

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (NPD) No.802 of 2006

Jagmohan Singh
Prop. Of M/s.Electrolytic Enterprises
No.833, Uma Maheswari Building
K.K.Lane (Near Fly Over)
Avinashi Road
Coimbatore - 18. ... Petitioner/1st Respondent

vs

1. P.K.Ramasamy Chettiar
2. A.L.Thiruvengadam ... Respondents/ Appellant/
2nd Respondent

Revision filed under under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act challenging the fair and decretal order dated 19.8.2005 passed in R.C.A.No.22 of 2003 on the file of the Appellate Authority-cum-Principal Sub Judge, Coimbatore, reversing the order and decretal order dated 17.10.2003 passed in R.C.O.P.No.2257 of 2002 on the file of the Rent Controller-cum-Revenue Divisional Officer, Coimbatore.

For Petitioner : Mr.C.D.Vaishnav

For Respondent : S.Gunalan
for 1st respondent

No appearance
for 2nd respondent

ORDER

The petitioner has filed this civil revision petition under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act challenging the fair and decretal order dated 19.08.2005 passed in R.C.A.No.22 of 2003 on the file of the Appellate Authority-cum-Principal Sub Judge, Coimbatore, reversing the order and decretal order dated 17.10.2003 passed in R.C.O.P.No.2257 of 2002 on the file of the Rent Controller-cum-Revenue Divisional Officer, Coimbatore.

2. The petitioner is a tenant in respect of the property

situate at No.833, K.K.Lane, Avinashi Road, Coimbatore, having entered into a lease on 17.04.1991 for non residential purpose with the first respondent on a monthly rent of Rs.600/-, which was subsequently enhanced to Rs.1,300/-.

3. It is the case of the petitioner that he received summons from the High Court of Madras in A.S.No.130 of 2001 to appear as the 26th respondent on 19.12.2001. The said appeal suit is stated to have been filed by the second respondent claiming rent in respect of the schedule mentioned property. It is averred that the second respondent had orally directed the petitioner to remit rent to him.

4. The petitioner, on being perplexed as to whom the rent should be remitted as both the respondents are claiming rent from him, approached the Rent Controller to seek permission to deposit the rent amount into the Court. The petitioner filed R.C.O.P.No.2257 of 2002 on the file of the Rent Controller-cum-Revenue Divisional Officer, Coimbatore, and the said petition was allowed by order dated 17.10.2003.

5. Assailing the said order, the first respondent had filed R.C.A.No.22 of 2003 on the file of the Appellate Authority-cum-Principal Sub Judge, Coimbatore, which was allowed by the Appellate Authority by order dated 19.08.2005.

6. Calling into question the said order passed by the Appellate Authority-cum-Principal Sub Judge, Coimbatore dated 19.08.2005, the present revision is filed.

7. The learned counsel appearing on behalf of the petitioner tenant contends that when there is rival claim for payment of monthly rent amongst the respondents, who claim to be owners, and an appeal is pending before the High Court, wherein summons have been served on the petitioner herein, it is unjustifiable for the Appellate Authority to have directed the petitioner to pay the monthly rent to the first respondent.

8. At the time of admission of this revision, this Court, by order dated 13.04.2007 passed in C.M.P.No.6657 of 2006, held that

"while there is a rival claim between the first and second respondent, the circumstances warrant to allow the petitioner to continue to deposit the rent till the disposal of the C.R.P. All the parties should have to take the final order to be passed in the C.R.P. Hence, interim stay already granted is to continue till the disposal of the C.R.P."

9. It is beyond any cavil that monthly rent is deposited by the petitioner without any default till date. When the appeal

suit is pending on the file of this Court to determine the ownership of the property - as to who amongst the respondents is the owner of the property in question, it is not known as to on what basis the Appellate Authority has arrived at a finding that the first respondent is the owner of the property. So far as the dispute regarding the ownership between the respondents is not concluded and it is decided as to who is the real landlord, any direction passed by the Appellate Authority directing payment of rent to the first respondent, who claims to be the landlord of the premises, is infirm and erroneous and as a sequel, the order passed by the Appellate Authority only becomes liable to be set aside and the same is decided accordingly.

10. As such, till a finality is attained in the appeal suit, I am of the considered view, that such monthly rent should be continued to be deposited as per the interim direction and the same may be ordered to be released based on the judgment and decree to be passed in the appeal suit, if not already disposed of.

11. In the result, the civil revision petition is allowed and the order dated 19.08.2005 passed in R.C.A.No.22 of 2003 on the file of the learned Appellate Authority-cum-Principal Sub Judge, Coimbatore, is set aside. No costs. Consequently, C.M.P.No.6657 of 2006 is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vs

To

1.The Appellate Authority Cum Principal Sub Judge,
Coimbatore.

2.The Rent Controller Com Revenue Divisional Officer,
Coimbatore.

3.The Section Officer,V.R.Section, High Court Madras.(2 Copies)

+1cc to Mr.S.Gunalan, Advocate, S.R.No.832

C.R.P. (NPD) No.802 of 2006

BR(CO)

RRK(12/04/2018)