

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2019

C O R A M

THE HON'BLE Mr.JUSTICE ABDUL QUDDHOSE

C.R.P.(NPD) No.722 of 2014 &
M.P.No.1 of 2014

1.S.Mahalakshmi
2.S.Purusothaman
3.S.Abiramani

... Petitioners

Vs.

1.A.Sarathambal
2.A.Kandasamy
3.Senthamarai

... Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and final order passed in RCA.No.25 of 2008 dated 22.01.2014 on the file of the Rent Control Appellate Authority (Sub-Court), Ponnammale at Ponnammale reversing the Fair and Final order made in RCOP.No.11 of 2004 on the file of the District Munsif-Cum-Rent Controller, Ambattur dated 27.02.2007.

For Petitioners

...

Mrs.Chitra Sampath, SC
for Mr.B.Vijay

For Respondents

...

Mr.R.Bharath Kumar

ORDER

The instant civil revision petition has been filed challenging the order dated 22.01.2014 passed by the Rent Control Appellate Authority (Sub-Court), Ponnamalle in RCA.No.25 of 2008 reversing the fair and final order dated 27.02.2007 passed by the District Munsif-Cum-Rent Controller, Ambattur in RCOP.No.11 of 2004.

Brief facts leading to the filing of the instant revision under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960:

2. The petitioners claim to be the landlord of the land and Mangalore tiled house to an extent of 0.5 cents situated in S.No.630/2 bearing Door No.4 (Old No.32) Sami Pillai Street, (Ananda Vinayagar Koil Street) Poombozhil Nagar, Kovilpathagai, Chennai-62, hereinafter referred to as “rented premises”. The respondents have disputed the title of the petitioners over the rented premises and have stated that there is no landlord-tenant relationship between the petitioners and the respondents. By order dated 27.02.2007 in RCOP.No.11 of 2004, the

petition filed by the landlord to evict the respondents from the rented premises on the ground of wilful default was allowed by the Rent Controller. Aggrieved by the same, the respondents filed an appeal RCA.No.25 of 2008 before the Rent Control Appellate Authority (Sub-Court), Poonamalle in RCA.No.25 of 2008. By order dated 22.01.2014, the Rent Control Appellate Authority allowed the appeal filed by the respondents. Aggrieved by the same, the instant civil revision petition has been filed by the petitioners who claim to be the landlord under Section 25 of the TamilNadu Buildings (Lease and Rent Control) Act, 1960.

Submissions of the learned counsels:

3. Heard Mrs.Chitra Sampath, learned senior counsel for the petitioners and Mr.R.Bharath Kumar, learned counsel for the respondents.

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4. The learned senior counsel for the petitioners drew the attention of this Court to the impugned order dated 22.01.2014 passed

by the Rent Control Appellate Authority in RCA.No.25 of 2008 and submitted that without producing any documentary evidence to establish that the respondents are the absolute owners of the rented premises, the learned Rent Control Appellate Authority has allowed the appeal.

5. The learned Senior Counsel for the petitioners also drew the attention of this Court to the order dated 27.02.2007 passed by the Rent Controller in RCOP.No.11 of 2004 and submitted that before the Rent Controller, the respondents did not enter into the box and did not let in any oral evidence on their side and no documentary evidence was filed by the respondents. This being the case, according to her, the Rent Control Appellate Authority ought not to have allowed the appeal merely on the submissions made by the respondents that they are the absolute owners of the rented premises based on the exparte decree dated 10.12.2008 passed in O.S.No.55 of 2008.

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6. The learned Senior Counsel for the petitioners would also submit that the said exparte decree dated 10.12.2008 passed in

O.S.No.55 of 2008 has also now been set aside by virtue of an order of this Court dated 07.08.2014 passed in C.R.P.No.2278 of 2014. According to the learned senior counsel for the petitioners, the denial of title raised by the respondents is not a bonafide one and therefore, the Rent Control Appellate Authority ought not to have allowed the appeal.

7. Per contra, learned counsel for the respondents would submit that the petitioners have not followed the statutory requirement as contemplated under the explanation to Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. According to him, though the demand for the payment of arrears of rent was sent on 02.02.2004 through a lawyers notice, the Rent Control Original Petition RCOP.No.11 of 2004 was filed on 12.03.2004 itself, even before the expiry of the statutory period of two months as contemplated under the explanation to Section 10(2)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 which stipulates a period of two months from the date of demand for the purpose of construing the default in the payment of the rent as a wilful default. Therefore, according to him, the Rent

Control Original Petition viz., RCOP.No.11 of 2004 filed by the petitioners is not maintainable in law.

