

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2115 of 2009
and M.P.No.1 of 2009

Nachimuthu

.. Petitioner

Vs.

1.Vasantha
2.K.S.Rani
3.Sridevi
4.N.Karthika

.. Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Ac, 18 of 1960 as amended by the Tamil Nadu Act 23 of 1973 and Act 1 of 1980, against the judgment and decree dated 07.11.2008 in R.C.A.No.3 of 2006 on the file of the Subordinate Court, Pollachi, confirming the judgment and decree dated 27.06.2005 made in R.C.O.P.No.13 of 1997 on the file of the learned Rent Controller (District Munsif) Pollachi.

For Petitioner : Mr.J.Hariharan

For Respondents : Mr.K.P.Jotheeswaran

ORDER

The Civil Revision Petition is filed against the judgment and decree dated 07.11.2008 in R.C.A.No.3 of 2006 on the file of the Subordinate Court, Pollachi, confirming the judgment and decree dated 27.06.2005 made in R.C.O.P.No.13 of 1997 on the file of the learned Rent Controller (District Munsif) Pollachi.

2. The petitioner/tenant is the respondent and one P.M.Natarajan/landlord is the petitioner in R.C.O.P.No.13 of 1997 on the file of the Rent Controller (District Munsif), Pollachi. The said Natarajan filed R.C.O.P. for eviction on the ground of wilful default. The respondents herein are the legal heirs of the said Natarajan. According to the said Natarajan, the petitioner was the tenant under him on monthly rent of Rs.100/-. The petitioner was paying the rent regularly up to 30.09.1995. Subsequently, from 01.11.1995, the petitioner wilfully failed to pay the rent. The said Natarajan issued notice dated 24.07.1996 to the petitioner for eviction. Even after issuing notice, the petitioner did not pay the rent. Therefore, the

said Natarajan filed the above R.C.O.P. for eviction on the ground of wilful default. The petitioner filed counter affidavit and denied all the averments made in the R.C.O.P. He submitted that the said Natarajan is not owner of the property. The portion of the property is in municipal road and it belongs to the municipality and the other portion is in S.F.No.79 belong to one P.Muthusamy gounder and M.Karuppammal. The said Muthusamy gounder and Karuppammal bequeathed the property in favour of the petitioner's father and petitioner's family are residing in the petition premises for more than five decades. When the father of the petitioner approached the said Natarajan for obtaining electricity connection, he obtained electricity connection in his name. Father of the petitioner died in the year 1977 and after his death, the petitioner requested the said Natarajan to transfer the electricity connection in his name, but he failed to do so. There is no landlord-tenant relationship and therefore, no question of wilful default.

3. Before the learned Rent Controller, the said Natarajan was examined as P.W.1 and marked seven documents as Exs.A1 to A7. The petitioner was examined as R.W.1 and marked six documents as Exs.R1 to R6. Exs.C1 to C3 were marked as Court documents.

4. The learned Rent Controller considering the pleadings, oral and documentary evidence, held that the said Natarajan proved landlord-tenant relationship and wilful default committed by the petitioner. He further held that the petitioner has not substantiated his contention that the said Natarajan is not landlord, denial of title is not bonafide and ordered eviction.

5. Against the order dated 07.11.2008 made in R.C.O.P.No.13 of 1997, the petitioner filed R.C.A.No.3 of 2006 on the file of the District Munsif Court, Pollachi.

6. The learned Rent Control Appellate Authority independently considering all the materials on record, based on the documents marked on behalf of the said Natarajan and petitioner, dismissed the R.C.A. holding that denial of title by the petitioner is not bonafide, but it is malafide.

7. Against the order of dismissal dated 27.06.2005 made in R.C.A.No.3 of 2006, the petitioner has filed the civil revision petition.

8. The learned counsel for the petitioner submitted that both the Courts below have decided the title of the parties without any jurisdiction. Only the Civil Court can decide the title. The Courts below failed to see that part of the petition premises is in municipal road and other portions of the properties are in S.F.No.79, which belong to Muthusamy gounder and Karuppammal. They bequeathed the same to the petitioner's father. The Courts below failed to see that there is no landlord-tenant relationship between the said Natarajan and petitioner. The learned Rent Controller has no jurisdiction to entertain the R.C.O.P.

9. Per contra, the learned counsel for the respondents submitted that the said Natarajan has proved his title by both oral and documentary evidence, he is owner of the petition property and the petitioner has committed wilful default. Admittedly, electricity connection is in the name of the said Natarajan. Not only for the petition premises and for the other premises adjoining to the petition premises also, the said Natarajan has given electricity connection through this connection. The petitioner has not substantiated his claim that his father was owner of the petition premises and after his death, he became owner of the property. The

Courts below based on the pleadings, oral and documentary evidence, had come to the conclusion that denial of title by the petitioner is not bonafide, it is malafide. Thus, he prayed for dismissal of the civil revision petition.

10. Heard both sides and perused the materials on record.

11. The predecessor of the respondents viz., Natarajan filed R.C.O.P. for eviction of the petitioner on the ground of wilful default. According to the said Natarajan, he is owner of the petition premises. Petitioner paid the rent up to 30.09.1995 and from 01.11.1995, he failed to pay the rent. The petitioner denying all the allegations in the R.C.O.P., title of the said Natarajan to the petition premises, contended that there is no landlord-tenant relationship between the said Natarajan and petitioner. It is an admitted case of the petitioner that he has not paid rent to the said Natarajan. Only when the tenant prima facie made out a case that the landlord is not owner of the property, the issue can be referred to Civil Court to decide the title of the property.

12. In the present case, the petitioner has not only denied the title of the said Natarajan, but also denied ownership of petition

premises. According to the petitioner, a portion of the property is in municipal road and other portions belong to one Muthusamy gounder and Karuppammal, who bequeathed the property to the petitioner's father. The petitioner has not substantiated his claim by producing any acceptable evidence especially the documents, if any, by which Muthusamy gounder and the said Karuppammal bequeathed the property to the petitioner's father. On the other hand, the said Natarajan has proved title and landlord-tenant relationship by filing the documents. In the circumstances, there is no irregularity or illegality warranting interference by this Court with the order of both the Courts below.

13. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.07.2017

Index:Yes/No
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To

1.The Rent Controller (District Munsif) Pollachi.

2.The Subordinate Judge, Pollachi.

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V.M.VELUMANI,J.

Kj



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