



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 05.07.2016

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THE HONOURABLE MR. JUSTICE K. KALYANASUNDARAM

C.R.P. (MD) Nos. 1351 & 1352 of 2016

and

C.M.P. (MD) No. 6445 of 2016

1.C.R.P (MD) No.1351 of 2016:-

Velayutham

.. Petitioner/Appellant/
Respondent-Tenant

vs.

Mahalakshmi

.. Respondent/Respondent/
Petitioner-landlady

Prayer: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decreetal order, dated 19.01.2016 made in R.C.A.No.12 of 2012 on the file of the Rent Control Appellate Authority (Sub Court), Tuticorin, confirming the order and decreetal order, dated 03.08.2012 made in I.A.No.166 of 2010 in R.C.O.P.No.44 of 2010 on the file of the Rent Controller (Principal District Munsif Court), Tuticorin.

2.C.R.P (MD) No.1352 of 2016:-

Velayutham

.. Petitioner/Appellant/
Respondent-Tenant

vs.

Mahalakshmi

.. Respondent/Respondent/
Petitioner-landlady

Prayer: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decreetal order, dated 19.01.2016 made in R.C.A.No.15 of 2012 on the file of the Rent Control Appellate Authority (Sub Court), Tuticorin, confirming the order and decreetal order, dated 05.10.2012 made in R.C.O.P.No.44 of 2010 on the file of the Rent Controller (Principal District Munsif Court), Tuticorin.



For Petitioner : Mr.S.Siva Thilakar
(in both C.R.P's)

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For Respondent : Mr.M.Saravanan
(in both C.R.P's) for Mr.R.Subramanian

COMMON ORDER

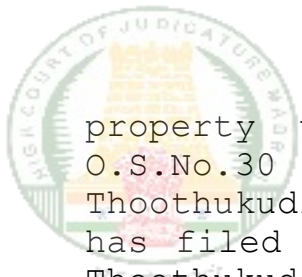
C.R.P(MD)No.1351 of 2016 arises out of the order passed by the Rent Control Appellate Authority (Sub Court), Tuticorin, made in R.C.A.No.12 of 2012, dated 19.01.2016, confirming the order of the Rent Controller (First Additional District Munsif Court), Nagercoil, made in I.A.No.166 of 2010 in R.C.O.P.No.44 of 2010, dated 03.08.2012.

2. C.R.P(MD)No.1352 of 2016 arises out of the order passed by the Rent Control Appellate Authority (Sub Court), Tuticorin, made in R.C.A.No.15 of 2012, dated 19.01.2016, confirming the order of the Rent Controller (First Additional District Munsif Court), Nagercoil, made in R.C.O.P.No.44 of 2010, dated 05.10.2012.

3. The respondent as landlady initiated eviction proceedings against the petitioner/tenant under Section 10(2)(i) and 10(2)(vii) of the Tamil Nadu Buildings Lease and Rent Control Act, 1960.

4. The case of the landlady is that the property was originally owned by one Subbiah Pillai and by a Will, dated 23.12.1996, the property was bequeathed in favour of his son Murugan. The Will came into force on the death of the original owner Subbiah on 10.02.1997 and she became the absolute owner of the property vide registered sale deed, dated 08.04.2008. The further case of the landlady is that the tenant was inducted on a monthly rent of Rs.2,000/- by Valliyammal, sister of the petitioner's vendor-Murugan. The landlady issued a notice in the month of April 2008 directing the tenant to pay the rent regularly and it was informed in person also. Despite the same, the tenant has not paid rent for more than 28 months, totally a sum of Rs.56,000/-.

5. The petitioner/tenant filed a counter stating that there was no relationship of landlady and tenant between the petitioner and the respondent and he was inducted by one Valliyammal on a monthly rent of Rs.2,000/-, as such he was paying the rents regularly. This original petition was filed by suppressing the name of the landlady. The tenant has further stated that on 04.01.2010, the said Murugan along with his wife Sheela Bai entered into the



property to disturb his enjoyment. So, he filed a suit in O.S.No.30 of 2010 before the Principal District Munsif Court, Thoothukudi for injunction. Aggrieved over the order, the tenant has filed an appeal in C.M.A.No.19 of 2010 before the Sub Court, Thoothukudi.

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6. Pending eviction petition, the landlady filed an application in I.A.No.166 of 2010 under Section 11 (4) of the Tamil Nadu Buildings Lease and Rent Control Act, seeking for a direction to the tenant to pay Rs.56,000/- and in default to order eviction. The application was contested by the tenant on the same ground stating that there was no relationship of the landlady and tenant, so he is not liable to pay any amount.

7. The landlady examined herself as P.W.1 and marked Exs.P.1 to P.9 and on behalf of the tenant, R.W.1 was examined and Exs.R.1 to R.3 were marked.

8. The quantum of rent is not in dispute. According to the tenant, he was inducted by one Valliyammal by an agreement of lease, dated 02.03.2006. The tenant has admitted in his cross-examination that the stamp paper was purchased on 18.04.2009. The Rent Controller having found that the stamp paper was purchased in the year 2009 for the alleged lease agreement of the year 2006, disbelieved the case of the tenant. The landlady produced a copy of the sale deed, dated 08.04.2008 to show that she is the absolute owner of the property. Ex.P.4 is the notice dated 22.06.2010; Ex.P.5 is the receipt and Ex.P.6 would reveal that the tenant refused to receive the notice. The tenant has not chosen to examine the said Valliyammal to prove his case.

9. The learned Rent Controller, upon consideration of the oral and documentary evidence, held that the tenant has defaulted in paying the contractual rent of Rs.2,000/- per month from April 2008 to July 2010 and directed him to pay the arrears on or before 20.08.2012. Due to non-compliance of the order, the application was allowed and consequently, an order of eviction was passed in the main R.C.O.P.

10. Challenging the orders, the tenant preferred appeals before the Rent Control Appellate Authority in R.C.A.No.12 and 15 of 2012. The learned Appellate Authority, after independently considering the oral and documentary evidence, confirmed the orders of the Rent Controller.

11. Both the Rent Controller as well as the Appellate Authority have passed orders based on evidence. This Court does not find any infirmity or perversity in the orders impugned in these revisions warranting interference in the concurrent



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findings. In fine, the Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

1. The Subordinate Judge/The Rent Control Appellate Authority ,
Tuticorin.

2. The Principal District Munsif/The Rent Controller,
Tuticorin.

+2 cc's to M/s.R.Subramanian, Advocate in SR.No.34953

+2 cc's to M/s.S.Sivathilakar, Advocate in SR.No.34951 & 34952

ps

CSL/SK-SKN/03.08.2016 :4P/7C

C.R.P (MD) Nos.1351 & 1352 of 2016

and

C.M.P (MD) No.6465 of 2016

05.07.2016