8. The learned counsel for the respondents would further submit that the learned Rent Controller while allowing RCOP.No.11 of 2004 has not given any reasons for allowing the same, even though the respondents had specifically denied in her counter the title of the petitioners over the rented premises.

Discussion:

9. This Court has perused and examined the order dated 27.02.2007 passed by the Rent Controller in RCOP.No.11 of 2004 as well as the order dated 22.01.2014 passed by the Rent Control Appellate Authority in RCA.No.25 of 2008. Before the Rent Controller, admittedly, the respondents have not let in any oral evidence and was not subjected to any cross examination by the petitioners(landlord) though she had filed a proof affidavit. But the petitioners have filed 13 documents which were marked as Exhibits P1 to P13.

10. To prove the tenancy, the petitioners have filed the rental agreement dated 12.03.1995 which was marked as Ex.P1 and the said rental agreement was entered into between the petitioners and one Annamalai. Before the Rent Control Appellate Authority, the respondents had submitted that the purchaser of the rented premises namely Jayakumar has obtained an exparte decree dated 10.12.2008 passed in O.S.No.55 of 2008 on the file of the Sub court, Poonamallee and in view of the same, the petitioners do not have any right to evict the respondents from the rented premises as they are not the owners of the rented premises. But the said exparte decree passed in O.S.No.55 of 2008 by the Sub Court, Poonamallee was not filed as a document before the Rent Control Appellate Authority and even without perusing the same, the Rent Control Appellate Authority has reversed the order dated 27.02.2007 passed in RCOP.No.11 of 2004.

11. After considering the order passed by the Rent Controller in RCOP.No.11 of 2004 as well as the Rent Control Appellate Authority in RCA.No.25 of 2008, this court is of the considered view that both the parties in this revision have not been given sufficient opportunity to put

forward their respective cases. This being the case, this Court is of the considered view that the matter has to be remanded back to the Rent Controller for fresh consideration in accordance with law within a time frame to be fixed by this Court. For the foregoing reasons, the orders of the Rent Controller as well as the Rent Control Appellate Authority are erroneous and irrational and they have to be set aside.

Conclusion:

12. In the result, this petition is disposed of. Accordingly, the order dated 22.01.2014 passed by the Rent Control Appellate Authority (Sub-Court), Ponnamalle in RCA.No.25 of 2008 as well as the order dated 27.02.2007 passed by the District Munsif-Cum-Rent Controller, Ambattur in RCOP.No.11 of 2004 and also the findings of fact contained in the said orders are hereby set aside and the matter is remanded back to the Rent Controller cum District Munsif, Ambattur for fresh consideration of RCOP.No.11 of 2004 in accordance with law and the Rent Controller cum District Munsif, Ambattur shall dispose of RCOP.No.11 of 2004 within a period of six months from the date of receipt of a copy of this Order.

Both the parties are at liberty to raise additional pleadings, if necessary and also let in both oral and documentary evidence. No costs. Consequently, connected miscellaneous petition is closed.

