



THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2017

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(NPD) (MD)Nos.1578 and 1579 of 2017

C.Vallikannu ... Petitioner in CRP.1578/17
A.Ramakrishnan ... Petitioner in CRP.1579/17

vs.

Alagarsamy ... Respondent in both CRPs

Petitions filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, against the fair and decreetal orders dated 09.12.2016 in RCA.Nos.9 and 10 of 2015 on the file of the Rent Control Appellate Tribunal, Trichirappalli, Principal Subordinate Judge, (FAC) II Additional Subordinate Judge, Trichirappalli, confirming the fair and decreetal order dated 11.02.2015 in RCOP.Nos.80 and 83 of 2009 on the file of the Rent Controller cum III Additional District Munsif, Trichirappalli.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondent : Mr.T.Antony Arul Raj

COMMON ORDER

These Civil Revision Petitions have been filed against the fair and decreetal orders dated 09.12.2016 in RCA.Nos.9 and 10 of 2015 on the file of the Rent Control Appellate Tribunal, Trichirappalli, Principal Subordinate Judge, (FAC) II Additional Subordinate Judge, Trichirappalli, confirming the fair and decreetal order dated 11.02.2015 in RCOP.Nos.80 and 83 of 2009 on the file of the Rent Controller cum III Additional District Munsif, Trichirappalli.

2.The revision petitioner in both the revisions are tenants and the respondent is landlord. The respondent/landlord filed RCOP.Nos.80 and 83 of 2009 on the file of the Rent Controller cum III Additional District Munsif, Trichirappalli, for eviction of the revision petitioners on the ground of wilful default of rent, demolition and reconstruction. In the eviction petitions, the respondent has stated that he is the owner of the demised premises which are residential houses. He let the same to the petitioners on a monthly rent of Rs.400/-. He would further state that he



purchased the petition mentioned property from one Arif Ali and Asif Ali. The revision petitioners were informed by the vendors of the respondent about the sale of property. After the purchase of property, the respondent informed the revision petitioners about his intention to demolish all houses with a plan to construct new houses to augment his income. The revision petitioners failed to pay the rent and also failed to vacate the petition mentioned property. Hence, the respondent sent a legal notice dated 24.09.2009 to the revision petitioners to vacate and hand over vacant possession.

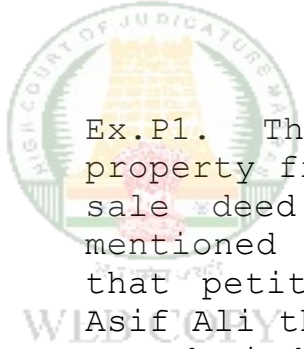
3. In RCOPs, the revision petitioners contended that there was no landlord-tenant relationship between them and respondent and there was no oral or written rental agreement between them and respondent and the revision petitioners on their own income constructed houses in the petition mentioned property and are in possession of the same for the past 35 years without any interruption and therefore, the respondent has no authority to demolish the building. Hence, they prayed for dismissal of eviction petitions.

4. The Rent Controller cum III Additional District Munsif, Trichirappalli, by orders dated 11.02.2015 in RCOP.Nos.80 and 83 of 2009, after considering the oral and documentary evidence, ordered eviction on the ground of wilful default and demolition and reconstruction. Aggrieved by the order of eviction, the revision petitioners/tenants filed RCA.Nos.9 and 10 of 2015 before the Rent Control Appellate Tribunal, Trichirappalli, Principal Subordinate Judge, (FAC) II Additional Subordinate Judge, Trichirappalli, and the rent control appellate authority dismissed the appeals concurring with the findings of the rent controller. As against the concurrent findings, the revision petitioners/tenants have filed the present revision petitions.

5. Heard the learned counsel for the petitioners as well as respondent and perused the materials available on record.

6. Perusal of the records shows that while the respondent/tenant filed eviction petitions on the ground of wilful default, demolition and reconstruction, the revision petitioners/tenants denied the landlord-tenant relationship contending that they are owners of the petition mentioned property by adverse possession and therefore, the respondent cannot demolish the petition mentioned property.

