

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	20.09.2018
Pronounced on	27.09.2018

Coram

The Honourable Ms.Justice P.T.ASHA

C.R.P(NPD)Nos.772 & 773 of 2006
and

C.M.P.No.14091 of 2018
in C.R.P(NPD)No.772 of 2006

C.R.P(NPD)No.772 of 2006:

- 1.P.J.Palraj Nadar (died)
- 2.P.Jebathai John William
- 3.P.Jebaneshi Pushparagham
- 4.P.Jebarani Paripuranam
- 5.P.Jeyabal Panneerselvam
- 6.P.Jeya
- 7.P.Jeyapandiayan
- 8.P.Jeyamanickam
- 9.P.Jeyaselvi Porkodi
- 10.P.Jeya Robi
- 11.P.Pon Mary
- 12.P.Sugani

...Petitioners

(P2 to P12 were brought on record as Legal Representatives of the deceased sole petitioner vide Court order dated 02.02.2017 made in M.P.No.1,2,3&3 of 2013 in C.R.P(NPD)No.772 of 2006)

Versus

Rajendran

...Respondent

This Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as amended by Act 23 of 1973 and Act 1 of 1980 praying to call for the records relating to the proceeding of the fair and decreetal order of the Rent Controller Appellate Authority, Chennai (8th Small Causes Judge, Chennai) dated 07.09.2001 made in R.C.A.No.993 of 1996 confirming the fair and decreetal order of

the Rent Controller, Chennai (13th Small Causes Judge, Chennai) dated 15.02.1996 made in R.C.O.P.No.1886 of 1993, set aside the same and consequently, allow the R.C.O.P.No.1886 of 1993 by passing an order of eviction against the respondent herein.

For Petitioners : Ms.C.R.Rukmani

For Respondent : Mr.K.S.Madhavan

C.R.P(NPD)No.773 of 2006:

- 1.P.J.Palraj Nadar (died)
- 2.P.Jebathai John William
- 3.P.Jebaneshi Pushparagham
- 4.P.Jebarani Paripuranam
- 5.P.Jeyabal Panneerselvam
- 6.P.Jeya
- 7.P.Jeyapandiayan
- 8.P.Jeyamanickam
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- 10.P.Jeya Robi
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...Petitioners

(P2 to P12 were brought on record as Legal Representatives of the deceased sole petitioner vide Court order dated 02.02.2017 made in M.P.No.1,2,3&3 of 2013 in C.R.P(NPD)No.773 of 2006)

Versus

Rajendran

...Respondent

This Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as amended by Act 23 of 1973 and Act 1 of 1980 praying to call for the records relating to the proceeding of the fair and decreetal order of the Rent Controller Appellate Authority, Chennai (8th Small Causes Judge, Chennai) dated 07.09.2001 made in M.P.No.87 of 2000 in R.C.A.No.993 of 1996, set aside the same and consequently, allow the M.P.No.87 of 2000 in R.C.A.No.993 of 1996 filed by the petitioner to receive the additional documents.

For Petitioners : M/S.C.R.Rukmani

For Respondent : Mr.K.S.Madhavan

C O M M O N O R D E R

The deceased first petitioner/P.J.Palraj Nadar in both the revision petitions is the land lord. C.R.P(NPD)No.772 of 2006 is filed challenging the order passed by the learned Rent Control Appellate Authority, VIII Small Causes Court, Chennai in R.C.A.No.993 of 1996 dated 07.09.2001, confirming the order of the learned Rent Controller, XIII Small Causes Court, Chennai in R.C.O.P.No.1886 of 1993 dated 15.02.1996, and C.R.P(NPD)No.773 of 2006 is filed challenging the order passed by the learned Rent Control Appellate Authority, VIII Small Causes Court, Chennai in M.P.No.87 of 2000 in R.C.A.No.993 of 1996 dated 07.09.2001. These Revision Petitions arise from a common rent control proceedings.

2. The deceased first petitioner/Palraj Nadar had filed R.C.O.P.No.1886 of 1993 for directing the eviction of respondent herein on the ground that he is a tenant in respect of a shop portion in the ground floor of Door No.6, Medavakkam Tank Road, Ramalingapuram, Chennai - 12. Originally he was a tenant under one T.Kanniah Chettiar and on his death, the respondent became the tenant of the deceased first petitioner. The deceased first petitioner has purchased the property from one Elammal and Vardharajan under a sale deed 24.09.1992, on the file of the Sub Registrar's Office, Anna Nagar, Chennai. After the deceased first petitioner had purchased the property, he met the respondent and requested him to attorn tenancy in his favour. However, the respondent refused to do so and had also not paid the rents to him. The deceased first petitioner by letter dated 15.01.1993, had informed the respondent about his purchase. However, neither did the respondent attorn tenancy nor did he pay the rents and therefore, he is in arrears of a sum of Rs.1,578/- for the period October 1992 to June 1993. Therefore, deceased first petitioner had filed R.C.O.P.No.1886 of 1993 for evicting the respondent.

