

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.08.2017

Coram

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD).No.733 of 2016
and
C.M.P.Nos.3755 & 9353 of 2016

Mr.S.Ravichandran ...Petitioner/2nd Respondent

Vs.

1. Mr.D.Chidambaram ... Respondent/Appellant

2. Mrs.R.Muthulakshmi ...Respondents/1st Respondent

Prayer: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the order and decretal order of the Honourable Subordinate Judge at Vellore passed in R.C.A.No.20 of 2015 dated on 25/11/2015 and as reversing the order and Decretal order of the Honourable Principal District Munsif, Vellore passed in RCOP No. 21 of 2012 dated 11.08.2015 and allow this Revision with costs throughout.

For Petitioners : Mr.S.V.Jayaraman, Senior Counsel
for Mr.P.Chandasekar

For Respondents : Mr.A.Jenasenan

ORDER

This Civil Revision petition has filed against the order dated 25.11.2015 passed in R.C.A No. 20 of 2015 by the Rent Control Appellate Tribunal Judge/Subordinate Judge, Vellore.

2. For the sake of convenience, the ranking of the parties is made as in the Civil Revision Petition.

3. The petitioner is the 2nd respondent in the Rent Control Proceedings having impleaded himself as a party before the Rent Controller. Originally the 1st respondent claiming himself as a landlord filed an eviction petition against the 2nd respondent under Sections 4 & 10 of Rent Control Act. The Revision petitioner is the husband of the 2nd respondent/ 1st respondent in R.C.O.P.

4. It is the case of the 1st respondent/landlord that there was an agreement between him and the 2nd respondent in respect of the suit property. The 1st respondent himself is a licensee under the Municipal Corporation and he entered into an agreement with the 2nd respondent to run the business. It was also agreed that 70% profit would be given to the share of 2nd respondent out of which the rent

shall be paid to the Vellore Corporation, who is owner of the building. The remaining 30% shall be paid to the 1st respondent/landlord/licensee, in view of Ex.A4. Before the Rent Controller, the 2nd respondent remained absent and was set *ex-parte*. The Rent Controller dismissed the Rent Control Petition on the ground that there is no jural relationship between the petitioner and respondent, as landlord and tenant. Further, there is no averment substantiating the claim of fair rent under Section 4 of the Rent Control Act.

5. On appeal by the 1st respondent the Rent Controller Appellate Authority has found that the Revision Petitioner/second respondent is a stranger and he has nothing to do with the suit property. As admitted by the second respondent in her written argument, that she was a tenant, the jural relationship as landlord and tenant has been upheld. सत्यमेव जयते

6. In view of the admitted rental arrears for 13 months, it was found the 2nd respondent have committed willful default. With these findings appeal was allowed, and a direction was given to the 2nd respondent to vacate premises and handover the possession to the first respondent/appellant within a period of one month. A further

direction to pay the arrears of Rent to the tune of Rs.1,80,427/- with future rent till handing over the possession was also given.

7. Against the order passed in the Rent Control Appeal, the present revision petition is preferred before this Court. It is admitted by both the parties that the revision petitioner/2nd respondent is not a tenant under 1st respondent. He is no way connected with the proceedings. However, according to the learned Senior Counsel appearing for the petitioner that the 1st respondent landlord has not agitated his impleadment as a party to the proceedings. There is a prayer in the Rent Control Original Petition against both the respondents and the Appellate authority has also directed the respondents to hand over the possession property, and hence he has every right to prefer this Revision petition.

8. According to the learned counsel for the first respondent, he continues to pay the rent to the Vellore Municipal Corporation from August 2011 till date to the tune of Rs.13,00,000/-. As per the decree of the appellate authority the second respondent herein is in possession and delivery should be handed over to first respondent herein. The petitioner has nothing to do with the matter.

9. Heard Mr.S.V.Jayaraman, the learned Senior Counsel

appearing for the petitioner and Mr.A.Jenasenan, the learned Counsel appearing for the respondents.

10. On perusal of the pleadings and documents crucial to this matter and after considering the judgments passed by Rent Controller as well as Appellate authority, it is clearly inferred that the 1st respondent in Civil Revision Petition is the licensee under Vellore Corporation, in respect of the petition premises. He has entered into a business agreement with the 2nd respondent/ wife with the Revision Petitioner to run Khadi Bhavan shop. There was agreement to share profit in the ratio of 70:30 between the 2nd respondent and 1st respondent. Out of 70%, the second respondent shall pay the rent to the Vellore Corporation.

