

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2017

CORAM:

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.3735, 3536, 3537, 3538, 3545 and 3546 of 2011
and M.P.Nos.1 to 1 of 2011

Sri Sri Padaraja Mutt,
Mulbagal, Kolar District
Karnataka State,
rep. By its Head Sri Sri Vignanidhi
Theertha Swamigal rep.
By his General Power of Attorney Holder
H.B.Lakshmi Narayana Achar .. Petitioner in CRP.No.3735 of 2011

Vs.

1. Sathyabama
2. Balarama Chettiar
3. M.R.Chandran ... 1to 3 respondents in CRP
No.3735 of 2011
4. Sekar
Sekar Poly Bags
135-E, Garudathiri
1st Agraharam,
Salem – 1 ... 4th Respondent in CRP
No.3735 of 2011

PRAYER in C.R.P.(PD) No.3735 of 2011: This Civil Revision Petition filed under Article 227 of the Constitution of India, to set-aside the order made in I.A.No.18 of 2010 in R.C.O.P.No.44 of 2009 dated 10.11.2010 on the file of learned 2nd Additional District Munsif, Salem.

For Petitioner : M/s Jayakumar Associates
For Respondents : Mr.T.M.Hariharan 1 to 3

C O M M O N O R D E R

The issues involved in these Civil Revision Petitions are one and the same and they are taken up together and disposed of by this common order.

2. These Civil Revision Petitions have been filed to set aside the orders in I.A.Nos.24, 18, 44, 23, 16 and 20 of 2010 in R.C.O.P.Nos.47, 44, 41, 46, 43 and 45 of 2009 dated 10.11.2010 on the file of learned 2nd Additional District Munsif, Salem respectively.

3. The petitioner is the 3rd party in all the R.C.O.P.s and the respondents 1 to 3 in all the C.R.Ps, filed R.C.O.P. Nos.47, 44, 41, 46, 43 and 45 of 2009 against the 4th respondent in all the C.R.Ps, for eviction on the ground of willful default and denial of title. The petitioner filed I.A.Nos.24, 18, 12, 23, 16, 20 of 2010 respectively, to implead him as party respondent.

4. According to the petitioner, he is the power agent of Mutt,

namely, Sri Sri Padaraja Mutt and owner of the property and he is looking after and administering all the properties. The respondents 1 to 4 (in all the C.R.Ps) are the tenants under the petitioner-Mutt. The respondents 1 to 3 without impleading the petitioner, Mutt, filed R.C.O.Ps. against the 4th respondent in all the C.R.Ps for eviction on the ground of wilful default. The respondents 1 to 3 are not the owners of the property, therefore, the petitioner is a proper and necessary party in all the R.C.O.Ps.

5. The respondents 1 to 3 filed counter affidavit and submitted that they are lessees of Mutt, under the registered lease deed, they were permitted to put up the construction and lease out the same. The 4th respondent in all the C.R.Ps are the tenant under the respondents 1 to 3. The 4th respondent in all the C.R.Ps have committed default in payment of rent, therefore, the respondents 1 to 3, have filed R.C.O.Ps against the 4th respondent in all the C.R.Ps. The petitioner is not a necessary party and the respondents 1 to 3 were regularly paying rent to the Manager of the Petitioner-Mutt, Salem, he evaded the receipt of rent even when it was sent by money order, the respondents 1 to 3 filed R.C.O.P.No.19 of 2009 for deposit of rent. In that R.C.O.P., the

respondents 1 to 3 were depositing the rent regularly. The lease in favour of the respondents 1 to 3 were not terminated and therefore prayed for dismissal of the application filed by the petitioner.

6. The learned Judge considering all the materials on record and averments in the affidavit and counter affidavit, dismissed the applications holding that the lease in favour of the respondents 1 to 3 is admitted by the petitioner and no proceedings have been taken to evict the respondents 1 to 3 or to terminate the lease in favour of the respondents 1 to 3 and the lease was not terminated and in the rent control proceedings, title of the petitioner's premises is not an issue and dismissed the application.

7. Against the order of dismissal dated 10.11.2010 made in I.A.Nos.24, 18, 44, 23, 16 and 20 of 2010 in R.C.O.P.Nos.47, 44, 41, 46, 43 and 45 of 2009, the present civil revision petitions are filed by the petitioner.

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

9. From the materials available on record it is seen that the contention of the petitioner is that respondents 1 to 3 are the lessees under Mutt by the registered lease deed and without permission of the petitioner – Mutt, the respondents 1 to 3 leased out the premises to various tenants i.e., 4th respondent in all the C.R.Ps, is the petitioner's contention.

10. As per definition of 'Landlord' under Section 2(6) of Tamilnadu Buildings (Lease and Rent Control) Act, 1960, the landlord includes the person who is receiving or is entitled to receive the rent of a building. The explanation to the said Section says that the tenant, who sub-lets shall be deemed to be a landlord within the meaning of the Act, in relation to the sub-tenant.

11. In view of the fact that the respondents 1 to 3 have lease hold right and rented out to the 4th respondent in all the C.R.Ps., they are landlord as per Section 2(6) of the Tamilnadu Buildings (Lease and Rent Control) Act, 1960 and the petitioner is not a necessary and proper party in all the C.R.Ps. In view of the above reasons, these Civil Revision

Petitions are dismissed.

12. Now, the learned counsel appearing for the respondents 1 to 3 submitted that already the respondents 1 to 3 filed a petition under Sections 11(3) and (4) of Tamilnadu Buildings (Lease and Rent Control) Act, 1960 for deposit of the arrears of rent, in that petition, the 4th respondent in all the C.R.P.s did not deposit the rent and hence R.C.O.Ps were allowed and eviction was ordered. The respondents 1 to 3 filed E.P.Nos.247, 244, 241, 246, 243, 245 of 2011 in R.C.O.P.Nos.47, 44, 41, 46, 43 and 45 of 2009 respectively on the file of learned District Munsif, Salem respectively to execute the order passed by the learned Rent Controller.

13. In the said circumstances, the learned District Munsif, Salem is directed to dispose of the E.P.Nos.247, 244, 241, 246, 243, 245 of 2011 in R.C.O.P.Nos.47, 44, 41, 46, 43 and 45 of 2009 respectively on merits and in accordance with law as expeditiously as possible, in any event, not later than six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

16.06.2017

Index : Yes/No

Speaking / non speaking order
ssd

V.M.VELUMANI, J.

ssd

To

The learned 2nd Additional District Munsif,
Salem.

C.R.P.(PD)Nos.3735, 3536, 3537, 3538, 3545 and 3546 of 2011
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