



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2018

CORAM :

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (NPD) (MD) No.1660 of 2013

and

M.P. (MD) No.1 of 2013

Lenin : Petitioner / 1st Respondent / Petitioner /
Respondent (Tenant)

vs.

1.Ramasamy : 1st Respondent / Appellant / 1st Respondent
Petitioner (Land Lord)

2.Gnanasekaran
3.Ravichandran
4.Janakiraman
5.Sugumaran
6.R.Singaravelan
7.R.Kumaravelan
8.Rethinavelan
9.Rajavelan
10.Sakthivelan
11.Rathinadevi
12.Deiveegarani
13.Arunkumar
14.Subregha
15.Malini

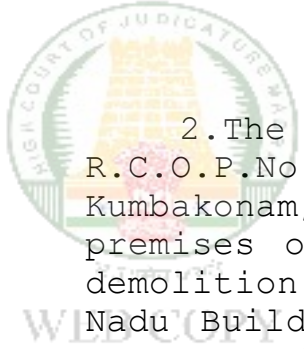
: Respondents 2 to 15 / Respondents 2 to 15 /
Respondents 2 to 15 / Proposed parties

PRAYER: Civil Revision Petition filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the fair and decreetal order dated 29.01.2013 in R.C.A.No.2 of 2011 on the file of the Rent Control Appellate Authority / Principal Sub Judge, Kumbakonam, reversing the fair and executable order dated 03.03.2010 in I.A.No.73 of 2008 in R.C.O.P.No.5 of 2004 on the file of the Rent Controller / Principal District Munsif, Kumbakonam.

For Petitioner : Mr.H.Lakshmi Shankar

ORDER

The unsuccessful tenant before the Court below is the
<https://hcservices.ecourts.gov.in/hcservices/> petitioner in this Civil Revision Petition.



2.The first respondent in this petition as petitioner filed R.C.O.P.No.5 of 2004, before the Principal District Munsif, Kumbakonam, for evicting the petitioner herein from the demised premises on the ground of wilful default in payment of rent and demolition and reconstruction, under Section 14(1)(b) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. After filing counter affidavit in the petition for eviction, the revision petitioner, who is the tenant, filed an application in I.A.No.73 of 2008, before the Rent Controller to implead the respondents 2 to 15 herein, as parties in the main RCOP.

3.The case of the petitioner is that his father one H.M.Swaminathan, became a tenant under one C.R.Balasubramanian in the year 1943 and that his parents paid rent regularly to C.R.Balasubramanian and the first respondent herein. It is the further case of the petitioner that one C.S.Dhandapani, who is also one of the co-owners of the property was demanding rent from him and that he also issued notice through his counsel, on 13.05.2004, demanding rent for the demised premises. Though the said C.S.Dhandapani, died in the year 2005, it is further stated that the legal heir of the said C.R.Balasubramanian, is not the absolute owner and that he is also one of the co-owners. It is contended by the petitioner that the first respondent has no locus standi to file the petition on his own. This petition though was allowed and the order passed by the Rent Controller was reversed and the petition filed by the revision petitioner was dismissed by the Rent Control Appellate Authority.

4.The Rent Control Appellate Authority referring to the fact that the revision petitioner has admitted that he has been paying rent regularly to the first respondent held that the petition filed by the first respondent for vacating the revision petitioner is maintainable without impleading others. For the purpose of entertaining the petition, it is held by the lower appellate Court that the first respondent is the land lord of the building and that the petitioner is a tenant under him. It is therefore, the Rent Control Appellate Authority found that impleading other persons, who are allegedly the co-owners does not rise. Aggrieved by the order passed by the Rent Control Appellate Authority dismissing the petition filed by the revision petitioner to implead the respondents 2 to 15 herein, as parties, the civil revision petition is filed.

5.The learned counsel for the revision petitioner submitted that in a petition filed by the land lord under Section 14(1)(b), there must be consent from other co-owners of the building and that the petition filed by one of the co-owners is not maintainable. The fact whether the respondents 2 to 15 herein, are co-owners or not is not admitted and it is entirely a different issue. For the purpose of maintaining the petition, even on the



ground of demolition and reconstruction, the person, who is entitled to collect rent from the revision petitioner is legally a competent person to file a petition. Once the first respondent satisfied the definition of landlord for the purpose of maintaining the petition, the point whether the respondents 2 to 15 are co-owners or not need not be decided at the behest of the revision petitioner, who admitted that he came to the property as tenant under C.R.Balasubramanian and that he has been paying rent to the said C.R.Balasubramanian and then to the first respondent herein.

6.Be that as it may, the law is settled that one of the co-owners, who is entitled to collect rent, can maintain a petition even on the ground of demolition and reconstruction. Even if the revision petitioner wants to rise an objection as to the maintainability of the petition for eviction on the ground of want of consent from other co-owners, on establishing the rights of the other co-owners, it may be open to the civil revision petitioner to lead evidence, so that his objection will be considered. However, the presence of respondents 2 to 15 is not necessary in this case, having regard to the facts and circumstances of the case. As a result, this civil revision petition is dismissed and the order in R.C.A.No.2 of 2011 on the file of the Principal Sub Judge, Kumbakonam, reversing the order dated 03.03.2010 in I.A.No.73 of 2008 in R.C.O.P.No.5 of 2004 on the file of Rent Controller and Principal District Munsif Court, Kumbakonam, is confirmed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Principal Sub Judge, Kumbakonam.
- 2.The Principal District Munsif, Kumbakonam.

+1. C.C. to M/S.LAKSHMI SHANKAR Advocate SR.No.59610.

C.R.P.(PD) (MD) No.1660 of 2013
03.04.2018

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