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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRP.(MD).No.2204 of 2014(NPD)
and
M.P.(MD).No.1 of 2015

1.Pannirendu Vagaiyara Konarukku
Pathiyapatta Kalmandapam,
Represented by its President,
P.Subramanian, S/o.Paulsamy Konar,
96, South Street,
Palanganatham,Madurai-3.

2.Pannirendu Vagaiyara Konarukku
Pathiyapatta Kalmandapam,
Represented by its Treasurer,
S.Pitchai, S/o.Sonai Kinar,
90B/3, Opposite to PRC Deport,
Arul Nagar, Bye Pass Road,
Madurai-10.

3.Pannirendu Vagaiyara Konarukku
Pathiyapatta Kalmandapam,
Represented by its Secretary,
P.Alagarsamy,
S/o. Peeya Konar,
50, South Street,
Palangantham, Madurai-3. ... Petitioners/Appellants/
Petitioners & Landlord

(Cause Title accepted vide order of this Court dated 16.10.2014 made in M.P.(MD).No.1 of 2014 in CRP.(MD).SR.No.44147 of 2014)

Vs.

Indrani (died)
1.Rajendran
2.Jothi
3.Chandran
4.Sekar
5.Mari
6.Baby

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7.Ravi
8.Kumar .. Respondents/Respondents 2 to 9/Respondents 2 to 9 & Tenants

PRAYER: This Petition filed under Article 227 of the Constitution of India to allow this revision and to set aside the fair and decreetal order passed in R.C.A.No.151 of 2005, dated 01.09.2014, on the file of the Rent Control Appellate Authority (Principal Sub Court), Madurai, confirming the fair and decreetal order passed in R.C.O.P.No.327 of 1999, dated 05.09.2005, on the file of the learned Rent Control Authority (Additional District Munsif Court) Madurai Town.

For Petitioners : Mr.H.Arumugam

For R1 to R5, R7 & R8 : Mr.B.Muruganandam
For R6 : Baby – Party-in-Person

O R D E R

This Civil Revision Petition is directed against the order passed in R.C.A.No.151 of 2005, dated 01.09.2014, by the Rent Control Appellate Authority (Principal Sub Court), Madurai, confirming the fair and decreetal order passed in R.C.O.P.No.327 of 1999, dated 05.09.2005, by the learned Rent Control Authority (Additional District Munsif Court), Madurai Town, dismissing the eviction filed by the revision petitioners / landlords against the defendants.

2. The revision petitioners/landlords filed R.C.O.P.No.327 of 1999, dated 05.09.2005, before the learned Rent Control Authority (Additional District Munsif Court), Madurai Town, for evicting the respondents in this Civil Revision Petition on the ground of willful default and for demolition and reconstruction under Sections 10(2)(i) and 14(1) (b) of Tamil Nadu Buildings (Lease and Rent Control) Act.

3. The eviction petition was contested by the respondents solely on the ground that the petition itself is not maintainable under the Rent Control Act as the land leased out to the respondents is a vacant site. The Rent Controller, after considering the rental agreement, found that the lease was only in respect of a vacant land, without any building and dismissed the Petition filed under the Rent Control Act.

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4. Aggrieved by the order of the Rent Controller, the Revision

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petitioners/landlords preferred an appeal in R.C.A.No.151 of 2005, dated 01.09.2014, before the Rent Control Appellate Authority (Principal Sub Court), Madurai. The Rent Control Appellate Authority also dismissed the appeal. Aggrieved by the said order, the aforesaid Civil Revision Petition has been filed.

5. The learned counsel appearing for the petitioners relying upon the rental agreement submitted that the property leased out to the respondents is a vacant land with building and that the Rent Control Act is applicable. The fact that there was a rental agreement dated 09.07.1990 is not in dispute. The property in question has been described as a vacant land, admeasuring 7 cents and 326 square feet out in Survey No.170/18/D1. From the description of the property, this Court has no hesitation to hold that the property, which was leased out to the respondents, is only a vacant land and therefore, this Court, finds no merit in the Civil Revision Petition.

6. However, the learned counsel appearing for the revision petitioners pointed out that the tenant, who is in possession of the property for a long time, has not remitted any rent.

7. The learned counsel appearing for the respondents though submitted that there were some payments, this Court find that the tenant has only paid some money towards property tax and he wants to adjust the said sum towards rental arrears. It is also seen from the records that the tax amount payable, by the landlord, is less than the money paid by the tenant towards rent.

8. In the above circumstances, this Court directs the parties to ascertain the quantum of rental arrears as on date. Though the parties have different version, they accepted the rent at Rs.150/- per month.

9. Accordingly, the following directions are issued:-

> *"The respondents shall pay a sum of Rs.37,800/- (Rupees Thirty Seven Thousand and Eight Hundred only) as rental arrears to the revision petitioners in three monthly installments. The first installment will be commenced from 15.08.2018. The next installments will be on 15.09.2018 and 15.10.2018, respectively. Since the tenants have admitted their liability, the respondents shall continue to pay rent at the rate of Rs.150/- (Rupees One Hundred and Fifty only) per month, till the rent is reviewed by due process of law."*

10. Since this Court has held that Rent Control Act has no application in respect of a leasing of a vacant land, the present revision petition cannot be sustained. However, it is open to the revision petitioners to file a suit in accordance with law.

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11. With these above directions, this Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Rent Control Appellate Authority
   (Principal Subordinate Judge),
   Madurai.

2. The Rent Control Authority (Additional District Munsif Court),
   Madurai Town.

3. The Record Keeper, V.R.Section,
   Madurai Bench of Madras High Court,
   Madurai. (2 Copies)

+ 1 CC TO Mr.H.ARUMUGAM, ADVOCATE IN SR No. 76686
+ 1 CC TO Mr.B.A.MURUGANANTHAM, ADVOCATE IN SR No. 76503

TSG
TE/SKN-RSK/SAR-2 : 13/08/2018 : 4P/7C

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