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C.R.P.(NPD)(MD).No.15 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

C.R.P. (NPD) (MD) .No.15 of 2011
and M.P. (MD) .Nos.1 and 2 of 2011

1.M.Iyappan Pillai @ Moni

.. Petitioner/Appellant
2nd Respondent

2.Ponnammal

3.Sri Mahadevi

4.Anitha

(Petitioners 2 to 4 are brought on record as legal heirs of deceased sole petitioner vide Court order dated 07.03.2019 made in C.M.P. (MD).No.1033 of 2018 in C.R.P.(MD).No.15 of 2011)

Vs.

1.P.Vallinayagam

2.P.Murugan

3.P.Nallasivam @ Ganesan

: Respondents/Respondents
Petitioner

4.A.K.Mahirudeen

: 4th Respondent/4th Respondent
1st Respondent

Prayer: Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent) Control Act, 1960, against the judgment and decree made in R.C.A.No.6 of 2008, dated 05.07.2010 on the file of the Principal Sub Court, Nagercoil, confirming the judgment and decree made in R.C.O.P.No.1 of 2005 on the file of the Rent Controller, (Principal District Munsif Court), Nagercoil, dated 21.07.2008.

For Petitioner

: Mr.D.Rajagopal

For Respondents

: Mr.S.Ramesh for R1

Mr.D.Rajkumar for R2

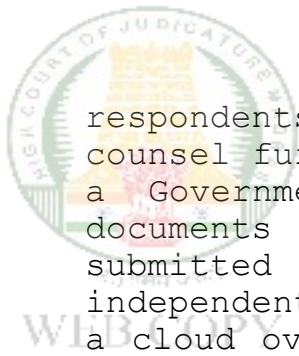
R3 - Died



2.The fourth respondent in this civil revision petition was the first respondent in the eviction petition. It is the case of landlords that the demised premises originally belonged to the grandfather of respondents 1 to 3 and that they became the owners of the property after the death of their grandfather on 10.04.1973. The case of landlords/respondents 1 to 3 is that the building bearing door numbers 192, 191A, 191B are inherited by them and that they were leased out by their predecessor in interest to the 4th respondent herein and few others. It is the specific case of respondents 1 to 3 that the 4th respondent obtained lease in respect of the building bearing door number 192 and 191A for a monthly rent of Rs.150/- p.m. It is further stated that later separate lease agreement was entered into between the first respondent and the fourth respondent herein on 01.07.1989 and that the rent was fixed in the subsequent agreement at Rs.600/- for the building bearing door No.192/- and Rs.200/- each for the building bearing door No.191A and 191B. On the ground that tenant committed defaulted in payment of monthly rent to the respondents 1 to 3 and that the building was unauthorisedly sub-let to the revision petitioner, the landlords filed R.C.O.P.No.1 of 2005 for eviction.

3.The petition was opposed by the revision petitioner. First of all the title of respondents 1 to 3 was denied. It is the case of the revision petitioner that the building does not belong to respondents 1 to 3. The revision petitioner contended that the property was in the enjoyment of revision petitioner for a long time and that it is their property. It is also stated that the building was constructed by the revision petitioner and that he is the owner of the building. It is also contended that they are paying property tax. The trial Court after framing an issue found that the building belongs to the respondents 1 to 3 and that the landlords have established the tenancy between themselves and the 4th respondent. One of the argument by the revision petitioner before the Rent Controller was that the tenant has denied title of landlord and that such denial is also bonafide. It was therefore, contended by the tenant that the Rent Control Original Petition filed by the respondents 1 to 3 is not maintainable. As regards subletting, based on appreciation of evidence on all the factual aspects, the Rent Controller came to the conclusion that the landlords proved subletting. Accordingly, the eviction was ordered by the Rent Controller. Aggrieved by the same, the tenant has preferred an appeal in R.C.A.No.6 of 2008 on the file of Rent Control Appellate Authority, Nagercoil. After going through the entire pleadings and evidence on record, the Rent Control Appellate Authority, confirmed the findings of the Rent Controller. Aggrieved by the same, this civil revision petition is filed by the persons who set up title in themselves.

4.The learned counsel appearing for the revision petitioner submitted that the tenants are not in possession of the property and



respondents 1 to 3 are the landlords of the building. The learned counsel further submitted that the property as such is classified as a Government poramboke land. Since the tenant has produced documents to prove the land as a Government poramboke land, it is submitted that the lower Court ought to have considered the independent title set up by the revision petitioner. Since there is a cloud over title, the learned counsel appearing for the revision petitioner submitted that the landlords have miserably failed to discharge their burden.

5.This Court perused the documents. The learned counsel appearing for the respondent relied upon several documents. The demand notice for property tax is issued in the name of Valli Nayagam Pillai by the commissioner of Nagercoil Municipality. The landlords have produced several documents namely, the demand notice, assessment orders and the proceedings initiated by the Local body for collection of property tax for the building. From the nature of documents filed by the landlords, it is seen that the document contain the door number, whereas in none of the documents produced by the tenant, the assessment number or the door number is properly given. In this case, the landlords have produced the documents Ex A1 namely, the rental agreement between the landlord and the 4th respondent. Though this document is unregistered, the same was impounded and ultimately after collecting stamp duty and penalty, the document was permitted to be marked. Since the document was held to be proved, the trial Court proceed further to find out whether the revision petitioner has established his case by any other document. After elaborately considering the documents and the materials produced before the Courts below, the courts below have taken a view that the revision petitioner has not proved his title where as the landlords have proved the lease taken by fourth respondent. Eviction was ordered on the ground of wilful default and subletting. The authorities below specifically found that the denial of title is not bonafide.

6.The findings of the courts below are supported by reasons. Looking at the documents produced by the revision petitioners, they are not proved to be in connection with the petition property. First of all the assessment number is varying. Similarly, the documents produced by the revision petitioner contain the name of M/s.K.K.Travels along with the name of M.Ayappan. This is not explained. From these documents, the contention of the revision petitioner that the building belonged to him cannot be believed. The documents produced by the revision petitioners would not prove his case. The courts below have given specific findings accepting the case of landlords and the findings are supported by reasons. This Court is unable to interfere with the findings, especially, when the scope of revision under Section 25 of the Tamilnadu Buildings (Lease and Rent) Control Act is limited.



7. Accordingly, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)

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To

1. The Principal Sub Judge (Rent Control Appellate Authority),
Nagercoil.

2. The Principal District Munsif (Rent Controller), Nagercoil.

3. The Section Officer,
E.R/V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.RAGHAVA CHARI, Advocate SR-82287.

+1 CC to M/s.S.SIVAKUMAR, Advocate SR-82351.

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