



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 03.09.2020

Pronounced on: 18.12.2020

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

C.R.P(MD) No. 944 of 2013

and

M.P(MD)No. 1 of 2013

WEB COPY

1. Muthuraj (Died)
- 2.A.Shanthi
- 3.Kala
- 4.M.Suresh
- 5.Selvarani
- 6.Sasi
- 7.Jeeva

..Petitioner/Appellant/Petitioner

(PP2 to 7 are brought on records as LRS of Deceased sole patitioner vide court order dated 14/02/2020 made in CMP(MD). 11433,11437,11439/2019 in CRP(MD).944/2013 by RSMJ.)

Vs.

1.Gnanamaniammal Chatram
Through its Paramparai Akthar,
Sivan Keela Rathaveethi,
Palayamkottai.

2.K.A.Murugappan

3.K.A.Shanmugavel
Kumuthavalli (died)

..Respondents 1 to 3/Respondents/
Respondents/Plaintiffs

4.K.A.Velappan

5.Vishalatchiammal
6.Doctor V.Muthuveerappan

.. Respondents 4 & 5/Respondents/
Respondents/2nd and 3rd defendants

7.S.Saraswathi
8. Thaiyalnayagi

9. S.Suba

10.Senthilnathan

..Respondents 6 to 10/Respondents/
Respondents/Lrs of fourth plaintiff

PRAYER: The Civil Revision Petition is filed by Article 227 of the Constitution of India against the fair and decreetal order dated 08.01.2010 passed in I.A.No.601 of 1993 in O.S.No.317 of 1993 by the 2nd Additional District Munsif Court, Tirunelveli confirming the fair and decreetal order dated 22.02.2013 passed in C.M.A.No.12 of



2010 by the Principal Sub Judge, Tirunelveli.

For Petitioner : Mr.K.Chengizkhan
for Mr.G.Prabhu Rajadurai
For R1 & R2 : Mr.P.Thiagarajan

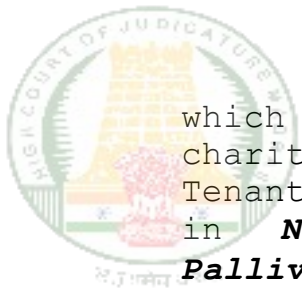
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ORDER

This Civil Revision Petition arises out of an order dated 22.02.2013 passed in C.M.A.No.12 of 2010 by the Principal Sub Judge, Tirunelveli. Vide its order dated 22.02.2013 the first appellate court has confirmed the order passed by the trial court in I.A.No.601 of 1993 in O.S.No.317 of 1993 dismissing the petition filed by the petitioner under Section 9 of the City Tenants Protection Act.

2. The brief facts necessary for current purpose are:

- The plaintiff is a trust that goes by the name 'Gnanamaniammal Chatram', and it laid the suit in O.S.No.317 of 1993 on the file of the 2nd Additional District Munsif Court, Tirunelveli, for delivery of the suit property from its its tenant. The property is a certain building belonging to this Trust. The suit was resisted by the revision petitioner on the ground that as early as in 1966, he has obtained the lease of the site, and that he has subsequently put up a construction for housing his workshop.
- The revision petitioner would thereafter file I.A.No.601 of 1993 under Section 9 of the Tamil Nadu City Tenants Protection Act, for sale of the leased property to him at a price to be fixed by the court. The plaintiff-Trust contended that it is engaged in religious charity and that the City Tenants Protection Act would not apply to it.
- By an order dated 04.11.1999, the trial court allowed I.A.No.601 of 1993. This is an interim order, in the sense, it appointed a Commissioner to earmark so much of property as might be necessary for the tenant to run his workshop. This order gave rise to two appeals. The tenant would file C.M.A.No.10 of 2000 challenging the order appointing the Commission. The plaintiff would file CMA 14/2000 challenging the order allowing the defendant/revision petitioner's prayer for sale of the property in terms of Sec.9 of the City tenants Protection Act. These two appeals were disposed of by a common order dated 31.10.2003, by which the first appellate court allowed C.M.A.No.10 of 2000 filed by the defendant/revision petitioner and dismissed C.M.A.No.14 of 2000 filed by the landlord.
- Subsequently when I.A.No.601 of 1993 was taken for final disposal, the trial court took note of T.N.Act 2 of 1996 by



which the properties belonged to the temples and public charitable trusts are kept away from the application of City Tenants Protection Act. Relying on an authority of this Court in **N.SreedharanNair and others Vs. Mottaipatti Chinna Pallivasal Muslim Jamath, Virudhunagar** and others [2003 (3) LW 291] it dismissed the application filed by the revision petitioner under Sec.9 of the City Tenants Protection Act. It also relied on the judgment of this Court in which was a case between the plaintiff and M/s Hindustan Petroleum Corporation Limited, Chennai in S.A.No.106 of 2005 (and reported in 2009 (5) LW 818). In that case, this court has already held that the plaintiff is a public Charitable trust, and hence the provisions of the City Tenants Protection Act will not apply to it.

3. Aggrieved by the same, the tenant moved the first appellate court in CMA 12 of 2010, and the first appellate court confirmed the order of the trial court. This order is under challenge in this revision.

4. The learned counsel for the revision petitioner submitted that the judgment of this Court in [2009 (5) LW 818] is now being challenged by M/s. Hindustan Petroleum Corporation Ltd., before the Supreme Court and the matter is pending consideration. Since the character of the plaintiff trust, and whether it is subjected to, or exempted from the operation of the city Tenants Protection Act will be decided there, and the outcome of that case will have a bearing in this case.

5. This Court is not in a position to appreciate the said argument. First, no orders of the Hon'ble Supreme Court was placed before this Court to indicate that the Hon'ble Supreme Court has stayed the findings of this Court that the plaintiff is a public charitable trust as was held by this Court in its Judgment reported in 2003 (3) LW 291.

6. So far as the present case is concerned, this Court does not find any perversity, illegality or impropriety in the judgment of the first appellate court in C.M.A.No. 12 of 2010 and does not find any material to interfere with the same.

7. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)



1.The Principal Sub Judge, Tirunelveli.

2. The 2nd Additional District Munsif Court, Tirunelveli

3.The Section Officer, (2Copies)

V.R.Section, Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-26491[F] dated
21/12/2020)

+1 CC to M/s.P.THIYAGARAJAN, Advocate (SR-26581[F] dated 21/12/2020
)

C.R.P (MD) No. 944 of 2013
and

M.P (MD) No. 1 of 2013
18.12.2020

SR (CO)

KB (30.12.2020) 4P 7C