

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) Nos.618, 619, 620, 621, 622, 623, 624, 625,
626, 627, 628, 629 and 630 of 2016

and

C.M.P.Nos.3266, 3267, 3268, 3269, 3270, 3271, 3272, 3273, 3274, 3275,
3276, 3277 and 3278 of 2016

L.Indrajith S/o.Late Loganathan	... Petitioner in CRP (PD) No.618/16
L.Siddharthan S/o.Late Loganathan	... Petitioner in CRP (PD) No.619/16
S.Angayarkannai W/o.L.Siddharthan	... Petitioner in CRP (PD) No.620/16
I.Punithavathi W/o.L.Indrajith	... Petitioner in CRP (PD) No.621/16
S.Muralitharan S/o.L.Siddharthan	... Petitioner in CRP (PD) No.622/16
S.Karthik S/o.L.Siddharthan	... Petitioner in CRP (PD) No.623/16
I.Satishkumar S/o.L.Indrajith	... Petitioner in CRP (PD) No.624/16
Kesava Krishnan S/o.K.Rajagopal	... Petitioner in CRP (PD) No.625/16

D.Rajendran
S/o.Dhandapani ... Petitioner in CRP (PD) No.626/16

V.Samuvel Raj
S/o.Vannirajan ... Petitioner in CRP (PD) No.627/16

Tirupathy
S/o.Lingaiya Naidu ... Petitioner in CRP (PD) No.628/16

R.Sivakumar
S/o.Ramalinga Mudaliar ... Petitioner in CRP (PD) No.629/16

S.Santheep
S/o.Sudhakar ... Petitioner in CRP (PD) No.630/16

vs

L.Rajendran
S/o.Late Loganathan ... Respondent in all revisions

Civil Revision Petitions filed under Article 227 of the Constitution of India to strike off petitions in R.C.O.P.Nos.1512 and 1513 of 2013, 139, 140, 141, 142 and 143 of 2015, 1053, 1055, 1056, 1057, 1058 and 1059 of 2013 now pending on the file of learned XVI Judge, Small Causes Court, Chennai.

For Petitioners : Mr.M.Aravind Subramaniam
(in all revisions)

For Respondent : Mr.S.Muthudurai
(in all revisions)

COMMON ORDER

These revisions seek a direction to strike off petitions in R.C.O.P.Nos.1512 and 1513 of 2013, 139, 140, 141, 142 and 143 of 2015, 1053, 1055, 1056, 1057, 1058 and 1059 of 2013, on the file of learned XVI Judge, Small Causes Court, Chennai.

2. Respondent filed R.C.O.P.Nos.1512 and 1513 of 2013, 139, 140, 141, 142 and 143 of 2015, 1053, 1055, 1056, 1057, 1058 and 1059 of 2013, on the file of learned XVI Judge, Small Causes Court, Chennai, against petitioners seeking eviction. Seeking striking off of the rent control proceedings, the present revisions have been filed by petitioners.

3. Heard learned counsel for petitioners and learned counsel for respondent.

4. Learned counsel for petitioners submits that respondent and petitioners in C.R.P.(PD) Nos.618 and 619 of 2016 are brothers. Petitioners in C.R.P.(PD) Nos.620 to 624 of 2016 are wives and sons of petitioners in C.R.P.(PD) Nos.618 and 619 of 2016. Petitioners in C.R.P.(PD) No.625 to 630 of

2016 are tenants under the petitioners in C.R.P.(PD) Nos.618 and 619 of 2016. Originally, the scheduled mentioned properties belonged to mother of petitioners in C.R.P.(PD) Nos.618 & 619 of 2016 and respondent. She had purchased the property vide sale deeds dated 09.05.1977 and 30.10.1980 registered as Document Nos.268 of 1977 and 1832 of 1980 on the file of Sub Registrar, T.Nagar. While so, the respondent filed O.S.No.2430 of 1999 against his mother seeking eviction and the same was dismissed under judgment dated 03.06.2003. Pending suit, the mother has settled the scheduled mentioned property in favour of petitioner in C.R.P.(PD) No.618 of 2016 vide Settlement Deed dated 26.02.2003 registered as Document No.410 of 2003 on the file of Sub Registrar, Saidapet. Against the judgment in O.S.No.2430 of 1999, respondent preferred A.S.No.964 of 2004 before this Court, which came to be dismissed under judgment dated 07.12.2009. Pending appeal, brothers of respondent preferred O.S.No.8592 of 2005 on the file of learned III Assistant Judge, City Civil Court, Chennai, against respondent seeking eviction and the same was decreed in their favour under judgment dated 30.11.2011. As both the suit and appeal preferred by respondent were dismissed, he fraudulently had caused cancellation of the settlement deed dated 26.02.2003 executed in favour of his brother on 15.07.2010 and had executed a Settlement Deed in his