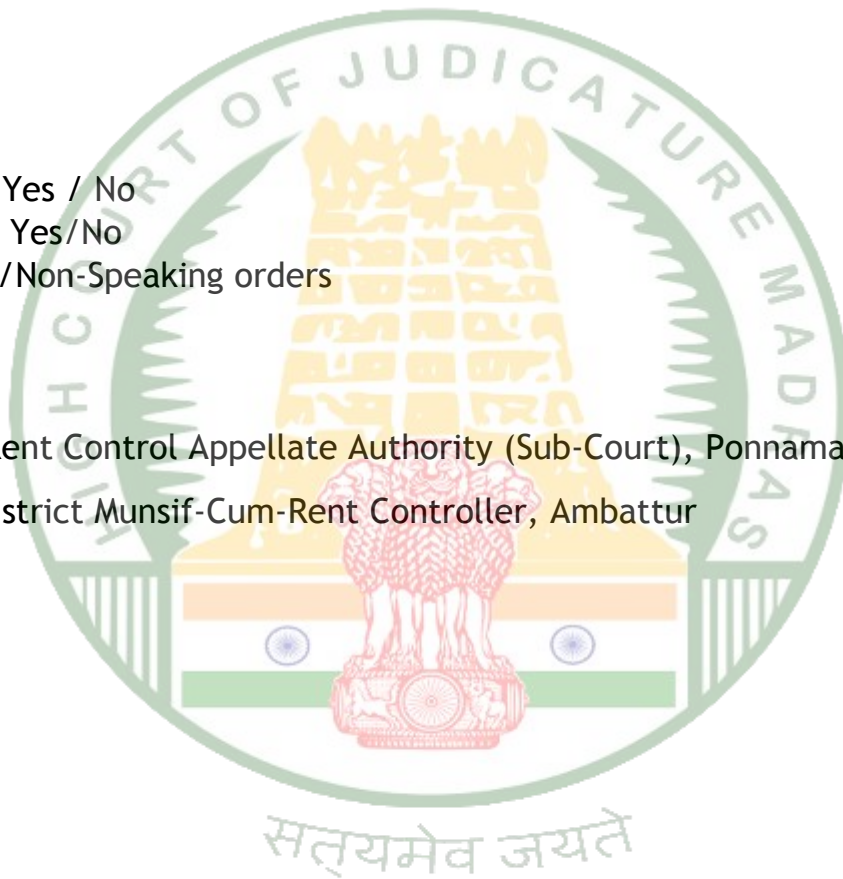
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Index : Yes / No
Internet: Yes/No
Speaking/Non-Speaking orders

To

1. The Rent Control Appellate Authority (Sub-Court), Ponnammalle
2. The District Munsif-Cum-Rent Controller, Ambattur

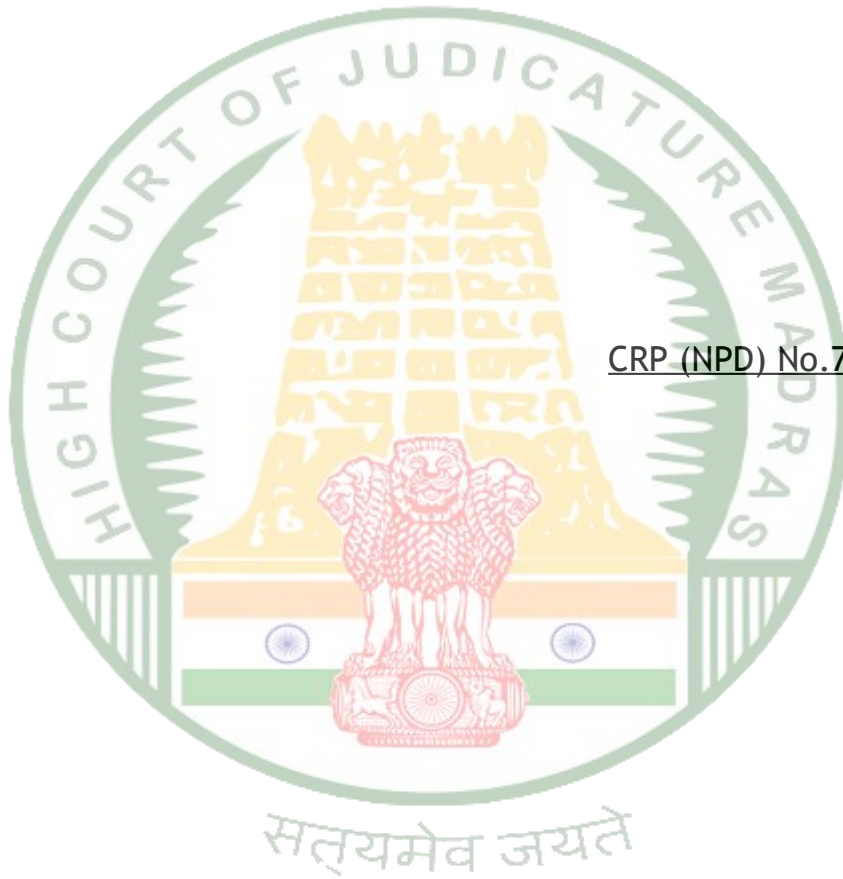


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