

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2019

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.R.P(NPD)No.3066 of 2013

and

M.P.No.1 of 2013

Peer Ummal

... Petitioner/Defendant

Vs.

M/s. Manba-Ul-Ula Society,
(Wak-e Khadar Basha),
Rep. by its General Power Agent,
Mr.A.K.M.Junaid,
72,Angappa Naicken Street,
Chennai-600 001.

... Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the judgment and decree dated 17.09.2012 made in Ejectment Suit No.8 of 2011, passed by the IV Small Causes Court, Chennai.

For Petitioner : Mr.N.Sivaprakash

For Respondent : Mr.Natarajan

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ORDER

This Civil Revision Petition has been filed against the judgment passed by the Tribunal in Ejectment Suit No. 8 of 2011, for evicting the revision petitioner.

2. The brief facts of the revision petition is as follows:

The suit property belongs to the plaintiff/respondent, the petitioner was a tenant under the respondent in respect of a residential portion and paying a monthly rent of Rs.800/-. The suit property is situated in a very busy locality in the city of Chennai. The defendant has been occupying the suit property for the past several years and paying a very meagre amount by way of rent and also not co-operating to enhance the rent. The plaintiff's Trust itself is being run out of the rental income from the suit property. Therefore, in order to augment and enhance the income of the suit property, the Trust Committee has decided to evict all the tenants from the suit property after renovation and letting for higher rents. Therefore, under Section 106 of the Transfer of property Act, the tenancy of the petitioner was terminated the tenancy by issue of notice dated 13.01.2009 by the end of 31.01.2009, hence, the suit has been filed by the petitioner admitting that he is a tenant.

3. It is the contention of the defendant that he has not received any notice under Section 106 of the Transfer of Property Act. The trial Court/Tribunal has considered the same and issues were framed are as follows:

- (1) Whether there is tenancy relationship between the suit parties?
- (2) Whether the suit is maintainable?
- (3) To what relief?.

5. On the side of the plaintiff, one A.Meeran, was examined as P.W.1 and Exhibits Ex.A1 to Ex.A3 were marked and on the side of the defendant, defendant was examined as D.W.1 and Exhibits Ex.B1 to Ex.B4 were marked.

6. The only ground raised by the petitioner/defendant is that the notice was not served on him and also found to be false, therefore, the trial Court has decreed the suit as against which the present civil revision petition has been filed.

7. The learned counsel appearing for the revision petitioner submitted that the revision petitioner is a aged person and therefore, he should be given permission to be in the suit property till his life time. Hence, submitted that fairly considered that on merits he has no case.

8. Heard the learned counsel appearing for the respondent and perused the materials available on record.

9. The suit has been laid for ejectment of the tenant from the suit property which belongs to the respondent Trust that the petitioner has paying only Rs.800/- for rent and that the suit property is situated in a very busy locality in the city of Chennai are not in dispute. The plaintiff has proved before the trial Court that only in order to augment the income of the Trust, the Trust committee has decided to evict all the tenants, which has not even denied in the written statement.

10. The only defence raised by the defendant is that the notice under section 106 of the Transfer of Property Act, has not been properly served, whereas the trial Court has clearly noted down that the notice has been served and acknowledgement is available. Once the tenancy is terminated by the issuance of notice, no further option for the tenant except to vacate the premises.

11. Hence, I do not find any materials to find fault with the judgment of the trial Court. Accordingly, the same is confirmed and the Civil Revision Petition is dismissed. However, considering the specific request of the learned counsel for the revision petitioner that the petitioner is aged about 70 years and he may need some more

time for vacating eight months time is given for vacating the building.
No costs. Consequently, connected miscellaneous petition is also closed.

25.02.2019

Index: Yes/No
Speaking/ Non-Speaking
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To

1. The Small Causes Court, Chennai.
2. The Section Officer, VR Section, Madras High Court.



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N.SATHISH KUMAR, J.

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