



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON :12.02.2019

DELIVERED ON : 12.04.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP (MD) (PD) .Nos.229 to 242 of 2019

and

C.M.P (MD) .Nos. 1088 to 1094 of 2019

Prayer in C.R.P (MD) .No.229 of 2019

Rajendran : Petitioner / Petitioner /Petitioner
in all the Petitions

Vs.

Ashok : Respondent in CRP (MD) No.229 AND 230 OF 2019
P.Devadoss : Respondent in CRP (MD) No.231 AND 232 OF 2019
Doss : Respondent in CRP (MD) No.233 AND 234 OF 2019
Kali : Respondent in CRP (MD) No.235 AND 236 OF 2019
Ponnaiya : Respondent in CRP (MD) No.237 AND 238 OF 2019
Ravi : Respondent in CRP (MD) No.239 AND 240 OF 2019
Stephen : Respondent in CRP (MD) No.241 AND 242 OF 2019

PRAYER in C.R.P (MD) .No.229 of 2019: This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11.12.2018 passed in the application in I.A.No.16 of 2018 in R.C.O.P.No.2 of 2012 on the file of the District Munsif Court Cum Rent Controller, Nilakottai.



Prayer in CRP(MD). 230/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11/12/2018 passed in the application in IA No.17 of 2018 in RCOP No.2 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD). 231/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11/12/2018 passed in the application in IA No.18 of 2018 in RCOP No.3 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD). 232/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11/12/2018 passed in the application in IA No.19 of 2018 in RCOP No.3 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD). 233/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11/12/2018 passed in the application in IA No.20 of 2018 in RCOP No.4 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD). 234/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11/12/2018 passed in the application in IA No.21 of 2018 in RCOP No.4 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD). 235/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11/12/2018 passed in the application in IA No.22 of 2018 in RCOP No.5 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.



Prayer in CRP(MD). 236/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11.12.2018 passed in the application in I.A.No.23 of 2018 in RCOP No.5 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

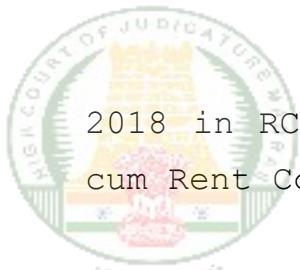
Prayer in CRP(MD). 237/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11.12.2018 passed in the application in I.A.No.24 of 2018 in RCOP No.6 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD). 238/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11.12.2018 passed in the application in I.A.No.25 of 2018 in RCOP No.6 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD). 239/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11.12.2018 passed in the application in I.A.No.26 of 2018 in RCOP No.7 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD). 240/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11.12.2018 passed in the application in I.A.No.27 of 2018 in RCOP No.7 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD). 241/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11.12.2018 passed in the application in I.A.No.28 of



2018 in RCOP No.8 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

Prayer in CRP(MD) . 242/ 2019 : This Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order dated 11.12.2018 passed in the application in I.A.No.29 of 2018 in RCOP No.8 of 2012 on the file of the District Munsif Court cum Rent Controller, Nilakottai.

For Petitioner : Mr.J.Barathan
in all the petitions

C O M M O N O R D E R

These Civil Revision petitions have been preferred against the order dated 11.12.2018 passed in the applications in I.A.Nos.16 to 29 of 2018 in R.C.O.P.Nos.2 to 8 of 2012 respectively on the file of the District Munsif Court Cum Rent Controller, Nilakkottai.

2.The petitioner herein is the landlord and the respondents herein are the tenants. R.C.O.P.Nos.2 to 8 of 2012 were filed by the petitioner herein by stating that he has purchased the petition mentioned property situates in Survey No.413/1, Vathalakundu Town, Nilakkottai Taluk by way of registered sale deed on 26.09.2011 from one Kottairaj Vagaira, in which, the respondents are running the shop. After purchase, the petitioner approached the respondents and told that the rent of the petition mentioned property has to be paid to him at the rate of Rs.1000/- per month. But the respondents had refused the same and also denied the title of the petitioner. In this circumstance, after sending notice to the respondents, the petitioner filed R.C.O.P.Nos.2 to 8 of 2012 before the District Munsif Court Cum Rent Controller, Nilakkottai Taluk to vacate the respondents from the petition mentioned property.

3.In the said R.C.O.Ps., the respondents have filed an objection stating that originally the petition mentioned property is belonged to one Victoriya Swamy, the respondents took the property from the said Victoriya Swamy as monthly lease. So they are the tenant under Victoriya Swamy for the past 25 years. The respondents' landlord filed a suit for bare injunction against the petitioner in O.S.No.250 of 2011 on the file of the District Munsif Court, Nilakottai. The respondents further stated that after filing of the suit, the petitioner with a malafide intention filed the eviction petition against them without any locus standi and there is no relationship between the petitioner and the respondents as landlord and tenants and hence, the petition has to be rejected.



