

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (NPD) No.1499 of 2018
& C.M.P.No.7985 of 2018

1. V.P.Annamalai

2. M.Pazhani

3. C.Ravi

.. Petitioners

Vs.

Janab. S.Syed Gouse Sahib

.. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the judgment and decree dated 22/3/2018 in (PPE) CMA 1 of 2018 before the Principal District Court/Wakf Appellate Tribunal, Vellore confirming the order of the Estate Officer dated 11/01/2018 under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975, TN Act 1 of 1976.

For Petitioners : Mrs.Hema Sampath, Senior Counsel
for M/s. R.Meenal

For Respondent : Mr.N.A.Nissar Ahmed

ORDER

This matter is taken up for hearing through Video-Conferencing.

The petitioner, who suffered an order of eviction under the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975, concurrently before the Original Authority and the Appellate Authority, has come up with this Civil Revision Petition.

2. The respondent issued a notice on 25.11.2016 claiming that the period of lease under the Lease Agreement dated 18.10.2015 executed by the petitioner has expired on 17.09.2016 and hence he was called upon to surrender vacant possession within 15 days from the date of receipt of the notice.

3. A reply was sent by the petitioners on 25.12.2016 denying the title of the respondent to the suit Property. Curiously the claim of the respondent that the petitioners had executed a Lease Deed on 18.10.2015 was not denied. Upon the petitioners refusal to vacate the respondent

launched proceedings under the above said Act, before the Competent Authority. In the application filed before the Competent Authority, viz., the Estate Officer, the respondent had specifically claimed that the petitioners came into possession of the property as tenants under a rental agreement dated 01.03.1999 on a monthly rent of Rs.100/-. The original lease was for a period of 11 months and it was periodically extended till the year 2016 and the rent was also periodically enhanced and the final rent that was paid by the petitioner was Rs.1,100/- per month. The copies of the agreements dated 01.03.99 and 18-10-2015 were filed along with the application. Though the petitioners filed objections running to five pages questioning the title of the respondent, the execution of the lease deeds dated 01.03.1999 and 18.10.2015 was not denied. The Competent Authority by his order dated 11.01.2018 rejected the claim of the petitioners herein to the effect that the respondent is not the owner of the property and concluded that having executed a Lease Deed admitting the title, the petitioners cannot deny the title of the waqf and set up title in himself and in some other person. On the said findings the Estate Officer/Competent Authority allowed the application and ordered eviction. Aggrieved the petitioners

herein preferred an Appeal before the Principal District Judge, Vellore in CMA No.1 of 2018.

4. The learned Principal District Judge upon a re-appreciation of the evidence concluded that the respondent/waqf has proved the tenancy and the tenancy having expired the possession of the petitioners became illegal rendering them liable to eviction under the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975. As regards the claim of the petitioners that they are not a tenant under the waqf, the learned Appellate Judge concluded that the petitioners having not denied the execution of the Lease Deed, either in the reply notice or in the objections filed before the Competent Authority, cannot claim that they did not execute the Lease Deeds dated 01.03.1999 and 18.10.2015.

5. The Appellate Court also took note of the fact that the respondent/Waqf has produced rental receipts and ledgers to show the ownership of the property. On the above conclusions, the learned Principal District Judge dismissed the Appeal. Aggrieved the petitioners/tenant has

come up with this Civil Revision Petition.

6. I have heard Mrs.Hema Sampath, learned Senior Counsel appearing for M/s.R.Meenal, for the petitioners and Mr.N.A.Nissar Ahmed, learned counsel appearing for the respondent.

7. Mrs.Hema Sampath, learned Senior Counsel appearing for the petitioners would vehemently contend that the respondent has not proved its title. She would also take me through various documents filed by the respondent/waqf to show that there is a cloud over the title to the property and therefore the Authorities under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975, do not have the jurisdiction to order eviction.

8. Contending contra Mr.N.A.Nissar Ahmed, learned counsel appearing for the respondent would submit that the execution of the Lease Deeds has not been denied. The Principal District Judge has compared the signatures found in the Lease Deeds with the admitted signatures and has

concluded that they are of the same person. He would also point out that in the absence of denial of those documents, viz. the Lease Deeds, the petitioners cannot now contend that the Lease Deeds are not true and valid. He would also submit that the Authorities under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975, cannot go into the question of title in a proceeding for eviction of a person, who is admittedly a tenant of the property. He would therefore submit that there is no ground for interfering with the orders of the eviction passed by the Authorities.

