



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.06.2018
CORAM :
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (NPD) (MD) No.1217 of 2013
and
M.P. (MD) No.1 of 2013

R.Sivakumar

:Petitioner

Vs.

A.Sundaresa Sharma
Managing Trustee,
Sri Sathvidya Sabha,
Having Office at
12/21, Pushpamandapa Street,
Thiruvaiyaru,
Represented by Power agent,
B.Mahesh

:Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the fair and decreetal order passed by the Principal Sub Court, Thanjavur in R.C.A.No.2 of 2013 dated 18.04.2013 confirming the fair and decreetal order passed in RCOP.No.6 of 2009, on the file of Rent Controller cum District Munsif, Thiruvaiyaru dated 11.12.2012.

For Petitioner

: Mr.M.R.S.Prabhu

For Respondent

: Mr.K.Mahadevan

ORDER

Tenant, who is the respondent in RCOP.No. 6 of 2009, on the file of District Munsif Court, Thiruvaiyaru, is the Revision Petitioner herein. Landlord, is the respondent herein.

2.The brief facts that are necessary for disposal of this Civil Revision Petition are as follows:

2.1. The revision petitioner is the Tenant and the respondent as Landlord filed a petition for eviction against the revision petitioner in RCOP.No.6 of 2009, before the District Munsif, Thiruvaiyaru, on the ground of wilful default, demolition and reconstruction, under Sections 10 (2) (I) and 14 (1) (b) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. Though the tenancy is admitted, the revision petitioner took a stand in the counter affidavit filed in RCOP.No.6 of 2009, that the Landlord namely, the petitioner therein is a Public Trust and that therefore, the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, is not applicable to it.



2.2.The learned Rent Controller allowed the petition for eviction on the ground of wilful default, demolition and re-construction. However, the main objection that the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, is not applicable, in view of the fact that the Landlord is a Public Trust, was not considered. The learned Rent Controller observed that the petitioner is the Managing Trustee of a Private Trust relying upon the sale deed under which the property was purchased. Aggrieved by the same, the Tenant has preferred an appeal in RC.A.No.2 of 2013, before the Rent Control Appellate Authority (The Principal Sub Court, Thanjavur). The appeal was also dismissed by confirming the findings of the Rent Controller. Aggrieved by the concurrent findings of the Courts below, the Tenant filed the above Civil Revision Petition.

3.The learned Counsel for the Civil Revision Petitioner after referring to the pleadings, submitted that the specific plea with regard to the Character of the Trust and maintainability of petition is not considered by the authorities below. As the jurisdiction of the Rent Controller to entertain the petition for eviction is raised and is relevant, this Court is inclined to take up the issue.

4.In the absence of Trust deed, this Court has no option but to remit the case. However, the learned Counsel appearing for the respondent before this Court produced the Trust Deed, from where this Court is able to see that there is a declaration as to the Character of the Trust as a Public Charitable Trust. Despite a specific plea is raised, the Rent Control Appellate Authority did not consider the important issue with regard to the jurisdiction of the Rent Controller. Since, the revision petitioner has taken this plea and succeeding in the above civil revision petition, he is estopped from raising any plea, which is contrary to what has been taken before the Authorities below.

5.It is not in dispute that the Government of Tamil Nadu has issued G.O.Ms.No.2000 (Home), dated 16th August 1976, exempting all the Buildings owned by the Hindu, Christian and Muslim Religious Public Trusts and Public Charitable Trusts from all the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

6.Hence, respondent being Public Charitable Trust as seen from the trust deed, the provisions of the Rent Control Act are not applicable. In that view of the matter, the order passed by the Rent Controller, Thiruvaiyaru in RCOP.No.6 of 2009 and the order of Rent Control Appellate Authority namely, the Principal Sub Judge, Thanjavur in RCA.No.2 of 2013 cannot be sustained.

7.In view of the fact that the Tamil nadu Buildings (Lease and Rent Control) Act, 1960, is not applicable to the respondent Trust, this CRP has to be allowed. Hence, the Civil Revision Petition is allowed. The order of the Rent Controller cum District Munsif, Thanjavur in RCOP.No. 6 of 2009 and the order of Rent Control Appellate Authority in RCA.No.2 of 2013 are set aside.



8.Liberty is given to the respondent to file a suit for ejectment against the revision petitioner after terminating the tenancy, if it is not determined. It is not open to the revision petitioner to raise a plea that the respondent is not a Public Trust, contrary to what has been stated by him in the Counter in future in the suit that may be filed by the respondent.

9.Since, tenancy has been admitted by the tenant, the tenant undertakes to pay the admitted rent till date. Such an undertaking is recorded.

10.In the result, the Civil Revision Petition is allowed. No cost. Consequently, MP(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Sub Judge,
The Rent Control Appellate Authority,
Thanjavur.
2. The District Munsif,
The Rent Controller,
Thiruvaiyar.

Copy to:

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**.

+1CC to Mr.V.K.VIJAYARAGAVAN, Advocate, SR.No.68549

C.R.P. (NPD) (MD)No.1217 of 2013
14.06.2018

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ES/SKN/RSK/SAR 1/18.07.2018/3P/6C