

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.11.2019

Coram:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

C.R.P.(NPD)Nos.3314 and 3315 of 2012
and M.P.No.1 of 2012

S.Krishnan (Died) .. Petitioner /
Appellant / Tenant
[in both CRPs]

[Cause title accepted, vide order
dated 25.07.2012 made in M.P.No.1 of 2012
in C.R.P.(NPD)SR.No.69442 of 2011]

2.K.Prabavathi
3.K.Jaishankar
4.K.Ravikumar
5.K.Devendrakumar
6.K.Pradeepkumar

[Appellants 2 to 6 brought on record as LR's
of the deceased sole appellant viz. S.Krishnan
vide Court order dated 23.10.2019 made in
C.M.P.Nos.20939, 20942, 21079 and 21080 of 2019
in C.R.P.(NPD)Nos.3314 & 3315 of 2012]

versus

Sathammai (died)
1.M.Chidambaram .. Respondent /
3rd party / Landlord
[in both CRPs]

PRAYER in C.R.P.[NPD]No.3314 of 2012: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, against the judgment and decree dated 30.05.2011 made in R.C.A.No.8 of 2008 on the file of the learned Principal Subordinate Judge, Salem, confirming the judgment and decree dated 28.01.2008 made in R.C.O.P.No.7 of 2006 on the file of the learned Principal District Munsif, Salem.

PRAYER in C.R.P.[NPD]No.3315 of 2012: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, against the judgment and decree dated 30.05.2011 made in I.A.No.22 of 2010 in R.C.A.No.8 of 2008 on the file of the learned Rent Control Appellate Authority, Salem (Principal Subordinate Court), Salem.

For Petitioners : Mr.T.Sezhian
[in both CRPs]

For Respondent : Mr.V.Sekar
[in both CRPs]

COMMON ORDER

These Civil Revision Petitions have been preferred by the deceased revision petitioner / tenant, challenging the order dated 30.05.2011 made in I.A.No.22 of 2010 in R.C.A.No.8 of 2008 on the file of the learned Rent Control Appellate Authority, Salem, (Principal Subordinate Court), Salem and the order dated 30.05.2011 made in R.C.A.No.8 of 2008 on the file of the learned Principal Subordinate Judge, Salem, confirming the judgment and decree dated 28.01.2008 made in R.C.O.P.No.7 of 2006 on the file of the learned Principal District Munsif, Salem, respectively.

2. Originally, the deceased Sathammai / land lady has filed R.C.O.P.No.7 of 2006 as against the deceased revision petitioner under Section 10(2)(i) and Section 10 (v) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1972, directing the revision petitioner to vacate and surrender the possession of the petition mentioned property to the land lady on the ground of willful default, nuisance and committing waste on the property and to pay the cost of the petition to the land lady.

3. After elaborate enquiry, on 28.01.2008, the learned Rent Controller, Salem, has allowed the petition filed by the deceased Sathammai and consequently, order of eviction has been passed, directing the deceased revision petitioner to hand over the premises, within a period of two months from the date of receipt of a copy of the order.

4. Aggrieved over the same, the deceased revision petitioner / S.Krishnan has filed a Rent Control Appeal in R.C.A.No.8 of 2008 before the learned Principal Subordinate Judge, Salem. During the pendency of the said Appeal, the land lady / deceased Sathammai was died and the same was intimated to the Court on 22.04.2010.

5. After getting intimation about the death of the land lady, the deceased revision petitioner / S.Krishnan has filed another application in I.A.No.22 of 2010 in R.C.A.No.8 of 2008 to implead the legal representatives of the deceased Sathammai / land lady. The learned Rent Control Appellate Authority, Salem, after affording an opportunity to the respondent herein, by an order dated 30.05.2011 had dismissed the applications filed by the deceased revision petitioner.

6. Aggrieved over the same, the deceased revision petitioner has filed these Civil Revision Petitions, seeking the relief to set aside the orders dated 30.05.2011 and allow the application filed under Section 27 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 to implead the legal representatives of the deceased land lady.

7. The learned counsel appearing for the petitioner would contend that, though the death of the deceased Sathammai / land lady was intimated to the Court on 22.04.2010 and even after issuing memo to the then respondent's counsel, they have not filed correct date of death and also about the particulars of the legal representatives of the deceased land lady and

thereby, the petitioner is not in a position to file application within a stipulated time. The learned Rent Control Appellate Authority without considering the same and without mentioning any proper reason, had dismissed the applications filed by the petitioner, which is erroneous in law.

8. On the other hand, the learned counsel appearing for the respondent / land lady would contend that, under Rule 25 of the Tamil Nadu Buildings (Lease and Rent Control) Rules, 1960 "every application for impleading the legal representatives of the deceased person has to be filed within a period of one month from the date of having the knowledge of the death of the person concerned". In this regard, the petitioner has not acted under the Rule framed and thereby, the impugned order passed by the learned Rent Control Appellate Authority is well within the principles of law.