7. Perusal of the records further shows that before the rent controller, the respondent/landlord examined himself as PW1 and deposed that he purchased the entire petition mentioned property from its owners namely, Arif Ali and Asif Ali and in support of the same, he marked copy of sale deed executed in his favour as



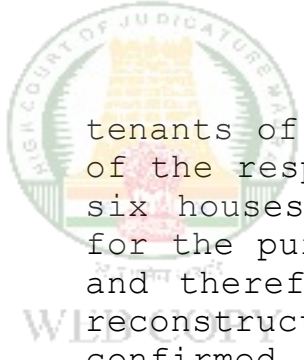
Ex.P1. The vendors of the respondent acquired petition mentioned property from their maternal grandfather Makthum Ibrahim through a sale deed dated 02.04.1969 and parent deed of the petition mentioned property has been marked as Ex.P2 which would reveal that petition mentioned property was purchased by Arif Ali and Asif Ali through their guardian Makthum Ibrahim. These facts were not denied by the revision petitioners/tenants in their counter. Therefore, the Rent Controller held that the respondent/landlord has established title over the petition mentioned property.

8.As regards the contention of the revision petitioners regarding denial of title of the respondent taking a plea of long possession i.e., adverse possession that they constructed houses in the petition mentioned property on their own income and residing for the past 35 years without any interruption, the learned rent controller held that the revision petitioners who claim adverse possession, did not establish who is the owner of petition mentioned property, how they entered into the property, nature of possession and how their possession turned hostile to the original owner and therefore, the rent controller rejected the claim of adverse possession.

9.Further, from the perusal of Ex.R2-tax receipts and Ex.R3-demand notice for payment of tax, the rent controller found that taxation and other documents related to the petition mentioned property stands in the name of Makthum Ibrahim and the respondent/landlord has paid tax to the Municipal Corporation on behalf of Makthum Ibrahim, who was the guardian of the respondent's vendors namely, Arif Ali and Asif Ali and RW1 also in the cross examination admitted that the demised premises belonged to Makthum Ibrahim.

10.As regards the contention of wilful default in payment of rent, the rent controller found that after purchase of the petition mentioned property, the respondent issued legal notice dated 29.04.2009 to the petitioners to vacate and hand over possession. The notices and acknowledgment card were marked as Exs.P6 and P7. On the date of petition, arrears of rent was Rs.2,200/- and subsequent to the eviction petitions, the revision petitioners had failed to pay rent for 63 months. Therefore, the rent controller held that after the sale of petition mentioned property in favour of the respondent, the revision petitioners who are deemed to be tenants under the respondent, are liable to pay rent to the respondent. But, despite legal notice, they did not reply nor pay the rent. Therefore, the rent controller ordered eviction on the ground of wilful default.

11.So far as the plea of demolition and reconstruction, the rent controller through the cross examination of RW1 found that except the houses occupied by the revision petitioners, the



tenants of other six houses have vacated the houses at the request of the respondent/landlord and the respondent had demolished those six houses which will show the real intention of the respondent for the purpose of reconstruction with an aim of augmenting income and therefore, ordered eviction on the ground of demolition and reconstruction. The rent control appellate authority also confirmed the findings of the rent controller in similar lines.

12. Upon perusal of the impugned orders passed by the rent controller and rent control appellate authority, this Court does not find any ground to interfere with the same. There is no infirmity in the impugned orders which do not warrant interference at the hands of this Court. Hence, both the Civil Revision Petitions are dismissed. No costs.

Sd/-

Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

To

1) The Principal Subordinate Judge, (FAC),
II Additional Subordinate Judge,
Trichirappalli.

2) The III Additional District Munsif cum Rent Controller,
Trichirappalli.

+ 1 cc TO Mr. T. Antony Arul Raj, Advocate in SR No. 87128

+ 2 ccs TO Mr. P. Ganapathi Subramanian, Advocate in SR No. 87715, 87714

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AE/MR/SAR1/31.01.2018/4P/6C

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