



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
Reserved on: 02.08.2018

Pronounced on: 09.08.2018

CORAM

**THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN**

C.R.P. (NPD) (MD) No.1207 of 2016

WEB COPY

Nagarathinam Ammal (died)

1. Ashok Kumar
2. Jeyachandran
3. Rajalakshmi
4. Kannan
5. Dhanalakshmi
6. Meenakshi

... Petitioners/Respondents/LRs of deceased  
Petitioner

-vs-

1. Jeipoormal
2. Soorajmal

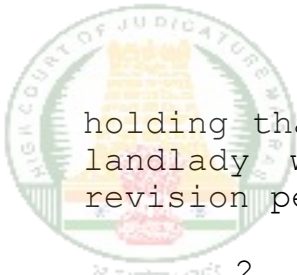
... Respondents/Appellants/Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair order and decreetal order passed in R.C.A.No.22 of 2011 on the file of the Rent Control Appellate Authority (Principal Sub-Judge), Madurai dated 02.09.2015, reversing the fair and decreetal order passed in R.C.O.P.No.25 of 2002 on the file of the Rent Controller (Additional District Munsif), Madurai Town, Madurai dated 01.06.2011 and allow the Civil Revision Petition and thus render justice.

|                 |                        |
|-----------------|------------------------|
| For Petitioners | : Mr.R.R.Kannan        |
| For R1          | : Mr.T.Antony Arul Raj |
| For R2          | : No Appearance        |

#### O R D E R

The Legal Representatives of late Nagarathinam Ammal / revision petitioners herein (Landlords) have filed this petition against the respondents herein, out of whom, 1<sup>st</sup> respondent was the Tenant and the 2<sup>nd</sup> respondent was alleged to have been sublet by the 1<sup>st</sup> respondent, seeking to set aside the order passed in R.C.A.No.22 of 2011 on the file of the Rent Control Appellate Authority (Principal Sub-Judge), Madurai dated 02.09.2015, reversing the fair and decreetal order passed in R.C.O.P.No.25 of 2002 on the file of the Rent Controller (Additional District Munsif), Madurai Town, Madurai dated 01.06.2011. R.C.O.P.No.25 of 2002 was filed by the original Landlady, namely, Nagarathinam Ammal for evicting the Tenants so as to give vacant possession of the property to her, which was allowed by the learned Rent Controller (Additional District Munsif), Madurai Town, Madurai. Aggrieved by the same, the Tenants had filed R.C.A.No.22 of 2011 before the learned Rent Control Appellate Authority (Principal Sub-Judge), Madurai, in which, the order of the learned Rent Controller was reversed,



holding that the requirement of the building for the own use of the landlady was not bona fide. Challenging both the said order, revision petitioners / Landlords are before this Court.

2. It was the case of the revision petitioners / Landlords that they rented out their property to the 1<sup>st</sup> respondent for non residential purpose by fixing a sum of Rs.700/- per month for three years from 09.08.1998 and the 1<sup>st</sup> respondent had committed wilful default without payment of any rent from August, 2000 to August, 2001. It was the further case of the Landlords that as per the lease agreement, the 1<sup>st</sup> respondent was not supposed to sublet the premises to any person and in contrary to the same, the 1<sup>st</sup> respondent, without obtaining any written permission from the Landlords, had sublet the property to the 2<sup>nd</sup> respondent, thereby violated the conditions of the lease agreement. Moreover, they are in need of the property for starting a tea stall and therefore, the tenants are liable to be evicted from the petition mentioned property. Contending that though the learned Rent Controller had appraised their case favourably, the learned Appellate Authority has not taken into account the above factual aspects in proper perspective and reversed the order of eviction passed by the Rent Control Authority, it is prayed that the said order needs interference by this Court.

3. Per contra, learned counsel for the 1<sup>st</sup> respondent Tenant has stated that there was no wilful default on his part and it was the Landlords, who denied to receive monthly rents from him. The 2<sup>nd</sup> respondent is his brother and therefore, question of subletting the property of the Landlords does not arise at all. It was further stated that the son of the original Landlady has been in employment somewhere else and therefore, the petitioners' plea that they require the building for setting up a new tea stall in it, is neither true nor acceptable and the petition is liable to be dismissed in limine.

4. Heard the learned counsel for the petitioners and the learned counsel for R1 and also perused the material documents available on record.

5. A careful analysis of the order of the learned Rent Controller (Additional District Munsif), Madurai Town, Madurai dated 01.06.2011 would disclose that it had discussed all the factors in brief in the order. During pendency of appeal, the original Landlady Nagarathinam Ammal had expired and therefore, her Legal Representatives continued suing against the respondents / Tenants. From the order of the learned Rent Controller, it was duly proved that it was the petitioners, who, instead of receiving the rent, had sent back the same to the 1<sup>st</sup> respondent and therefore, the plea of wilful default cannot be raised without any supporting materials.

6. The contention raised by the 1<sup>st</sup> respondent Tenant that the Landlords have to prove that they are going to utilize the property for business purpose under the Act, cannot be accepted, as



admittedly it is their property acquired after the death of the original Landlady and it is not the case of the Tenant that he has title or right over the subject property and he is merely claiming rights to occupy the premises only in the capacity as a Tenant. Though the learned Rent Controller had negatived the submissions of the Landlords in respect of wilful default and subletting the petition mentioned property, the property was ordered to be vacated with further direction to hand over the vacant possession of the premises within two months. In support of ordering eviction, the learned Rent Controller had mainly taken into consideration the deposition of the original landlady as P.W.1 in her cross examination, stating that since the property is required for her own use, she was not particular in receiving the monthly rent and the rent was sent back and that she had also not filed any petition for payment of arrears of rent.

7. Admittedly, the property was leased out for three years and it seems that there was a rent agreement entered into between the Landlord and Tenant, stipulating several conditions. It is to be noted that on expiry of the agreement, if the building is required for the use of the Landlords / Landlady, it must be handed over and the only stipulation is that the tenant should be asked to vacate the premises by following due process of law and not in high-handed manner. In the case on hand, the Landlady had duly followed the requirements as adumbrated under Law for eviction of her Tenant and therefore, this Court is of the view that the order of the Rent Control Appellate Authority (Principal Sub-Judge), Madurai dated 02.09.2015 is highly un-sustainable and the same is liable to be set aside, thereby confirming the order passed in R.C.O.P.No.25 of 2002 by the learned Rent Controller (Additional District Munsif), Madurai Town, Madurai dated 01.06.2011.

8. In the result,

a) this Civil Revision Petition is allowed, setting aside the order dated 02.09.2015 passed in R.C.A.No.22 of 2011 by the learned Rent Control Appellate Authority (Principal Sub-Judge), Madurai;

b) the respondents / Tenants are directed to vacate the premises within a period of three months from today, failing which, the petitioners/Landlords are at liberty to proceed against the respondents in the manner known to law.

No costs.

/True Copy/

Sd/-

Assistant Registrar (AS)

Sub Assistant Registrar (CS-I)



To:

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

2.The Additional District Munsif,  
The Rent Controller,  
Madurai Town, Madurai.

3.The Section Officer,  
E.R.Section/V.R.Section,  
Madurai Bench of Madras High Court,  
Madurai.(2 Copies)

+1CC to Mr.RR.Kannan, Advocate in SR.No.77766.

AR

DS/SKN-RSK/SAR-1 :11.08.2018: 4P/6C

PRE-DELIVERY ORDER IN  
CRP (NPD) (MD) .No.1207 of 2016  
09.08.2018