

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2019

CORAM

THE HON'BLE MR. JUSTICE **R.PONGIAPPAN**

CRP.NPD.No.2032 of 2012 and
M.P.No.1 of 2015

1.Chandrasekaran
2.Santhanalakshmi
3.Manivannan
4.S.Karthik

...Petitioners

Vs.

1.P.Venugopal
2.Prabhukumar
3.Mallika
4.Suryakumari

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings Lease and Rent Control Act 18 of 1960 as amended by Act 23 of 1973 against the judgment and decree dated 03.04.2012 in R.C.A.No.771 of 2004 on the file of the VIII Judge, Court of Small Causes, Chennai, reversing the order and decree passed in RCOP.No.1547 of 2003 dated 08.04.2004 on the file of XI Court of Small Causes, Chennai.

For Petitioners : Mr.P.B.Balaji

For Respondents : Mr.M.Devendran

ORDER:

The appellants / respondents in RCA.No.771 of 2004 on the file of the VIII Court of Small Cases, Chennai (Appellate Authority) are the petitioners in this Civil Revision Petition.

2.Originally the deceased Sathyamoorthy and the first petitioner in this Civil Revision Petition filed Rent Control Original Petition in RCOP.No.1547 of 2003 on the file of the XI Court of Small Causes, Chennai and seeks the relief of eviction evicting the respondents from the petition mentioned property. The learned XI Judge, Small Causes Court, Chennai in its order dated 08.04.2004 allowed the petition filed by the petitioners and directed the respondents to vacate the premises within two months. Aggrieved over the said finding, the respondents in this Civil Revision Petition preferred an appeal in RCA.No.771 of 2004 before the Court of Small Causes, Chennai. The learned Judge, VIII Court of Small Causes, Chennai in its order dated 03.04.2012 allowed the appeal preferred by the tenants and set aside the order passed in

RCOP.No.1547 of 2003. Aggrieved over the said findings, the petitioners / landlords are before this Court with the present Civil Revision Petition.

3.Today when the petition is came up for hearing the learned counsel appearing for the petitioners would contend that the respondents paid rent to the ancestors of the petitioners. Now after paying the rent as above, they took a stand that the petitioners are not the owner of the portion which was leased out to the respondents without any substantial evidence. The Rent Controller has correctly held the above position and allowed the petition filed by the petitioners. But the Rent Control Appellate Authority unnecessarily transpired into the factum of the ownership having by the petitioners and came to the conclusion that the petitioners / landlords have not proved the title and thereby the eviction order passed by the Rent Controller cannot be entertained.

4.Submissions made by the counsels on either side are considered.

5.It is true before the trial court when the sister of the petitioners was examined as PW2, she has categorically deposed before the Rent Controller as already there is a problem in respect of the ownership of the leased property, whether the same was belongs to temple or the Government. Further she herself admitted, the Executive Officer of the Baratheeswarar temple has executed the deed of lease in favour of the wives of the first and second respondents and the same was not disputed by the first and second respondents. Since the same was not disputed by the petitioners, it is necessary to see, whether the petitioners are landlords or not. In this aspect, before the court below the petitioners have not produced any documents. Therefore, in respect of the title of the suit property still in question whether it belongs to petitioners or not. In this said occasion, it cannot be said that the petitioners are entitled to receive the rent and therefore because of the reason that the respondents denied the title the petitioners cannot evict the respondents. In the said circumstances, this Court is not in a position to interfere with the findings arrived by the Rent Control Appellate Authority.

6.Hence, the Civil Revision Petition filed by the petitioners is liable to be dismissed. However, it is open to the petitioners to file a suit before the appropriate forum to decide the title in respect of the leased property.

7.Accordingly, the Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

01.10.2019

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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R.PONGIAPPAN,J.

lok

To

- 1.The learned VIII Judge, Court of Small Causes,
Chennai
- 2.The learned XI Judge, Court of Small Causes,
Chennai.



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