

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2019

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(NPD).No.1064 of 2008

and

M.P.Nos.1 & 2 of 2008

U.Ammanulla Khan (Died) ... Tenant/Respondent

1.Begum Ammanulla Khan

2.Jaffrullakhan

3.Idayathullakhan

4.Nazirullakhan

5.Bijihullakhan

6.Sheerin

7.Nazrin

8.Jareen

... Revision Petitioners
/Respondents

Versus

1.K.R.Jayanthi

2.K.R.Jayapal

3.K.R.Jayalakshmi

4.K.R.Chandrapal

5.K.K.Radha

6.D.Padmini

...Respondents/Petitioners
/Land lords

PRAYER: This Civil Revision Petition has been filed under Section 115 of C.P.C, to set aside order dated 22.02.2008 in R.E.P.No.322 of 2007 in RCOP.No.35 of 2002, on the file of the learned I Additional District Munsif, Salem.

For Petitioners : Mr.K.Selvaraj
For Respondents : No appearance

J U D G M E N T

The legal representatives of the tenant are the revision petitioners in the Civil Revision Petition viz., C.R.P.No.1064 of 2008.

2 This Civil Revision Petition has been filed against the order passed in REP.No. 322 of 2007 in RCOP.No.35 of 2002, on the file of the learned I Additional District Munsif, Salem. Whereby, the eviction was ordered.

3 The learned counsel for the revision petitioners would submit that deceased U.Ammanulla Khan was originally a tenant under K.S.Rajulu Iyer in respect of the petition premises from the year 1964 and the said K.S.Rajulu Iyer agreed to sell the petition premises to the deceased U.Ammanulla Khan and he entered into an agreement for sale on 24.06.1977. The said K.S.Rajulu Iyer had also received an advance of Rs.5,000/-. Thereafter, the landlord K.S.Rajulu Iyer did not proceed with the RCOP.No.106 of 1975 and entered into a compromise. After the demise of K.S.Rajulu Iyer, the respondents herein filed RCOP.No.35 of 2002 against U.Ammanulla Khan for eviction and the same was

allowed by Order dated 25.02.2005. Against the same, U.Ammanulla Khan filed RCA.No.36 of 2005 and the same was dismissed by order dated 21.04.2006. Since the said U.Ammanulla Khan died meanwhile further appeal was not filed by the said U.Ammanulla Khan. The proceedings initiated by the respondents against U.Ammanulla Khan is not known to the petitioners. Only when they received summons in REP.No.322 of 2007, it came to knowledge that there was an eviction proceedings taken by the respondents. The petitioners engaged a counsel to defend the case. In fact, the petitioners herein are not at all parties either in the RCOP.No.35 of 2002 or RCA.No.36 of 2005. The petitioners counsel filed a vakalat in REP.No.322 of 2007 on 12.12.2007 and sought time to file counter in the above case. The Trial Court without giving sufficient time to file the counter and to contest the case on merits, ordered delivery by order dated 22.02.2008.

4 Heard the learned counsel appearing for the petitioners and perused the materials placed on record.

5 After going through the records, it is seen that K.S.Rajulu Iyer is the land lord and U.Ammanulla Khan was the tenant. Since, U.Ammanulla Khan advanced some amount, he has

not pressed the initial RCOP.No.106 of 1975. Subsequently, K.S.Rajulu Iyer died and the legal representatives of the land lord filed present RCOP.No.35 of 2002, wherein, eviction was ordered on 25.02.2005 and the appeal preferred by the tenant in RCA.No.36 of 2005 also got dismissed and hence, regular execution proceedings in REP.No.322 of 2007 was filed, wherein, tenant also filed Vakalat but not ready with the counter. Taking into consideration that RCOP is a contested case, the Execution Court has ordered for eviction and hence, this Court does not find any irregularity in the said order passed by the learned I Additional District Munsif, Salem.

6 In the result, the Civil Revision Petition stands dismissed with the above observation and the order passed by the the learned I Additional District Munsif, Salem in R.E.P.No.322 of 2007 in RCOP.No.35 of 2002, dated 22.02.2008, is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY 02.12.2019

dua
Speaking Order:Yes/No

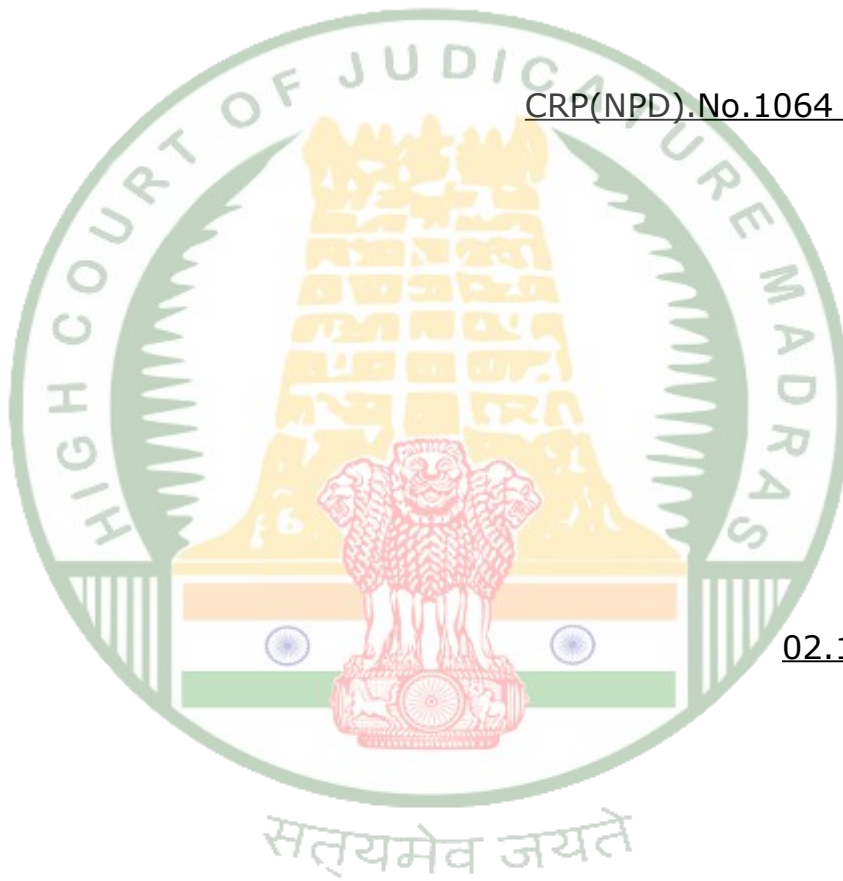
To
The I Additional District Munsif,
Salem.

RMT.TEEKAA RAMAN., J.

CRP(NPD).No.1064 of 2008

dua

CRP(NPD).No.1064 of 2008



02.12.2019

WEB COPY