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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 09.10.2018

Delivered on : 18.12.2018

Coram

THE HONOURABLE MS. JUSTICE P.T. ASHA

C.R.P. (NPD) No. 1509 of 2003

1. Thimamma
2. N. Saroja

....Petitioners /Tenants

Versus

1. P.P. Leelabai
2. M. Ashok chand
3. M. Daramchand
4. M. Jaichand
5. M. vijayachand
6. M. Puspaltha

... Respondents/Landlords

Prayer: This Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings Lease and Rent Control Act 1960, against the fair and decreetal order made in R.C.A.No.85 of 1998, dated 22.04.2003, on the file of Court of Subordinate Judge (Appellate Authority) Udagamandalam, thereby confirming the fair and decreetal order made in R.C.O.P.No.64 of 1997, dated 03.11.1998 on the file of Rent Controller (District Munsif), Udagamandalam.

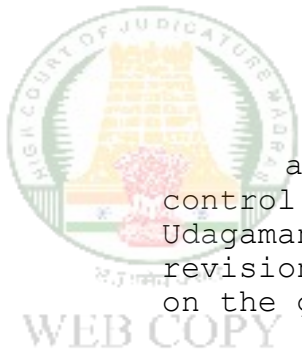
For Petitioners: Mr. T. Girish for
Mr. Srinath Sridevan

For Respondents : Mr. R. Parthasarathy for RR2 and 4
No appearance for RR3 and 5

O R D E R

The tenant is the revision petitioner herein. The revision arises against the order of eviction made in RCOP.No.64 of 1997, dated 03.11.1998 passed by the Rent Controller (District Munsif), Udagamandalam and confirmed by the Appellate Authority, viz, the Sub Court, Udagamandalam.

2. The facts in brief necessary for disposing of this Civil Revision Petition are as follows:-



a. One S.Mothilal (since deceased), had initiated rent control proceedings in RCOP.No.64/97 before the Rent Controller, Udagamandalam, originally against the husband of the 1st revision petitioner herein, namely, Nanjaiah, seeking eviction on the ground of a willful default in payment of rent.

b. The said Nanjaiah was the tenant under the Mothilal and he had forged the signature of the said Mothillal and tried to obtain a service connection in respect of the tenanted premises. Having done so, the revision petitioner had filed COP.No.51/1995 before the District Consumer Disputes Redressal Forum against Mothillal and the Tamil Nadu Electricity Board. After contest, the said application was dismissed holding that the tenant had forged signature of Mothillal. Thereafter, the tenant had also filed RCOP.No.64/95 for depositing the rents into Court, alleging that the landlord had refused to receive the rent which is the subject matter of CRP.No.1508 of 2003. The said Mothillal as Landlord had filed the present RCOP.No.64 of 1997, on the ground that there were arrears of rent from January 1995 to July 1997, to the tune of Rs.2015/- and that the tenant was a habitual defaulter.

c. The said Mothillal had died and respondents 1 to 6 were brought on record as his legal heirs. The tenant resisted the above RCOP, inter-alia contending that COP.51/95 had been dismissed on technical grounds, not as alleged in the petition. In RCOP.No.64/95, the Land lord has not contended in his counter that the tenant was in arrears of rent and on the contrary, he had stated that he had not refused to receive the rents. He would further contend that since the deposits had been made in RCOP.No. 64/95, there was no default on the side of the tenant. He has filed an additional counter in which he had contended that initially the landlord was receiving the rents, but thereafter the rents were deposited into court by the tenant. He would contend that he has not defaulted in the payment of rent for the period from January 1995 to July 1997.

d. The learned Rent Controller, after analyzing the evidence both documentary and oral, came to the conclusion that the tenant miserably failed to prove his case by letting in cogent oral and documentary evidence and has come out to deny the title of the Landlord to the demised premises. It was further found that though the tenant had stated that he was the tenant under the Mothilal and he had deposited the rent into the court, he did not comply with the provisions of Section 8(5) of the Act and in other words, the tenant had not filed any receipt proof for having paid the rent. The tenant has filed that petition against both Mothillal as well as against the Shanthilal and in that petition Mothillal has not taken a stand that he was the owner of the property and not Shanthilal and



therefore, he was also the owner of the suit property and the petition filed by Mothillal was not maintainable. Thus, the Rent Controller has held that denial of title has not been proved. Further, it was held that allegations with respect to refusal to receive the rents has also not been proved by letting in evidence. Without any reason, the deposits had been made into court, which was in total violation of the provisions of Section 8 of the Act since the prior permission for depositing of the rent is required. The learned Rent Controller also observed that the tenant has not proved the payment of rents and even Exs.R2 and R6 would indicate that the rents have been deposited sporadically. On such findings, the Rent controller had ordered for eviction, allowing the RCOP.

e. Challenging this said order of eviction, the tenant had filed RCA.85/98 before the learned Subordinate Judge (Appellate Authority) (Udagamandalam). During the pendency of the appeal, the tenant died and his legal heirs, who are the revision petitioners were brought on record as the appellants. The learned Appellate Authority had confirmed the order of the learned Rent controller, which is challenged in this civil revision petition by his legal heirs/ revision petitioners.

3. This Court heard Mr. T. Girish, learned counsel for the revision petitioners and Mr.R.Parthasarathy, the learned counsel for respondents and also perused the materials placed before this Court.

4. On perusal of the material placed on record, it is seen that the tenant has been developing his case at each stage of the proceeding. The tenant petitioner had not questioned that landlord was not the owner of the property in his counter. However, he had, in his evidence for the first time, questioned the title of the land lord to the tenanted premises. It is also seen that despite the landlord agreeing to receive the rents, the tenant has deposited the rents into court, that too without the permission of the court, which is a sine qua non, under the provisions of Section 8 of the Act. Both the courts below have taken into consideration the fact that though the Exs.R2 and 6 have been filed to show the receipt of rents, a perusal of the documents showed that the tenant was is in the habit of defaulting in payment of the rents. Based on the oral and documentary evidence, both the courts below have concurrently held that there was default in payment of rent by the tenant and accordingly, eviction was ordered by the Rent Controller and the same was confirmed the Appellate Authority.

5. For the reasons stated above, this Court is of the considered view that there is no infirmity in the order passed by both the Authorities below, which warrants interference and



further this court sitting in revision under Section 25 of the Act cannot revisit the evidence, which was already appreciated by both the Authorities below in a proper and perspective manner and accordingly, this civil revision petition is liable to be dismissed.

6. In the result, this Civil Revision Petition is dismissed, confirming the impugned judgments of both the courts below. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

jrs

To

1.The Rent Controller (District Munsif),
Udagamandalam.

2.The Sub Judge,
Udagamandalam.

CRP. (NPD) .No.1509 of 2003

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