9. I have considered the rival submissions.

10. Though Mrs.Hema Sampath, learned Senior Counsel appearing for the petitioner would vehemently attack the title of the respondent waqf to the property in question, I do not think this Court sitting in a Revision that too in a proceeding under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975, would go into the question and examine the title of the respondent/waqf.

11. As rightly pointed out by Mr.N.A.Nissar Ahmed, learned counsel appearing for the respondent the execution of the Lease Deed has not been denied anywhere during the proceedings by the petitioners. Both the Authorised Officer and the Appellate Authority/ Principal District Judge have come to the conclusion that the petitioners cannot deny the title of the waqf without even denying the execution of the Lease Deeds. Once the execution of the Lease Deeds is admitted, then the relationship of the landlord and tenant should also be admitted. It is also seen that the lease period had expired. Proceedings for eviction were launched only after the expiry of the lease period. The Authorities below have considered the entire evidence and have come to the conclusion that having not denied the lease deeds, the petitioners cannot be allowed to deny the title of the respondent/Waqf to contend that the proceedings under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act 1975, are not maintainable.

12. I am unable to see any material irregularity or error of jurisdiction

in the orders of the authorities. Hence, the Civil Revision Petition fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

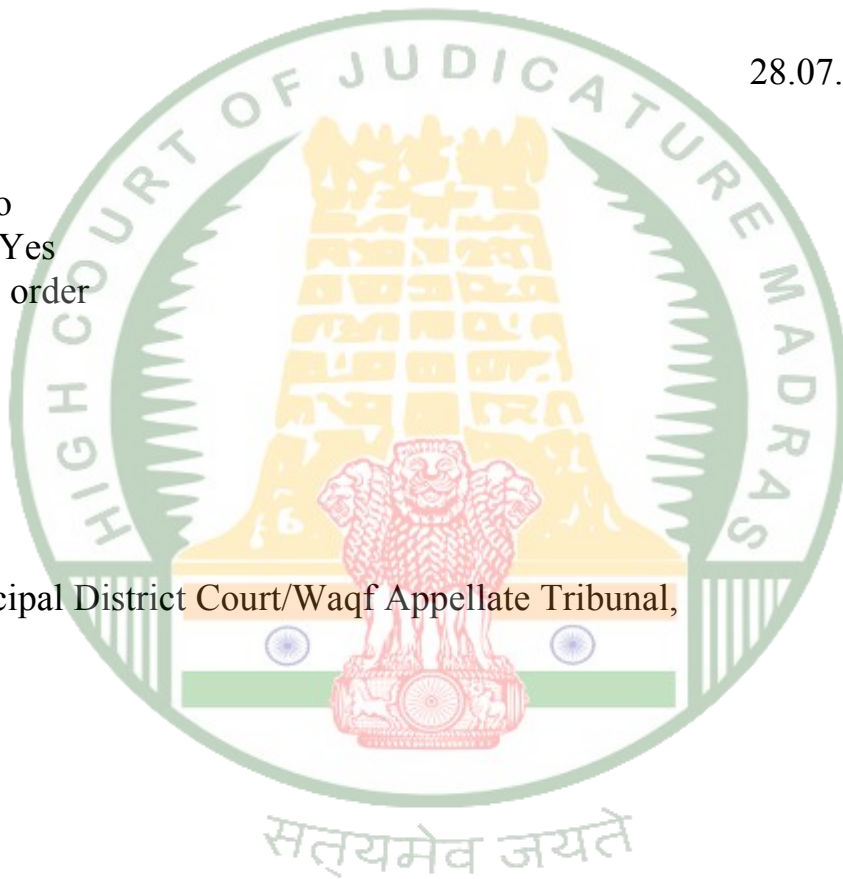
28.07.2020

jv

Index: No
Internet: Yes
Speaking order

To

The Principal District Court/Waqf Appellate Tribunal,
Vellore.



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R.SUBRAMANIAN, J.

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