

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2019

CORAM

THE HONOURABLE MR.JUSTICE **N.SATHISH KUMAR**C.R.P.(NPD).No.113 of 2013 and
C.M.P.Nos.15451 & 15452 of 2018

1. Suguna Rao, W/o.R.K.Ganesa Rao,
Old No.27/5, New No.96,
Thennamara Street, Kosapet,
Vellore.
2. R.G.Niranjanavel, S/o.R.K.Ganesa Rao,
Old No.27/5, New No.96,
Thennamara Street, Kosapet,
Vellore.
3. P.Sasikala, D/o.R.K.Ganesa Rao,
Old No.27/5, New No.96,
Thennamara Street, Kosapet,
Vellore.

... Petitioners

Vs.

1. S.Ramachandran (deceased)
2. K.Santhi bai, W/o.K.Krishnamurthi Rao
32/39A, Siddhivinayagar Koil Street,
Arcot Town.
3. A.C.Neelavathi, W/o.A.Chandrasedkara Rao,
5th Street, Krishnapuram,
Ambur Town,
4. Kalavathi, W/o.Srinivasa Rao,
8, Uppukara Street,
Wallajapet,
Vellore District.
5. R.Radha bai, W/o.Late S.Ramachandran,
No.6/252, 11th Cross Street, Phase II,
Sathuvacheri,

Vellore-600 009.

6. R.Ashok Kumar, S/o.Late S.Ramachandran,
No.6/252, 11th Cross Street, Phase II,
Sathuvacheri,
Vellore-600 009.

7. J.Gowri bai, D/o.Late S.Ramachandran,
No.6/252, 11th Cross Street, Phase II,
Sathuvacheri,
Vellore-600 009.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 25.08.2012 in R.C.A.No.67 of 1993 on the file of the Rent Control Appellate Authority (Subordinate Court), Vellore, confirming the fair and decretal order dated 14.10.1993 in R.C.O.P.No.86 of 1992 on the file of the Rent Controller (District Munsif Court), Vellore.

For Petitioners : Mr.T.M.Hariharan

For RR 5 to 7 : Mr.M.Prem Kumar

ORDER

The above Civil Revision Petition is filed by the petitioners challenging the order dated 25.08.2012 in R.C.A.No.67 of 1993 on the file of the Rent Control Appellate Authority (Subordinate Court), Vellore, confirming the fair and decretal order dated 14.10.1993 in R.C.O.P.No.86 of 1992 on the file of the Rent Controller (District Munsif Court), Vellore.

2. This revision has been filed against the order of eviction

filed under the bonafide requirement of the landlord's second son.

R.C.O.P. has been filed by the landlords for eviction of the tenants on the ground that the premises bonafidely required for tailoring business of the second son viz., Thulasidoss, since he has no other premises on his own. The Rent controller has ordered eviction, against which, appeal was preferred by the tenants before the Appellate authority. During the pendency of the appeal, it appears that the person for whom the building was sought viz., the second son has died.

3. At this stage, merely impleading the legal representatives, the first Appellate Court has ordered eviction on the ground that though the second son for whom the building is sought, has died, the eviction ordered on the ground that the building is required for the family business. Aggrieved over the same, the present revision petition has been filed.

4. The learned counsel appearing for the revision petitioners submits that once the requirement has come to an end and the person for whom the building was required has already died, the order of the first Appellate Court ordering eviction, on the same ground of family business cannot be sustained in the eye of law.

5. The learned counsel appearing for the respondents would submit that the first Appellate Court did not grant any opportunity for

them to amend the pleadings and simply passed an order. Therefore, it is the contention of the respondents that the matter may be remanded back to the Trial Court in order to give them an opportunity to make necessary amendments in the petition filed for eviction.

6. Heard both sides and perused the materials available on record.

7. Considering the peculiar situation, since the eviction itself is sought on the ground of bonafide requirement to carry on the business by the second son of the landlord, who has died during the pendency of the suit, the bonafide requirement has come to an end. Therefore, without giving an opportunity to the parties to make necessary amendments for seeking eviction on another ground available to the landlord and ordering eviction on inference, in my view, cannot be sustained. Therefore, the finding of the first Appellate Court is set aside and the matter is remanded back to the Rent Controller (Principal District Munsif), Vellore. The Rent controller shall give an opportunity to the parties, particularly, the landlords to amend the pleadings and give an opportunity to the parties to make necessary amendments seeking eviction on the legal grounds available to them and also give an opportunity to the tenants to file their defence. The parties shall make such amendments within a period of

three months from the date of receipt of a copy of this order. The Rent controller shall decide the Rent Control petition within a period of eight months from the date of receipt of a copy of this order.

With the above observations, this civil revision petition is allowed. Consequently, connected civil miscellaneous petitions are closed. No costs.

11.04.2019

Index: Yes/No
Speaking/Non-speaking
nsd

To

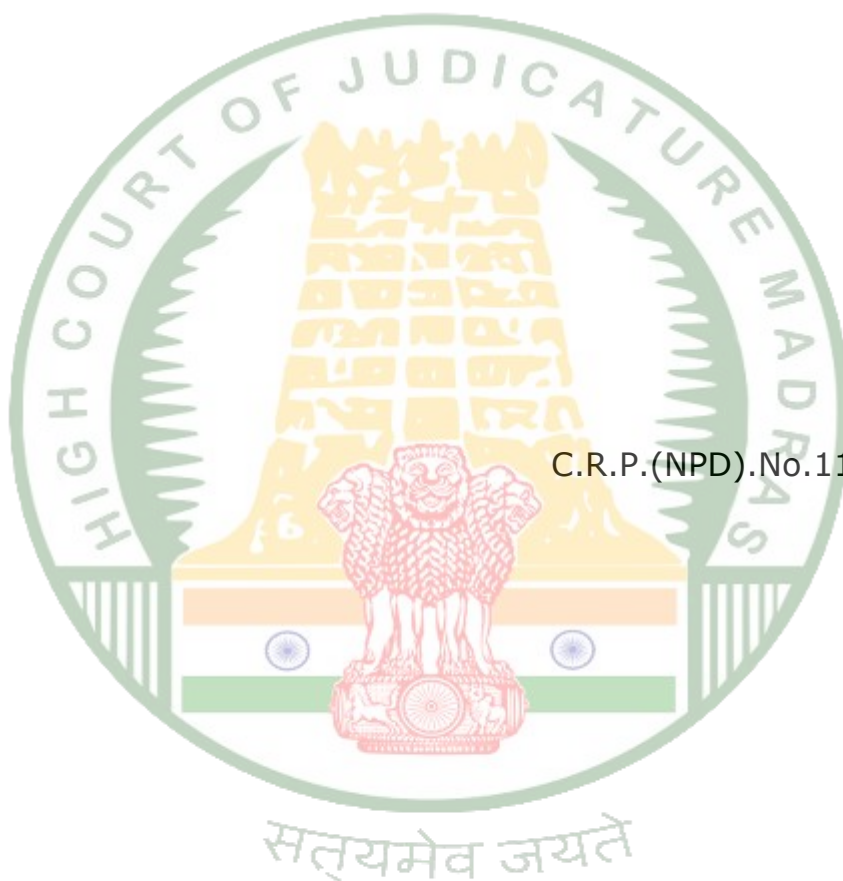
1. The Rent Control Appellate Authority,
(Subordinate Court), Vellore.
2. The Rent Controller,
(District Munsif Court), Vellore.

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N.SATHISH KUMAR, J.,

nsd



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