

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.06.2018

CORAM :

THE HONOURABLE MR. JUSTICE P. VELMURUGAN

**CRP.NPD.No.1495 of 2018
and CMP.No.7966 of 2018**

M/s.Masseys Enterprises Private Limited
rep by its Managing Director
Mr.Rahulnath .. petitioner

v.

Chennai Sri Kalikambal Kamadeswarar Devasthanam
rep by its Trustees

1. K.Murthy
2. D.Jagadeesan Achari
3. K.Yuvaraj Achari
4. R.Rajendra Kumar
5. P.Panchatcharam Achari

212 Tahmbu Chetty Street,
Chennai -1.

.. respondents

PRAYER : Civil Revision Petition is filed under Article 227 of

the Constitution of India to set aside the judgment and decree dated
21.08.2017 in CMA.No.14 of 2012 on the file of the Chief Judge,
Court of Small Causes, Chennai confirming the judgment and decree
dated 27.04.2012 passed in Ejectment suit No.9 of 1987 on the file
of the IV Small Causes Court, Chennai.

For petitioner	:	Mr.P.B.Balaji.
For Respondents	:	Notice served. No appearance.

J U D G M E N T

The revision petitioner herein is the defendant and the respondent/Trust is the plaintiff in the suit in ES.No.9 of 1987.

2. The respondent is the owner of the property at New No.17 Old No.7, North Railway Terminus Road, Royapuram, Madras – 13. The respondent filed the suit for ejection under Section 41 of the Presidential Small Causes Court Act against the revision petitioner. After trial, the suit was decreed as prayed for and directed to vacate and deliver vacant possession of the suit property as stated supra within two months. Aggrieved against the said judgment and decree passed by the learned IV Judge, Small Causes Chennai, the revision petitioner preferred an appeal in CMA.No.14 of 2012 before the Chief Judge, Court of Small Causes, Chennai. After hearing both sides, the Chief Judge dismissed the civil miscellaneous appeal by confirming the judgment and decree passed by the trial Court. As against the said order, the revision petitioner is before this Court.

3. The case of the revision petitioner is that he is the tenant in the said property and the respondent/Trust is the owner of the property. During pendency of the ejection suit in ES.No.9 of 1987, the revision petitioner filed a petition in MP.No.415 of 1989 under

Section 9 of the Tamil Nadu City Tenants Protection Act, claiming benefit under the Act stating that they are entitled for declaration and direction to the landlord to sell the property in question to them for the price to be fixed by the Court. The said petition was allowed on 28.11.1991. Against which, the respondent filed civil miscellaneous appeal in CMA.No.10 of 1992 which was allowed on 17.09.1996 on the ground that the tenant is not entitled to the benefit of Section 9 of the City Tenants Protection Act, in view of the amendment in the year 1994. The said order was not challenged by the tenant/petitioner. The suit was remitted back to the trial Court for disposal of the ejectment suit in accordance with law. The trial Court after completion of trial afresh decreed the suit as prayed for on the ground that the plaintiff/respondent is entitled for possession.

4. Subsequently, the petitioner preferred an civil miscellaneous appeal in CMA.No.14 of 2012 stating that the name of Chennai Sri Kalikambal Kamadeswarar Devasthanam was wrongly mentioned and the Chennai Sri Kalikambal Kamateswarar Devasthanam is the actual owner, hence, the suit is not maintainable as against the plaintiff/respondent. Further, notice before the institution of the suit has not been given to the tenant and the copy of the notice was also not sent to the Commissioner of

Corporation, without issuing any notice, the suit for ejectment is not at all maintainable.

5. The respondent failed to prove the sub letting on the ground which sought for ejectment was not proved. The learned Chief Judge, Small Causes Court, Chennai after hearing the appeal elaborately dismissed the suit on the ground that the appellant has not proved the claim, by confirming the judgment and decree passed in the ejectment suit.

6. As against the said order, the revision petitioner filed the present revision, reiterating the very same grounds raised in the CMA.No.14 of 2012 on the file of Chief Judge, Court of Small Causes, Chennai.

7. It is not in dispute that property at New No.17 Old No.7, North Railway Terminus Road, Royapuram, Madras - 13 is the subject matter of property belong to the respondent/Trust and admittedly the revision petitioner is the tenant. When the respondent filed the ejectment suit against the petitioner in ES.No.9 of 1987 on the file of Court of Small Causes, Chennai, the revision petitioner filed MP.No.415 of 1987 stating that he is entitled to invoke the provisions under Section 9 of the Tamil Nadu City

Tenants Protection Act, claiming the benefit of the said Act and they are entitled for declaration and direction to the landlord to sell the property in question for the prices to be fixed by the Court. Admittedly, the said miscellaneous petition was allowed. Against which, the petitioner filed CMA.No.10 of 1992 which was allowed on 17.09.1996 on the ground that the tenant is not entitled to the benefit of Section 9 of the City Tenants Protection Act, in view of the amendment Act. It is settled proposition of law that Rent Controller Act and City Tenants Protection Act will not be applicable to the Religious institutions and Charitable Trust as per the amended Act in the year 1994. Therefore, the question ended finality once the Court decided the issue, the revision petitioner is not entitled to the benefit of Section 9 of the City Tenants Protection Act, he has no right in the subject property. The agreement period of the tenancy was also expired, therefore, he is not entitled to the notice under Section 11 of the City Tenants Protection Act. Since, the period of tenancy was expired the revision petitioner is not entitled to any benefit under the provisions of Sections 3, 9 and 11 of the City Tenants Protection Act and the said Act is not applicable to the Religious Institutions and Charitable Trusts.

8. In the said circumstances, when the city tenants protection Act is not applicable and the period of tenancy is expired, the

revision petitioner is not entitled to statutory notice under Section 11 of the Act. Once the period of tenancy is expired it is always left open to the landlord to evict the tenant and the respondent has proved that the petitioner has sub-let the property. Therefore, the trial court clearly recorded the findings against the revision petitioner and ordered eviction to handover the possession within two months. In the appeal, the learned Chief Judge, Court of Small Causes, Chennai discussed the legal principles as well as the factual aspects and given correct findings.

9. This Court is sitting on the revision petition cannot re-appreciate the evidence and the scope of revision is limited and the trial Court recorded the findings based on the oral and documentary evidences, the lower appellate Court also confirmed the findings recorded by the trial Court. This Court finds no reason to interfere with judgments and decree passed by both the Courts below. There is no merit in the revision and the revision is liable to be dismissed.

10. In the result, the Civil Revision Petition is dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

22.06.2018.

Index : Yes/No
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P. VELMURUGAN, J.

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Pre Delivery Order in

CRP.NPD.No.1495 of 2018

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