favour, on the same day. On coming to know about such fraudulent act of respondent, petitioners preferred W.P.Nos.26224 and 26225 of 2010 before this Court seeking quash of the Settlement Deed dated 15.07.2010, which were allowed under orders dated 15.09.2014. Respondent had unsuccessfully challenged such order in W.A.No.1590 of 2014. Based on the judgment in O.S.No.8592 of 2005 dated 30.11.2011, the brothers of respondent had filed E.P.No.1226 of 2012 on the file of learned X Assistant Judge, City Civil Court, Chennai, and the Court below, under order dated 03.09.2014, passed an order of eviction. Pursuant thereto, respondent was evicted and vacant possession was handed over. Against the judgment in O.S.No.8592 of 2005 dated 30.11.2011, respondent preferred A.S.No.1 of 2013 on the file of learned I Additional Judge, City Civil Court, Chennai and the same is pending. While so, respondent preferred the above rent control proceedings against petitioners. Respondent preferred petitions in M.P.Nos.101, 102, 103, 104, 105 and 106 of 2014 u/s.11(4) of the Tamil Nadu Buildings (Lease & Rent Control), Act, against petitioners in CRP (PD) Nos.625 to 630 of 2016 and under orders dated 21.11.2014, the Rent Controller, directed such petitioners to deposit arrears of rent from January 2012 to November 2013 into Court on or before 19.12.2014 as also directed them to deposit the future monthly rental amount into Court

on or before 7th of every month till the disposal of rent control proceedings. Aggrieved, petitioners in CRP (PD) Nos.625 to 630 of 2016 preferred R.C.A.Nos.778 to 783 of 2014 on the file of learned VIII Judge, Small Causes Court, Chennai. Appellate Authority, under judgments dated 29.06.2015, allowed the appeals. Respondent has also filed separate eviction petitions against his brothers and their family members/ petitioners in C.R.P.(PD) Nos.618 to 624 of 2016 in R.C.O.P.Nos.1512 and 1513 of 2013, 139, 140, 141, 142 and 143 of 2015. Despite failure in all his attempts, respondent is still adjudicating the rent control proceedings. Submitting as above, learned counsel prays for quash of rent control proceedings.

5. Learned counsel for respondent submits that the brothers of the respondent, misguided their mother and fraudulently obtained a settlement deed in their favour on 26.02.2003. On their failure to take care of the mother, the mother cancelled the settlement deed on 15.07.2010 and executed a fresh settlement deed in favour of the respondent. Respondent has filed the rent control proceedings seeking eviction on the ground of willful default in payment of rent, claiming himself to be the landlord of the petition premises on the strength of the settlement deed dated 15.07.2010. The settlement deed

has been executed after the provisions of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, came into force. However, without considering the said aspect, the writ petitions and writ appeals were ordered in favour of petitioners. Learned counsel submits that though the respondent is not a senior citizen, the subject matter of the revisions was the house property of a senior citizen, now deceased. Learned counsel contended that Section 27 of the The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, informed that *'No Civil Court shall have jurisdiction in respect of any matter to which any provision of this Act applies and no injunction shall be granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act.'* It is the contention of learned counsel that the exercise of jurisdiction by the civil Courts as also the exercise of writ jurisdiction by this Court were all erroneous.

6. The submissions of learned counsel for respondent have been recorded merely towards rejecting the same. It is clear that the decisions relied on by learned counsel for petitioners have attained finality. While so, it is not open to respondent to raise any contention of ownership of the property in direct contradiction of the findings of the Court. While so, it is not open to

respondent to canvass that he is a landlord entitled to move petitions under the Tamil Nadu Buildings (Lease & Rent Control), Act. Given the relationship between the parties, this Court desists from imposing costs.

The Civil Revision Petitions shall stand allowed. R.C.O.P.Nos.1512 and 1513 of 2013, 139, 140, 141, 142 and 143 of 2015, 1053, 1055, 1056, 1057, 1058 and 1059 of 2013, on the file of learned XVI Judge, Small Causes Court, Chennai, shall stand struck off of the file. No costs. Connected miscellaneous petitions are closed.

09.08.2016

Index:yes/no
Internet:yes
gm

To

The XVI Judge,
Small Causes Court,
Chennai.

C.T.SELVAM, J

gm

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