4. Pending R.C.O.Ps., I.A.Nos.16 to 29 of 2018 were filed by the petitioner herein. In the said I.As., the petitioner stated that in the main eviction petition he has mentioned that the respondents are running the shop, whereas in the description of property he has omitted the said particular, for which he sought for amendment and hence the cases have to be reopened which were already reserved for orders on 28.11.2018. In the said interlocutory applications, the petitioner has prayed as follows:

" மனுவில் சொத்து விபரத்தில் தென் வடல் 14 அடிக்கு என்பதற்கு பதிலாக தென் வடல் 14 அடியில் உள்ள செட்டிற்கு என்று திருத்தம் சேர்த்து வேண்டியது "

5. In the said I.As., the respondents filed the counter statement and contended that the main petition filed in the year 2012 and filing the Interlocutory Applications at this stage after elaborate trial, is not maintainable and the amendment in the said aspects is also not maintainable. Further contention raised by the respondents is that during the cross examination of P.W.1 and P.W.2, they categorically admitted that the demised property is vacant site and also according to Ex.P6, the petition mentioned property is vacant site and hence, if the main petition is amended, then the character of the main case will be changed from its original petition. They further contended that in order to fill up the lacuna, these petitions were filed without filing any document to prove his case. Hence, he prayed to dismiss the said I.As.,

6. The Rent Controller Authority after analysing the contentions raised by the petitioner with regard to reopen the case for the purpose of amending the eviction petition by including the term 'shed' in the description of property instead of 'vacant site', has given a finding that there is no document filed by the petitioner to show that there is any construction or shed in the said property and further during the entire trial, the property was mentioned by the petitioner as vacant site and now the cases stand in the concluding stage and the delay in filing such petitions, that too regarding amendment which is very much reflecting the nature of the property itself and hence, the said I.A.Nos.16 to 29 of 2018 were dismissed by the Rent Controller Authority. Aggrieved against the said orders, the petitioner preferred these Civil Revision Petitions.

7. In the grounds of revisions, the learned counsel for the petitioner stated that the lower Court has failed to note that the petitions under the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 can be filed only in respect of a building and not in respect of vacant site. The lower Court has failed to note that the respondents are occupying the building and they are running the shop therein. Further, the respondents did not contend that the superstructure in the tenanted premises belonged to



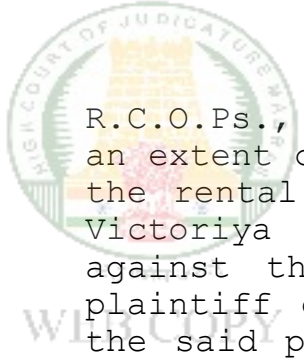
them. The other grievance raised by the petitioner is that the petitioner has specifically mentioned in the description of property that the tenanted premises is bounded on the three sites by other shops. Further, the petitioner contended that he had used the term 'shop' in the body of the pleadings, but it had been mistakenly omitted in the description of property. So by incorporating the term 'shed', in no way the respondents will be prejudiced by the said amendment. Hence, the petitioner has filed this revision petition to set aside the order passed by the Rent Controller Authority in I.A.Nos.16 to 29 of 2018 in R.C.O.P.Nos.2 to 8 of 2012.

8.I have heard the learned counsel appearing for the petitioner.

9.On perusal of the contents in the R.C.O.P.Nos.2 to 8 of 2012, it is observed that the petitioner purchased the property of 1422 sq.ft area, in which, the respondents are running the shop. After purchasing of the said property by the petitioner herein, the petitioner demanded the rent from the respondents/tenants to him, whereas the respondents/tenants have denied the title of the petitioner by stating that the suit in O.S.No.250 of 2011 was filed by one Victoriya Samy against the petitioner herein in which she mentioned the Survey Number as 411 (New Survey No.413/1), whereas the property purchased by this petitioner is in Survey No.413/1 and the respondents are also running their shops in Survey No.413/1 and by stating the pendency of the suit in O.S.No.250 of 2011, the respondents have not paid the rent to the property and also they have not taken any steps even to deposit the said amount. Hence, the petitioner filed the petition to evict the respondents from the suit property on the ground of wilful default. Whereas the respondents denied the title of the petitioner/landlord and also stating that they are not the tenant under the petitioner at any point of time and hence, they have not paid any rent to the petitioner. In the said petition, the description of property mentioned as follows:

“நிலக்கோட்டை தாலுகா வத்தலக்குண்டு டவுன் சர்வே எண் 413/1ல் கிழமேல் 8 அடி தென்வடல் 14 அடிக்கு நான்குமால் :
கிழக்கே : மனுதாரரால் வாடகைக்குவிடப்பட்டுள்ள காளி கடை
மேற்கே : மனுதாரரால் வாடகைக்குவிடப்பட்டுள்ள Doss, Devadoss பொன்னையா கடை
தெற்கே : அருள்முருகனுக்கு பாத்த்தியப்பட்ட வீடு மற்றும் கடை
வடக்கே : மதுரை நெடும் சாலை

