

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2017

CORAM:

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.1688 to 1693 of 2017

Rathinabai .. Petitioner in all CRPs

Vs.

- 1.E.Shanmugam .. 1st Respondent in all CRPs
2.V.Dhanalakshmi .. 2nd Respondent in CRP (PD)No.1688 of 2017
3.G.Manigandan .. 2nd Respondent in CRP (PD)No.1689 of 2017
4.M.Gandhi .. 2nd Respondent in CRP (PD)No.1690 of 2017
5.P.Dhanalakshmi .. 2nd Respondent in CRP (PD)No.1691 of 2017
6.B.Shankar .. 2nd Respondent in CRP (PD)No.1692 of 2017
7.S.Baskar .. 2nd Respondent in CRP (PD)No.1693 of 2017

Prayer in CRP (PD) No.1688 of 2017: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960, to set aside the impugned order passed in I.A.Nos.126 of 2014 in R.C.A.No.1 of 2013 on the file of Sub Court, Tiruttani.

Prayer in CRP (PD) No.1689 of 2017: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960, to set aside the impugned order dated 2.09.2015 passed in I.A.Nos.127 of 2014 in R.C.A.No.2 of 2013 on the file of Sub Court, Tiruttani.

Prayer in CRP (PD) No.1690 of 2017: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960, to set aside the impugned order dated 2.09.2015 passed in I.A.Nos.128 of 2014 in R.C.A.No.3 of 2013 on the file of Sub Court, Tiruttani.

Prayer in CRP (PD) No.1691 of 2017: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960, to set aside the impugned order dated 2.09.2015 passed in I.A.Nos.129 of 2014 in R.C.A.No.4 of 2013 on the file of Sub Court, Tiruttani.

Prayer in CRP (PD) No.1692 of 2017: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960, to set aside the impugned order dated 2.09.2015 passed in I.A.Nos.130 of 2014 in R.C.A.No.5 of 2013 on the file of Sub Court, Tiruttani.

Prayer in CRP (PD) No.1693 of 2017: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960, to set aside the impugned order dated 2.09.2015 passed in I.A.Nos.131 of 2014 in R.C.A.No.6 of 2013 on the file of Sub Court, Tiruttani.

For Petitioner : Mr.S.Udayakumar

COMMON ORDER

Since the issues involved in all these revision petitions are inter-linked, they are disposed of by this common order.

2. The first respondent is the landlord and he has filed separate petitions in RCOP Nos.12 to 16 of 2008 against the the second respondent, who are all the tenants under the first respondent. The petitioner is a third party to the rent control proceedings filed by the first respondent. The first respondent filed the original petitions for vacating the second respondents (in all CRPs) on the ground of willful default and owner's occupation.

3. The petitioner filed applications in MP. Nos.15 to 19 of 2010 respectively, to implead her as the second respondent in the aforesaid proceedings. According to the petitioner, the properties covered in the petitions are a portion of the property involved in the earlier suits filed by the petitioner. The suits properties originally belonged to one Nathamuni Udayar and his descendants. The petitioner had entered into a sale agreement with one of the descendants of Nathamuni Udayar and took possession of the petition mentioned properties. But, no sale deed was executed in favour of the petitioner by the descendant of Nathamuni Udayar. Thereafter, the petitioner approached the first respondent to get the sale deed executed in her favour, the first respondent advised the petitioner to transfer the said agreement in his favour, so that he

could file a suit for specific performance. Accordingly the suit for specific performance was filed against the descendants of Nathamuni Udaiyar and the same is pending. The petitioner also transferred the sale agreement in favour of the first respondent and as promised, the first respondent also executed re-conveyance agreement in favour of the petitioner, thereby she was authorised to continue in possession of the said properties and to collect rents from the tenants, including the second respondents in the aforesaid revision petitions. Since the petitioner settled at Bangalore for sometime in connection with his business, he instructed the first respondent to collect rents. Later, on her return, the petitioner found that the first respondent had played fraud against her and collecting the rents from the tenants as if he is the owner of the said properties and also failed to re-convey the suit properties in her favour. In view of the same, the petitioner has filed the aforesaid miscellaneous petitions praying to implead her as a necessary and proper party in the rent control proceedings.

3.1. The first respondent opposed the said applications denying the averments made in the petitions and prayed for dismissal.

3.2. The learned Judge considering the materials on record dismissed the applications in MP. No.15 of 2010 to M.P.No. 19 of 2010.

3.3. Aggrieved by the order of dismissal passed in the petitions for impleadment, the petitioner has filed appeals before the learned Subordinate Judge, Tiruttani (Rent Control Appellate Authority) along with the petition seeking condonation of delay in filing the said appeals. Subsequently, the applications for condonation of delay was allowed and Rent Control Appeals was taken on file viz., RCA.Nos. 1 to 6 of 2013 respectively.

