

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 25.04.2018****CORAM :****THE HONOURABLE MR.JUSTICE S.S.SUNDAR****C.R.P. (NPD) (MD) No.57 of 2013****and****M.P. (MD) No.2 of 2013**

Appa @ Shanmuga Thevar :Petitioner/Appellant/Respondent/Tenant

vs.

1.M.Kumar
2.M.Ramachandran
3.M.Raja
4.M.Velu : Respondents/Respondents/Petitioner 2-5/Landlords

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the fair and decreetal order dated 24.08.2012, passed in R.C.A.No.38 of 2011 on the file of Principal Subordinate Judge (Rent Control Appellate Authority), Tirunelveli, confirming the fair and decreetal order dated 21.02.2011 passed in R.C.O.P.No.51 of 2005 on the file of Principal District Munsif (Principal Rent Controller), Tirunelveli.

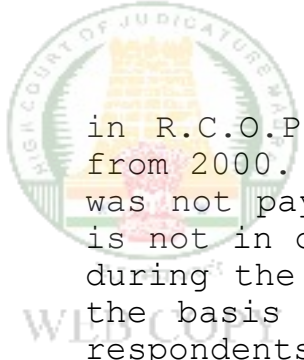
For Petitioners : Mr.P.T.Ramesh Raja
For Respondents : Mr.P.Muthupandi

ORDER

The respondent in R.C.O.P.No.51 of 2005 on the file of the Principal District Munsif (Principal Rent Controller), Tirunelveli, is the revision petitioner.

2.The brief facts that are necessary for the disposal of this petition are as follows:

2.1.The respondents in this Civil Revision Petition, who are the landlords, filed R.C.O.P.No.51 of 2005, before the Principal District Munsif Court (Principal Rent Controller), Tirunelveli, for eviction on the ground of wilful default. The petition mentioned property belonged to one Pandarathevar, by virtue of a sale deed executed by the revision petitioner and his mother, dated 19.06.1986. It is stated in the petition that the revision petitioner took the premises on rent agreeing to pay a sum of Rs.4500 per month. It is further stated that Pandarathevar died in 1991 leaving behind his wife, the petitioner in the R.C.O.P. It is stated further that the rent was thereafter paid to the petitioners



in R.C.O.P. and that the rent was enhanced to Rs.200/- per month from 2000. It is stated in the petition that the revision petitioner was not paying the rent of Rs.200/- per month from January'2003. It is not in dispute that the petitioner in R.C.O.P.No.51 of 2005, died during the pendency of eviction proceedings and that thereafter, on the basis of the Will executed by the landlady in favour of the respondents herein, they were impleaded as parties and the petition was prosecuted further by the respondents.

2.2.The revision petitioner filed a counter, denying and disputing the rights of Ramu Ammal, under whom the respondents claim title on the basis of Will. It is the specific case of the revision petitioner that Pandarathevar is not the owner of the demised property. The sale deed that was stated to have been executed by the revision petitioner and his mother was denied as a sham and nominal document. The tenancy under Pandarathevar was also denied by the respondents. The relationship between the revision petitioner and Ramu Ammal as landlady and tenant is also disputed in the counter affidavit. It is further stated that the revision petitioner is in enjoyment of the property as the legal heir of Subbiah Thevar.

2.3.In the counter affidavit, it is further stated that Ramu Ammal is not the second wife of Pandarathevar and that she was the wife of one Arumugathevar. Since Pandarathevar was the guardian of revision petitioner and his mother, a sale deed was executed on 19.06.1986 in favour of Pandarathevar as a security. It is further stated that there was no consideration for the sale and the revenue records were not changed to the name of Pandarathevar.

2.4.The Rent Controller disbelieved the case of the revision petitioner claiming title over the property on the ground that the sale deed in favour of Pandarathevar is a sham and nominal document. Since the recitals in Ex-A1, sale deed refers to a prior mortgage and discharge of the mortgage out of sale consideration, the Rent Controller found that the sale deed is supported by consideration. On the basis of rental agreement, Ex-P2, the Rent Controller accepted the case of tenancy and disbelieved the case of revision petitioner. Though the fact that Ramu Ammal married one Arumugathevar and the respondents were not born due to the wedlock of Ramu Ammal and Arumugathevar, the Rent Controller specifically found that Pandarathevar married Ramu Ammal and that the said marriage is valid. Relying upon the Will executed by Pandarathevar, it was concluded by the trial Court that the property belonged to Ramu Ammal. The trial Court further found that the revision petitioner has come forward with a false case, disputing the title and the tenancy contrary to Ex-P1 and Ex-P2. On the basis of evidence adduced on both sides, the Rent Controller came to the conclusion that the tenancy is proved and allowed the petition for eviction. Aggrieved by the order passed by the Rent Controller, the revision petitioner preferred an appeal in R.C.A.No.37 of 2011, before the Rent Control Appellate Authority, Tirunelveli. The Appellate Authority also dismissed the appeal, confirming the



findings of the trial Court. Aggrieved by the decision of the Rent Control Appellate Authority, the above Civil Revision Petition has been filed.

3. The learned Counsel for the revision petitioner submitted that Ramu Ammal, the original petitioner in RCOP was not the wife of Pandarathevar in whose favour, Ex-P1, sale deed, was executed. The learned Counsel for the revision petitioner further submitted that the name, Ramathal found in the Will in Ex-P6 is not Ramu Ammal, the petitioner in RCOP. It is further stated that the sale deed alleged to have been executed by the revision petitioner is a sham and nominal transaction, just to protect the property. The learned Counsel for the revision petitioner further submitted that no document or material is produced by the respondents to prove the ownership over the property and the Rent Controller as well as the Appellate Authority have not considered the admitted facts and materials produced by the revision petitioners.

4. It is to be seen that Ramu Ammal filed the petition for eviction as owner of the property on the basis of the Will executed by Pandarathevar under Ex-P6 dated 26.03.1979. The status of Ramu Ammal as wife of Pandrathevar is also proved by the Will, Ex-P6. Ex-P1 and Ex-P2, dated 14.07.1986 and 19.06.1986 are the sale deed executed by revision petitioner and his mother in favour of Pandarathevar and the rental agreement between Pandarathevar and revision petitioner. Ex-P1 and Ex-P2 are proved and hence the findings of authorities are well founded. The fact that Ramu Ammal is also known as Ramathal is proved by document and oral evidence. The Courts below have concurrently held that the relationship between the revision petitioner and Ramu Ammal as tenant and landlady is established by documents. Having regard to the conduct of the revision petitioner, this Court is unable to accept the case of the revision petitioner claiming title to the property. There is no reason to disbelieve the documents Ex-P1 and Ex-P2 and the revision petitioner is estopped from disputing title and tenancy. This Court do not find any reason to interfere with the findings of authorities below, especially having regard to the scope of Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

5. As a result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar



To

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

2.The Principal District Munsif,
(Principal Rent Controller), Tirunelveli.

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

+1cc to Mr.P.Muthupandi, Advocate, SR.No.63871.

C.R.P. (NPD) (MD) No.57 of 2013
25.04.2018

cmr

RAM/JC/SAR 1/20.06.2018/4P/6C