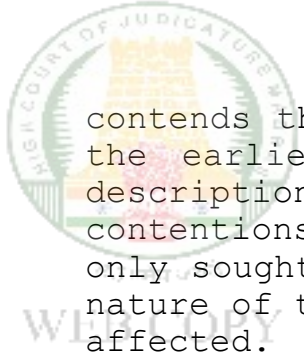
10.The petitioner in these Civil Revision Petitions has enclosed the rental agreement of the respondents/tenants, in which, it has stated that the lease agreement was entered into between one Victoriya Swamy represented by her power agent A.Dass and the respondents. In the said lease agreement, the property has been described as “ வத்தலக்குண்டு கிராமம் பேரூராட்சி டவுனில் வத்தலக்குண்டு /மதுரை மெயின் ரோட்டில் தென்சரகில் உள்ள டோர் நம்பர் 13.1.138 உள்ள கடை நம்மளில் வது நபருக்கு பாத்த்தியப்பட்டது”. The said lease agreement was entered on 31.05.2012. When the petitioner himself has stated in the



R.C.O.Ps., that he has purchased the property in Survey No.413/1 to an extent of 1422 sq.ft. on 26.09.2011 from one Kottairaj whereas in the rental agreement the date is mentioned as 31.05.2012. The said Victoriya Swamy has also filed the suit in O.S.No.250 of 2011 against this petitioner, in which, the said Victoriya Swamy as plaintiff claimed that from the date of purchase ie on 30.10.1981 the said property is in her possession and enjoyment of the same. She further stated that prior to her purchase there was a building in the suit property and after that it was vacant site and the plaintiff purchased the vacant site only and thereafter she had put up a superstructure by putting asbestos sheets thereon and thereafter, she got patta in her name and she is also regularly paying the property tax to the Municipality. The purchase of the petition mentioned property was also denied in the suit and the description of property given by the petitioner herein is also very much disputed by the said Victoriya Swamy in the suit.

11. On perusal of records, it is observed that the said Victoriya Swamy purchased the 'vacant site property' only on 30.10.1981 and thereafter she had put up a superstructure by putting asbestos sheets thereon. Patta also stands in her name. When the petitioner herein claims that he had purchased the property on 26.09.2011 from one Kottairaj, but he has not filed the sale deed and there is a dispute with regard to the title of the suit property as stated by the respondents herein/tenants. The petitioner herein ought to have filed the sale deed and also the rental agreement or any other document to prove that the respondents are tenants under himself after purchasing the property from Kottairaj on 26.09.2011. In support of his claim, the petitioner filed a written statement in O.S.No.250 of 2011, in which, he has stated that the said Victoriya Swamy was allotted in Survey No.411 which is a highway and after knowing the mistake that she had committed in purchase the property in a Highway, she was cleverly trying to fix the property in Survey No.41/1. Therefore, the property mentioned in the suit is totally different from the property mentioned in the sale dated 30.10.1981. Further the petitioner herein contended that from the date of purchase of the suit property in Survey No.413/1 he is in possession and enjoyment of the same by paying kist and he is an absolute owner of the said property and as such he is having every right to claim rent from the every tenants who are occupying the various premises in the petition mentioned property. Regarding the sale of the petition mentioned property, the petitioner has not filed any document, whereas only rental agreement that was entered between the Victoriya Swamy and the respondents/tenants were filed before the Court.

12. In view of the above, this Court finds that no relevant document has been filed by the petitioner to show that there was a shop existing in the petition mentioned property in the said survey number. Since the entire R.C.O.P., proceedings were based on the description of the property that the petition mentioned property has to be delivered as 'vacant site', whereas now the petitioner



contends that the 'Shed' has to be mentioned as if it was there at the earliest point of time. If the 'shed' is mentioned in the description of property, the respondents would also made their contentions regarding 'shed', whereas the vacant site possession only sought for by the petitioner. At the end of the trial, if the nature of the property is changed, the entire case will be very much affected. The Rent Controller Authority has observed that the description of the property stated by the petitioner as 'vacant site' and now seeking for amendment by adding the term as 'Shop' without any document to prove that at the time of filing the petition there was a shed. Even in the prayer of eviction petition itself, the petitioner prayed as 'deliver the vacant site' only. Hence, the petitions for seeking amendment are not maintainable and hence, this Court does not interfere with the order by the learned District Munsif cum Rent Controller, Nilakkottai.

13.Considering all these facts and circumstances of the case, these Civil Revision Petitions are dismissed by confirming the order passed in I.A.Nos.16 to 29 of 2018 on the file of the learned District Munsif cum Rent Controller, Nilakkottai. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

msa

To

The District Munsif Court Cum Rent Controller,
Nilakkottai.

14CC'S TO MR. J. BARATHA, ADVOCATE SR 61126,61121,61122,61123,
61124,61125,61113,61114,61115,61116,61117,61118,61119,61120.

KK

08/05/2019

8P 16C

Order made in

CRP(MD) (PD) .Nos.229 to 242 of 2019

and

C.M.P (MD) .Nos. 1088 to 1094 of 2019

12.04.2019