eviction entitling him to order of eviction and disentitling tenant from continuing in possession.

(ii) **CDJ 1991 APSC 055 (Soni Bhuthulasi Vs Kunda Nageswara Rao)**, wherein the Division Bench of Andhra Pradesh High Court held that the provisions of Order 1 Rule 10 of the Civil Procedure Code is not applicable to the rent control proceedings.

14. Though there is no dispute with regard to the ratios laid down in the judgments, relied upon by the learned counsel for the petitioners, since the facts and circumstances of the present case are completely different, the said judgments are not applicable to the present case.

15. Under Sec.11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, no tenant has a right to contest the Rent Control Proceedings, unless he has paid or deposited the rental arrears. In the

absence of any document to prove that the tenants have paid the rental arrears to the landlords, the Rent Control Appellate Authority had rightly allowed all the applications.

16. In these circumstances, I do not find any reason to interfere with the common order, passed by the Rent Control Appellate Authority. The Civil Revision Petitions are devoid of merits and the same are dismissed. No costs. Consequently, connected MPs and CMPs are closed.

20-10-2016

sr

Index:no
website:yes

To

The VII Judge, Court of Small Causes, Chennai

M. DURAISWAMY,J.,

sr

Pre-Delivery Common Order in
CRP(NPD) Nos.4022 to 4034 of 2015

20-10-2016