



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.2648 of 2016

S.Alagappan

... Petitioner/Appellant/ Respondent

Vs.

S.Madasamy

... Respondent/Respondent/Petitioner

PRAYER : Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings(Lease and Rent Control) Act, to set aside the order passed in fair and decreetal order dated 23.11.2016 made in R.C.A.No.30 of 2015 on the file of the appellate Tribunal/Sub Court, Thoothukudi, confirming the order passed in R.C.O.P.No.7 of 2012 on the file of the District Munsif/Rent Controller, Sattankulam, dated 23.12.2014.

For Petitioner	: Mr.T.A.Ebenezer
For Respondent	: Mr.M.P.Senthil

O R D E R

R.C.O.P.No.7 of 2012 on the file of the Rent Controller (District Munsif), Sathankulam, was filed by the respondent herein, for evicting the Revision petitioner on the ground of willful default and own use. The said R.C.O.P. Was allowed on 23.12.2014. Questioning the same, the Revision petitioner herein filed R.C.A.No.30 of 2015 before the appellate Authority/Sub Court, Tuticorin. The said R.C.A. was dismissed on 23.11.2016. Challenging the same, the Revision petitioner has filed this Civil Revision petition.

2. Heard the learned counsel on either side.

3. It is not in dispute that the petition mentioned property originally belonged to the Revision petitioner. The case of the respondent is that the Revision petitioner executed a Power of Attorney in favour of one Pal Thevar who on the strength of the said Power of Attorney executed Ex.P.7 sale deed dated 07.06.2001 in favour of Esakki Pandi. The said Esakki Pandi in turn executed a Power of Attorney dated 01.10.2001, Ex.P.8 in favour of one Sundaram. From the said Sundaram, the respondent herein had



purchased the petition mentioned property vide sale deed dated 26.10.2006, Ex.P.1.

4. The Authorities below have categorically found that the title over the petition mentioned property is with the respondent herein. In fact the Revision petitioner herein who examined himself is R.W.1 also accepted the execution of the sale deed in question. This Court posed a specific question to the learned counsel appearing for the Revision petitioner, as to whether the Revision petitioner has filed any civil suit for annulment of the documents. The answer is in the negative. Therefore, at this point of time, it will not be open to the Revision petitioner to question the sale document or the Power of Attorney executed by him in the year 2001. Therefore, the Authorities below rightly came to the conclusion that the title in respect of the property is with the respondent. Of course the Authorities constituted under the Rent Control Act, are not expected to go into the issue of title. Be that as it may, there is no scrap of paper to show the existence of the landlord-tenant relationship. That is why, even though the scope and width of the Revisional power under Section 25 of the Tamil Nadu Buildings(Lease and Rent Control) Act is rather limited, this Court is constrained to interfere with the orders impugned. The reason for such interference is that there is zero material or evidence in support of the claim of the existence of landlord-tenant relationship.

5. In this view of the matter, the orders passed by the Court below are set aside.

6. This Court specifically grants liberty to the respondent to institute an ejectment suit for securing the possession of the premises from the Revision petitioner herein. It is made clear that such ejectment suit will be disposed of in accordance with law and the fact that the respondent projected the claim of landlord-tenant relationship in the present proceedings will not be put against him.

7. With these observations and liberty to the respondent, the Civil Revision petition stands allowed. No costs.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Subordinate Judge(Appellate Authority),

<https://hcservices.courts.gov.in/hcservices/>

Thoothukudi.



2. The District Munsif(Rent Controller),
Sattankulam.

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

• 1 CC TO Mr.T.A.Ebenezer , ADVOCATE IN SR No. 90602.

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