

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) No.2514 of 2009

M.P.No.1 of 2009

Estate of P.J.Paulraj
rep. By his legal heirs

- 1.P.Jabathai
- 2.Jabanesi Pushparagam
- 3.P.Jabarani
- 4.P.Jababal Panneerselvam
- 5.P.Jaya
- 6.P.Jayapandian
- 7.P.Jaba Manickam
- 8.P.Jabaselvi Porkudi
- 9.P.Jaba Rubi
- 10.P.Pon Mari
- 11.P.Suganthi

.. Petitioners

(Cause title accepted vide order
of Court dated 14.08.2009 made in
M.P.No.1 of 2009 in C.R.P.SR 53839/2007

Vs.

- 1.T.Swaminathan
- 2.K.Rajendran

.. Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act 18 of 1960 against the fair and decretal order dated 29.01.2007 made in R.C.A.No.546 of 2003 on the file of

VII Judge, Rent Control Appellate Authority, Madras setting aside the order passed in M.P.No.18 of 2000 in E.P.No.588 of 1999 in R.C.O.P.No.2012 of 1995 on the file of XIII Small Causes Court (Rent Controller), Madras.

For Petitioners : M/s.C.R.Rukmani

For R1 : Not ready in notice

For R2 : Mr.K.S.Madhavan
for Mr.J.R.K.Bhavanandam

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 29.01.2007 made in R.C.A.No.546 of 2003 on the file of VII Judge, Rent Control Appellate Authority, Madras setting aside the order passed in M.P.No.18 of 2000 in E.P.No.588 of 1999 in R.C.O.P.No.2012 of 1995 on the file of XIII Small Causes Court (Rent Controller), Madras.

2. One P.J.Paulraj filed R.C.O.P.No.2012 of 1995 on the file of the XIII Small Causes Court (Rent Controller), Madras for eviction against the first respondent. The said R.C.O.P was allowed on 27.04.1996. The R.C.A.No.219 of 1997 and the C.R.P.No.3123 of 1999 filed by the first respondent were dismissed. The said P.J.Paulraj filed E.P.No.588 of 1999 and delivery was ordered. He also filed M.P.No.18 of 2000 against the respondents under Rule 11 of Tamil Nadu Buildings (Lease and Rent Control) Rules read with Order

21 Rule 97 and Section 151 C.P.C for removing the obstruction made by the second respondent and for delivery of the Shop No.2 (Middle shop out of 3 shops) at door No.6, Medavakkam Tank Road, Chennai-12. According to him, the second respondent is in occupation of Shop No.2 and he is obstructing the delivery of said shop as per the order of eviction passed in favour of the petitioner. The second respondent filed detailed counter affidavit and opposed the said application. The Executing Court, by the order dated 08.04.2003, ordered M.P.No.18 of 2000 and directed removal of obstruction made by second respondent. Against that second respondent filed R.C.A.No.546 of 2003. The learned Appellate Authority considered the materials on record and by the judgment and decree dated 29.01.2007, allowed the R.C.A.

3. Against the judgment dated 29.01.2007 made in R.C.A.No.546 of 2003 in M.P.No.18 of 2000 in E.P.No.588 of 1999 in R.C.O.P.No.2012 of 1995, the present Civil Revision Petition is filed by legal heirs of said P.J.Paulraj.

4. Heard the learned counsel appearing for the petitioner and second respondent and perused the materials available on record.

5. From the materials on record, it is seen that the second respondent has claimed to have purchased Shop No.2 from United India Pharma (P) Ltd. and produced the sale deed to substantiate his claim. The said P.J.Paulraj in his evidence, admitted that second respondent has purchased and he is aware of the said purchase by the second respondent. The said P.J.Paulraj also admitted that he earlier filed R.C.O.P.No.1886 of 1993 for evicting the second respondent from the Shop in question. The said R.C.O.P was dismissed, holding that second respondent is owner of the shop and there is no landlord tenant relationship between P.J.Paulraj and second respondent. The R.C.A.No.993 of 1996 filed by the P.J.Paulraj was also dismissed. The said P.J.Paulraj also admitted that the first respondent, T.Swaminathan vacated the portion under his occupation and the said shop is kept vacant. The Bailiff who went along with P.J.Paulraj for effecting delivery has filed a report stating that the said P.J.Paulraj did not take him to the shop of the first respondent, but took him to the shop of the second respondent who produced the documents to show that he is the owner of the shop. Considering all these facts, the learned Appellate Authority has allowed the R.C.A, holding that the said P.J.Paulraj was trying to evict the second respondent based on the eviction order obtained by him against the first respondent. The learned Appellate Authority has given valid reason for allowing the said R.C.A filed by the second respondent. There is no

irregularity or illegality warranting interference with the judgment of the learned Appellate Authority dated 29.01.2007.

6. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.10.2017

Index : Yes/No
gsa

To

1. The VII Judge,
Rent Control Appellate Authority,
Madras

2. The XIII Judge,
Small Causes Court (Rent Controller),
Madras.



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V.M.VELUMANI, J.

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