

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CRP.NPD.No.1391 of 2012
and
MP.No.1 of 2012

Sanjeeviammal (Died)

1.Kanniyammal

2.Nandhagopal

3.Selvi

... Petitioners

vs.

Jothiammal

... Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 as amended by Act 23/73 and 1/1980 against the fair and decreetal orders dated 28.01.2012 in RCA.No.4 of 2003 on the file of the Rent Control Appellate Tribunal, Subordinate Judge, Ranipet, Vellore District reversing the fair and decreetal orders dated 03.09.2001 in RCOP.No.1 of 1999 on the file of the District Munsif / Judicial Magistrate Court I, Walajahpet, Vellore District.

For Petitioners : Mr.M.Sriram

For respondent : No appearance

ORDER

The revision petitioners are the respondents 2 to 4 in RCA.No.4 of 2003 on the file of the Rent Control Appellate Tribunal, Subordinate Judge, Ranipet, Vellore District. The revision petition is filed against the fair and decreetal orders passed in RCA.No.4 of 2003 on the file of the Rent Control Appellate Tribunal, Subordinate Judge, Ranipet, Vellore District.

2. The brief facts of the case are as follows:

RCOP.No.1 of 1999 was filed by the petitioner / landlord stating that the petition property originally belonged to one Shanmugam, Raja and Logammal, the children of one Duraikannu. The respondent was a tenant for a monthly rent of sum of Rs.175/- (Rupees Hundred and Seventy Five only) in the said property. There was an agreement between the landlords and the tenant for selling the tenanted premises. Out of the three original owners, only two of them had signed the sale agreement dated 27.06.1991 and the sale deed was executed by the said two owners on 14.10.1991. Since Logammal, the third owner did not sign the agreement, only 2/3 share of the petition property was conveyed to the landlord. The landlord filed RCOP.No.1 of 1992 on the file of the learned Rent Controller, Ranipet to vacate the tenant which was resisted by the tenant who filed RCOP.No. 2 of 1992 to permit her to remit the rent in the court. Since the landlord had

only 2/3 share in the premises, RCOP.No.1 of 1992 was dismissed and RCOP.No.2 of 1992 was allowed. Subsequently, on 04.09.1997, the third owner Logammal also sold her 1/3 share to the landlord and the rent also was due from the tenant from 09.09.1993. Hence, the landlord filed RCOP.No.1 of 1999 before the learned Rent Controller, District Munsif / Judicial Magistrate No.1, Walajahpet, Vellore District seeking eviction of the tenant from the premises.

3. The respondent / tenant on her side contended that there was already a sale agreement on 03.09.1991 with the three original owners for sale of the petition mentioned property to the tenant for which a sum of Rs.40,000/- out of the agreed amount of Rs.45,000/- was paid. Since the three owners did not comply with the contract terms, a suit in OS.No.266 of 1994 was filed for specific performance of contract before the Subordinate Court, Ranipet and was decreed in her favour. Therefore, her contention is that the property belongs to her and thus, there was no landlord - tenant relationship between the two. She therefore, prayed for dismissal of RCOP.No.1 of 1999. Moreover, it was also pointed out that the grant of requirement for own occupation as claimed by the landlord was false as she had admitted in her cross examination about the construction of another

property for her own occupation.

4. The trial court agreeing with the contention of the respondent/tenant dismissed the petition on the grounds that when the landlord - tenant relationship is not established, the petition is not maintainable.

5. Aggrieved over this decision, the landlord approached the learned Rent Control Appellate Authority, Ranipet, Vellore in RCA.No.4 of 2003. The Appellate Authority has concluded that as on the date of the present RCOP.No.1 of 1999, the landlord was indeed the absolute owner of the petition mentioned property, notwithstanding the fact that the suit for specific performance in OS.No.266 of 1994 on the file of the learned Subordinate Judge, Ranipet was decreed in favour of the respondent/tenant. There was no sale deed as a result of the decree in the suit in favour of the respondent / tenant and therefore the learned Appellate Court Judge did not find a valid reason to reject the title of the landlord and consequently the existence of the landlord - tenant relationship. Another finding by the Appellate Court was that the trial court had erred in concluding that there was no requirement by the landlord for own occupation as they are already constructing another building for their own

occupation. It was further held that no effort was taken by the respondent / tenant to substantiate the same and that the oral evidence of the landlord and her husband were insufficient to prove this aspect. Thus, the Appellate Court had allowed the appeal and set aside the trial court's decretal orders in RCOP.No.1 of 1999. Aggrieved over the same, this Civil Revision Petition is filed by the tenant under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 as amended by Act 23/73 and 1/1980.

6. Mr.M.Sriram, learned counsel appearing for the revision petitioners harped on the result of the suit for specific performance in OS.No.266 of 1994 on the file of the Subordinate Judge, Ranipet and claims that the landlord - tenant relationship ceased to exist since then and therefore, the earlier RCOP.No.1 of 1992 was rightly dismissed by the trial court. It is further contended by him that the appellate court has grossly erred by going out of its jurisdiction without any material evidence.

7. No appearance on behalf of the respondent.

8. There is no denial of the fact that the suit for specific

performance in OS.No.266 of 1994 by the learned Subordinate Judge, Ranipet was decreed in favour of the respondent / tenant on 08.12.1998. Admittedly, there was no follow up whatsoever from the side of the respondent / tenant. She ought to have ensured that the decree is executed in order to claim that she is the owner of the suit property. Merely, passing a decree does not entitle the holder any benefit. On the date of the RCOP, the landlord - tenant relationship existed and continued to exist with no execution of the decree in OS.No.266 of 1994 on the file of the learned Subordinate Judge, Ranipet.