9. Upon considering the arguments advanced by either side, it is necessary to extract Rule 25 of the Tamil Nadu Buildings (Lease and Rent Control) Rules, 1960, which reads as follows;

"Every application for making the L.R. of a deceased person, party to a proceeding under the Act shall be preferred within one month from the

date of the death of the person concerned, or the date of having knowledge of the death of the person concerned."

10. The said Rule is mandatory, accordingly, the party, who filed the application has to take steps within 30 days from the date of death of the person concerned. In this case, admittedly, a memo has been filed by the petitioner's counsel on 22.04.2010, stating that the land lady was died. So as per the said Rule, the deceased revision petitioner has to be necessarily take steps within 30 days from the date of memo. But instead of filing the application within a period of 30 days, admittedly, the deceased revision petitioner has presented the application only on 02.09.2010, which is beyond the period of 30 days as provided under Rule 25 of the Tamil Nadu Buildings (Lease and Rent Control) Rules, 1960.

11. As already observed, since the deceased revision petitioner has not followed the mandatory rules, the said R.C.O.P. has been dismissed. Therefore, because of the reason that the legal representatives of the land lady is not impleaded in the R.C.A., there is no alternative to the learned Rent Control Appellate Authority except to dismiss the application filed against the order of eviction passed by the Rent Controller. So in all the way, the

impugned order passed above are all within the law and thereby, both the Civil Revision Petitions are dismissed.

12. Therefore, this Court does not find any infirmity or illegality in the impugned order passed by the learned Principal Subordinate Judge, Salem. Hence, the order dated 30.05.2011 passed in I.A.No.22 of 2010 in R.C.A.No.8 of 2008 on the file of the learned Rent Control Appellate Authority, Salem (Principal Subordinate Court), Salem and the order dated 30.05.2011 made in R.C.A.No.8 of 2008 on the file of the learned Principal Subordinate Judge, Salem, are hereby confirmed.

13. In the result, these Civil Revision Petitions are dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

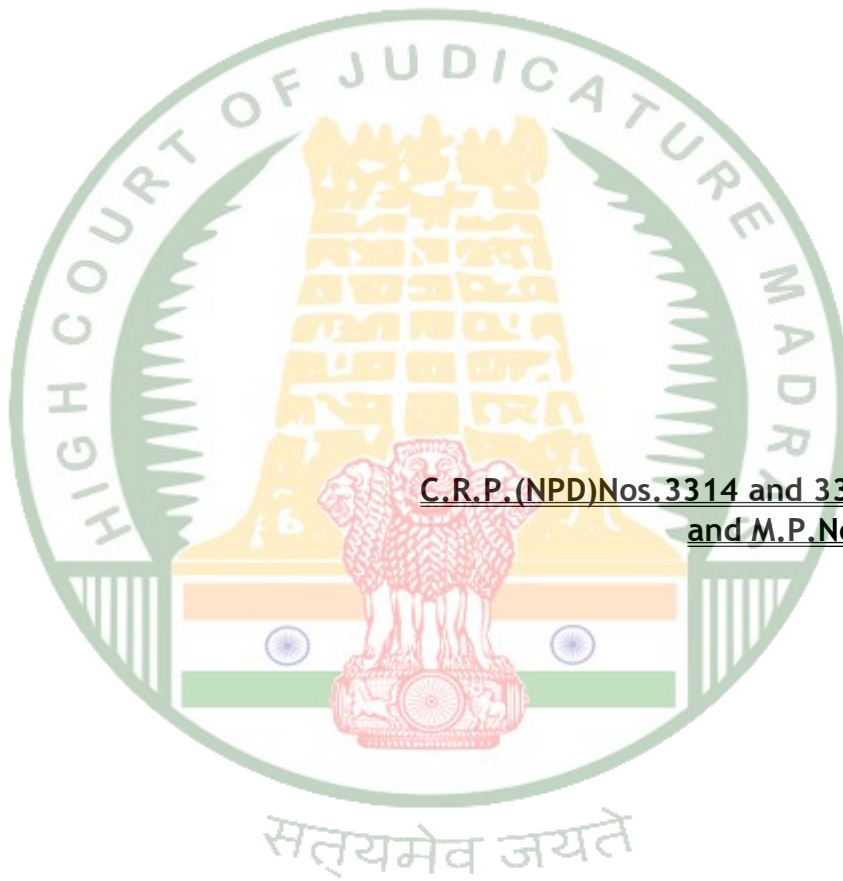
13.11.2019

Speaking Order/Non Speaking Order
Index : Yes / No
Internet : Yes
sri

To

The Subordinate Judge, Hosur.

R.PONGIAPPAN, J.,
sri



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and M.P.No.1 of 2012

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