3. The respondent inter alia countered the case of the deceased first petitioner by stating that he is the owner of the property having purchased it from the original owner United India Pharm Ltd. He denied the existence of the landlord-tenant relationship between the deceased first petitioner and himself. He further contended that the deceased first petitioner did not have the locus standi to file the aforesaid eviction petition.

4. The learned Rent Controller, XIII Small Causes Court, Chennai by order dated 15.02.1996, dismissed the R.C.O.P.No.1886 of 1993 on the ground that there was no landlord-tenant relationship between the parties and further there was already a Civil Suit in C.S.No.752 of 1987 which was filed by M/s.United

India Pharm Ltd. in which the deceased first petitioner was the 44th defendant, the respondent herein was the 40th defendant and the deceased first petitioner's vendor/Elammal was the 26th defendant. The learned Rent Controller had also relied upon the admission of deceased first petitioner as P.W.1 that it was only now that he came to know that the original owner of the property was United India Pharm Ltd. from whom, the respondent had purchased the property. The respondent had also filed the property tax receipts and sale deed in his favour to show that he is the owner of the property. Challenging the said order, the deceased first petitioner had filed R.C.A.No.993 of 1996 on the file of the VIII Small Causes Court, Chennai. Pending the Appeal, he had also filed M.P.No.87 of 2000 for receipt of additional documents like the receipt book, files and orders in Rent Control Proceedings (This is a subject matter of C.R.P(NPD) No.773 of 2006). The learned Rent Control Appellate Authority, VIII Small Causes Court, Chennai without considering any of the material on record has simply dismissed the R.C.A.No.993 of 1996 by holding that the suit in C.S.No.752 of 1987 is still pending and only after the suit is disposed of, the judgment in that suit will have a direct bearing on the Rent Control proceedings since it is only by the judgment in C.S.No.752 of 1987 that the title to the property could be decided. The Application filed by the petitioner to receive the additional documents was also dismissed on the ground that since the main petition has been disposed of this petition has also been disposed of.

5. When these Revision Petitions were taken up for arguments, both sides had filed the additional documents and they had also represented that the suit in C.S.No.752 of 1987 has been dismissed for default. The order of the learned Rent Control Appellate Authority, VIII Small Causes Court, Chennai is bereft of any reasoning or finding with reference to the evidence and the available documents and the learned Rent Control Appellate Authority has simply confirmed the order of the learned Rent Controller on the ground that the decision in C.S.No.752 of 1987 would have a bearing on the title over the property and consequently, the rights of parties in the Rent Control proceedings.

6. Considering the fact that the suit has been dismissed for default and the parties on either side have filed documents, I deem it fit to remit the matter back to the learned Rent Control Appellate Authority, VIII Small Causes Court, Chennai for reconsideration. The parties are free to file such documents as they deem fit which have come into existence pursuant to the order of the learned Rent Controller, XIII Small Causes Court, Chennai. On the production of the documents, the learned Rent Control Appellate Authority, VIII Small Causes

Court, Chennai shall use his discretion to permit the parties to let in oral evidence if required and thereafter, pass a considered order. This exercise shall be completed by the learned Rent Control Appellate Authority, VIII Small Causes Court, Chennai on or before the 31.03.2019.

7. In the result, these Civil Revision Petitions are disposed of on the above lines. It is needless to state that the learned Rent Control Appellate Authority, VIII Small Causes Court, Chennai shall once again consider the M.P.No.87 of 2000 afresh. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Rent Control Appellate Authority,
VIII Small Causes Judge, Chennai.
- 2.The Rent Controller,
XIII Small Causes Judge, Chennai.

Copy to

The Section Officer,
VR Section, High Court, Madras.

+2cc to M/S.C.R.Rukmani, Advocate Sr.67562, 67563
+4cc to Mr.K.S.Madhavan, Advocate Sr.67771. 67770

C.R.P(NPD)Nos.772 & 773 of 2006

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srg 12/10/2018