9. The respondent / tenant on her side did nothing to substantiate by way of independent documentary evidence that there is an additional property owned by the landlord and therefore the petition premises was not required by her for own occupation. All the observations made by the learned Rent Control Appellate Authority are based on sound principles of law and therefore I do not see any reason to interfere with the findings recorded by the First Appellate Court.

10. With the above observations, the Civil Revision Petition is

dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

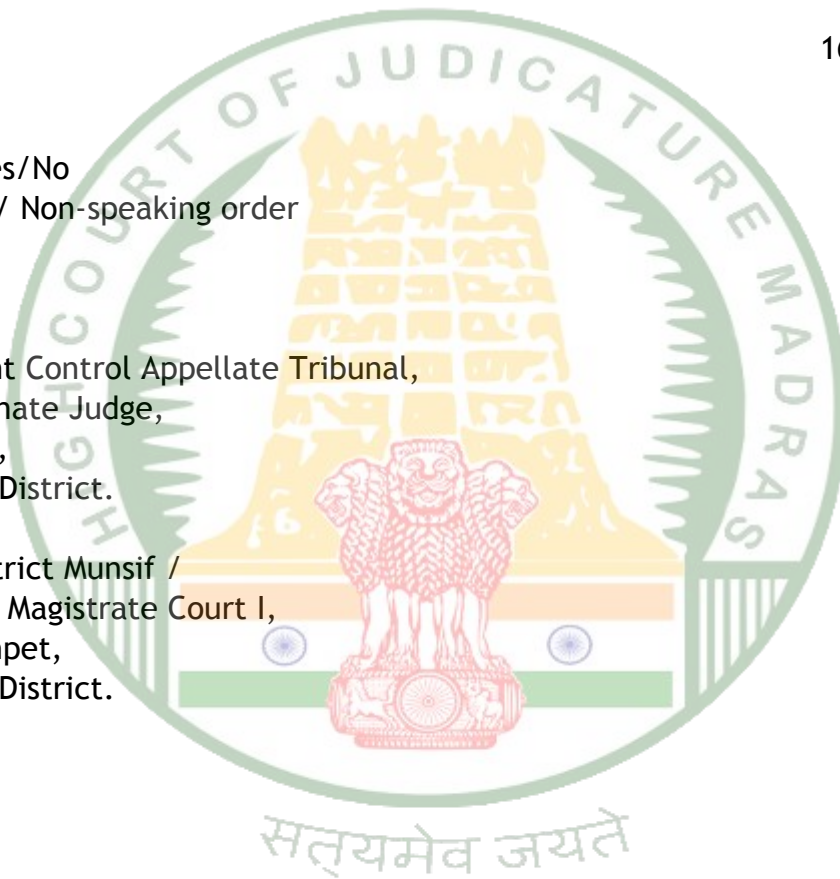
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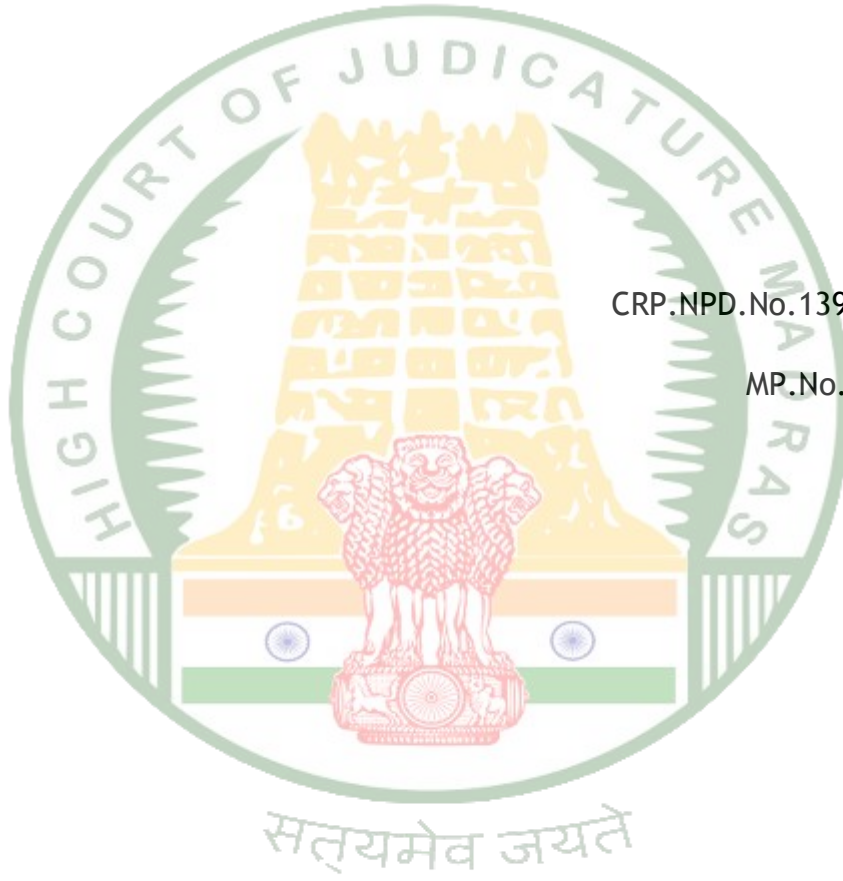
To

- 1.The Rent Control Appellate Tribunal,
Subordinate Judge,
Ranipet,
Vellore District.
- 2.The District Munsif /
Judicial Magistrate Court I,
Walajahpet,
Vellore District.



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R.HEMALATHA, J.



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