11. It is the contention of the learned counsel for the 1st respondent that the business agreement is entirely different from the jural relationship between the 1st and 2nd respondent as landlord and tenant. when eviction proceedings was initiated by the first respondent, 2nd respondent remained *exparte*. The Trial Court has dismissed the petition for eviction. When an appeal was filed by the 1st respondent, the 2nd respondent has filed a written argument admitting the tenancy and willful default committed by her on the basis of which

the Appellate authority has allowed the appeal. Therefore, admittedly, it is seen that from the evidence of P.W.1/1st respondent and the statement made by the 2nd respondent the jural relationship was existing between the 1st and 2nd respondents as landlord and tenant. Curiously the Revision Petitioner has nothing to do with the dispute between 1st and 2nd respondents. Only because he happened to be the husband of 2nd respondent and he was impleaded as party in the Rent Control Proceedings, he claims right to prosecute the present revision petition. Unless and until there is an agreement between the parties, there cannot be any relationship of landlord or tenant. In the absence any legal status or right, the Civil Revision Petitioner has no locus to prefer the Civil Revision Petition. It is clearly found by the Appellate authority that the 2nd respondent is only the tenant and was ordered to vacate as she committed willful default. Eventhough the operative portion of the order reads that the "respondents" are directed to deliver vacant possession, it only will mean that the delivery of possession shall be handed over only by the second respondent to the first respondent. Only because the word "respondents" is mentioned, "in plural", it will not confer any right on the Revision Petitioner to contest the proceedings and claim possession of the petition premises. It is not the case of the petitioner that he is in possession, much less illegal possession. Therefore, any direction is issued by the Authority

below would not have any effect on the Revision petitioner and he cannot have any grievances. The Counsel for the Revision Petitioner/2nd respondent has submitted that, if proceedings are dismissed against the Revision Petitioner, he is willing to workout his remedy in accordance with law. Therefore, in the absence of any legal right, he cannot maintain the Civil Revision Petition.

12. In view of the discussion above, it is found that the Revision Petitioner has *locus standi* to maintain the revision petition. The order of eviction passed by the Courts below is confirmed.

13. Accordingly, this Civil Revision Petition is dismissed. No Costs. Subsequently, connected miscellaneous petition are closed.

08.08.2017

Index : Yes/no

Internet : Yes/no

Note : Issue order copy on 15.11.2017

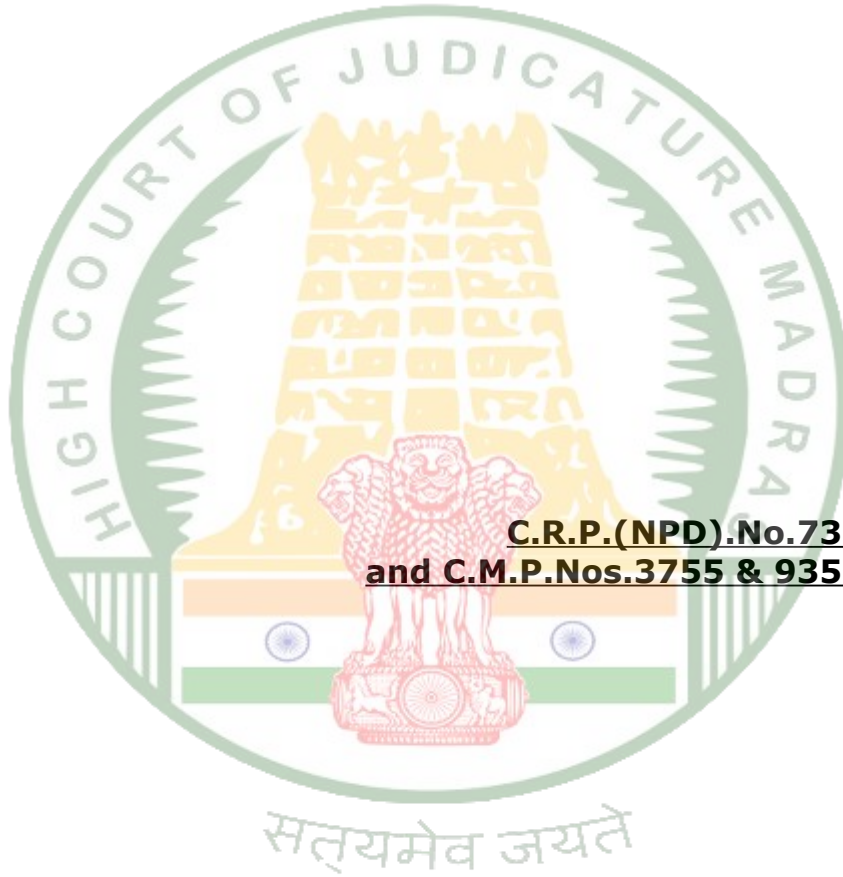
bsm/kpl/tk

M.GOVINDARAJ, J.

bsm/tk

To

The Principal District Munsif,
Vellore.



C.R.P.(NPD).No.733 of 2016
and C.M.P.Nos.3755 & 9353 of 2016

WEB COPY

08.08.2017