



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

C.R.P. (NPD) (MD) No.1426 of 2017

and

C.M.P. (MD) No.7133 of 2017

WEB COPY

1.B.Ravichandran

2.R.Manimegalai

... Petitioners

-VS-

1.Rajamani (died)

2.S.Sundarraaj (died)

3.S.Sheela Rosalin

4.S.Stephen

... Respondents

PRAYER: Civil Revision Petition is filed, under Section 25 of the Tamil Nadu Buildings (Lease And Rent Control) Act, 1960, to call for the records relating to the judgment dated 24.01.2017 made in R.C.A.No.03 of 2015 on the file of the learned Principal Subordinate Judge, Thanjavur, confirming the fair and decreetal order passed by the learned Rent Control Authority cum District Munsif, Thanjavur made in R.C.O.P.No.12 of 2010 dated 22.01.2015 and set aside the same by allowing the above revision petition.

For Petitioners

: Mr.B.Jameel Arasu

ORDER

Heard the learned counsel for the petitioner.

2.In the Civil Revision Petition, the fair and decreetal orders, dated 24.01.2017, made in R.C.A.No.03 of 2015, on the file of the learned Principal Subordinate Judge, Thanjavur, confirming the fair and decreetal orders, dated 22.01.2015, made in R.C.O.P.No.12 of 2010, on the file of the learned Rent Control Authority (District Munsif Court, Thanjavur) are challenged by the tenants.

3.It is found that the respondents / landlords have initiated the eviction proceedings as against the petitioners / tenants on the grounds of willful default, using the building for other purpose, putting-up unlawful construction and for owner's



4.The Case of the respondents / landlords was resisted by the petitioners / tenants by filing counter.

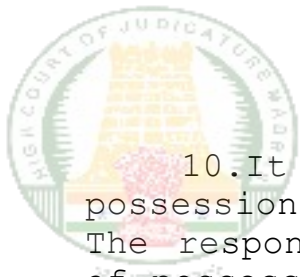
5.In support of the case of the landlords, P.W.1 and P.W.2 were examined and Exs.P1 to P5 were marked and on the side of the tenants, R.W.1 was examined and Ex.R1 was marked and in addition to that Ex.C1 and C2 were also marked.

6.Considering the materials placed by the respective parties, it is found that the Rent Controller accepting the case of landlords ordered eviction of the petitioners / tenants on the grounds sought for by the respondents / landlords. The appeal preferred by the tenants before the Rent Control Appellate Authority was also dismissed.

7.In this Civil Revision Petition, it is contended by the learned counsel for the petitioners that though the tenants sent the rent to the landlords through money order, the landlords had refused to receive the same and therefore, it cannot be held that the tenants have committed wilful default and in such circumstances, the Courts below have erred in ordering eviction of the tenants on the ground of wilful default. However, it is seen from the impugned orders that the petitioners / tenants having kept arrears of rent for several months and having not taken due steps agreed to deposit the same in the Court, after repeated requests from the landlords, the petitioners / tenants have not honoured their promise and on the other hand, they have defaulted in payment of the rent, which is nothing but willful in nature and accordingly, the Courts below ordered eviction of the petitioners / tenants on the ground of willful default.

8.Further, it is found from the impugned orders that the Courts below, on the basis of the evidence adduced in the matter, they have carefully given a finding that the petitioners / tenants have been using the property for different purpose i.e., for running a kitchen and for cooking purposes and therefore, they are liable to be evicted from the property. This finding of the Courts below is also found to be correct and perfect.

9.It is contended by the learned counsel for the petitioners that there is no unlawful construction in the property as pleaded by the respondents / landlords. However, it is seen from the case of the respondent / landlords and also the findings of the Courts below that the petitioners have put additional construction in the property and therefore, the order of eviction passed against them on that ground is found to be a well considered and well determined one and it does not require any interference from this Court.



10. It is seen that the respondents / landlords have sought for possession of the property on the ground of owner's occupation. The respondents / landlords have clearly established their claim of possession of the property on the ground of owners' occupation and accordingly, the Courts below have rightly held that the petitioners / tenants are liable to be evicted on the ground of owner's occupation and the said findings of the Court below also do not suffer from any infirmity and the same are also found to be perfect.

11. On a perusal of the impugned orders, it is found that Courts below have sustained the case of the landlords on the basis of the materials placed before it and in such view of the matter, it is found that the orders of the Courts below are well-founded and based on the materials placed before this Court, it is seen that the impugned orders of the Courts below do not call for any interference from this Court.

12. After passing of the order, the learned counsel for the tenants seeks time to vacate the premises. Considering the request made by the learned counsel for the tenants, six months time is granted to the tenants to vacate the premises.

13. In the light of the above decisions, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To:

1. The Principal Subordinate Judge,
Thanjavur.

2. The Rent Control Authority cum District Munsif,
Thanjavur

+1cc to M/S.B.JAMEEL ARASU, Advocate SR.No.69940
myr/smi
MAS/KP/SAR1:04.10.2017:3P-4C

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