4. Pending appeals before the Appellate Court, the first respondent filed applications in I.A.No.126 of 2014 to I.A.No.131 of 2014. It is contended by the first respondent that the said appeals are not maintainable under Tamil Nadu Buildings (Lease & Rent Control) Act and hence, he filed those applications to decide the issue of maintainability as a preliminary issue and also raised the issue of jurisdiction of the said appeals.

5. The petitioner filed counter affidavits in the said applications and opposed the averments made by the first respondent in the said applications. It is contended by the petitioner that the appeal in A.S.No.13 of 2012 was filed by her against the judgment of the trial Court passed in O.S.No.29 of 2010, the suit filed by her for specific performance of the sale agreement dated 10.02.1974, and the Appellate Judge has held that the petitioner is entitled to 20x40 sq.ft. in the property. Against the said order of the Appellate Court, the petitioner has preferred the Second Appeal in S.A.No.411 of 2014 before this Court. It appears that the first respondent also filed a Second Appeal in S.A.468 of 2014. After crossing all these stages, now the first respondent raising the question of maintainability and territorial jurisdiction, which proves there is no bonafide or merit in the applications filed by him and hence according to the petitioner, the said applications should be dismissed.

6. The learned Subordinate Judge, Tiruttani, vide order dated 02.09.2015, has allowed the applications filed by the first respondent, and also held that the remedy sought by the petitioner

in the rent control proceedings, is available to her only by way of filing Civil Revision Petitions.

7. Against the said order dated 02.09.2015 passed in I.A.No.126 of 2014 to I.A.No.131 of 2014, the petitioner have filed the civil revision petitions.

8. Heard the learned counsel for the petitioner and perused the materials available on record.

9. Considering the facts and circumstances of the case, this Court is of the view that as per provisions under Section 23 of the Tamil Nadu Buildings (Lease & Rent Control) Act, an appeal can be filed by a person who is aggrieved by the order passed by the Rent Controller. It is well settled that appeal lies only when the rights of the parties are finally decided. It is also a settled law that there is no provision for impleading the parties in the rent control proceedings and as per the decisions of this Court, Order I Rule 10(2) of CPC is not applicable in the proceedings before the Rent Control Authority. In view of the said reasons, there is no error in the order of Appellate Court stating that the remedy available to the petitioner is only by way of revision.

10. In the result, the civil revision petitions are dismissed. No costs.

12.06.2017

Speaking order/Non-speaking order

Index : Yes / No

Internet : Yes / No

ds

To:

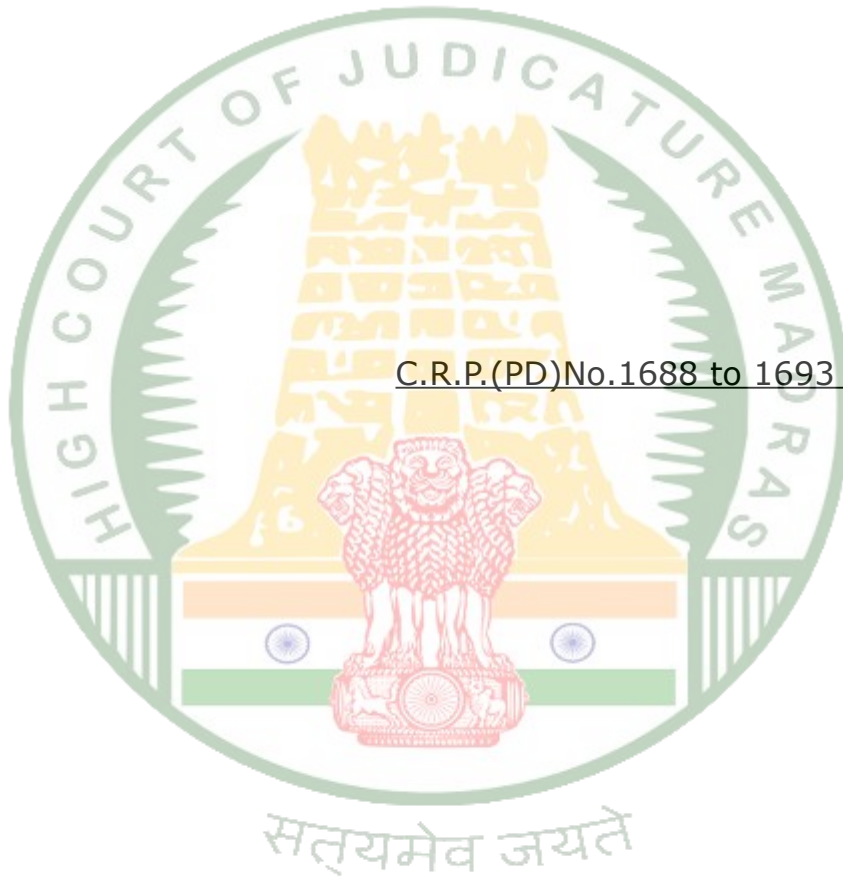
The Sub Judge
Tiruttani.



WEB COPY

V.M.VELUMANI, J.

ds



C.R.P.(PD)No.1688 to 1693 of 2017

WEB COPY_{12.06.2017}