



C.R.P.(NPD).Nos.485, 488 & 489 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).Nos.485, 488 & 489 of 2021

and

C.M.P.Nos.4248, 4265 & 4270 of 2021

Valliammal ... Petitioner in CRP/485/2021

Karthikesan ... Petitioner in CRP/488/2021

Jayaraman ... Petitioner in CRP/489/2021

Vs.

T.Neethiraja Nadar Respondent in all CRPs

Prayer in C.R.P.No.485 of 2021: Civil Revision Petition filed under Article 227 of the Constitution of India against the Judgement and Decree dated 10.09.2020 made in R.C.A.No.10 of 2017 by the learned Appellate Authority / Learned Principal Sub Judge, Ponneri reversing the Judgement and Decree dated 14.07.2017 made in R.C.O.P.No.2 of 2007 by the learned Rent Controller / District Musif, Thiruvottiyur.



C.R.P.(NPD).Nos.485, 488 & 489 of 2021

Prayer in C.R.P.No.488 of 2021: Civil Revision Petition filed under Article 227 of the Constitution of India against the Judgement and Decree dated 10.09.2020 made in R.C.A.No.9 of 2017 by the learned Appellate Authority / Learned Principal Sub Judge, Ponneri reversing the Judgement and Decree dated 14.07.2017 made in R.C.O.P.No.1 of 2007 by the learned Rent Controller / District Musif, Thiruvottiyur.

Prayer in C.R.P.No.489 of 2021: Civil Revision Petition filed under Article 227 of the Constitution of India against the Judgement and Decree dated 10.09.2020 made in R.C.A.No.11 of 2017 by the learned Appellate Authority / Learned Principal Sub Judge, Ponneri reversing the Judgement and Decree dated 14.07.2017 made in R.C.O.P.No.3 of 2007 by the learned Rent Controller / District Musif, Thiruvottiyur.

For Petitioner : Mr.S.Raghavan

For Respondent : Mr.E.Prabu

ORDER

These three Revisions have been filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960, challenging



C.R.P.(NPD).Nos.485, 488 & 489 of 2021

the orders of eviction passed by the Appellate Authority in R.C.A.Nos.9, 10 and 11 of 2017. The proceedings for eviction were initiated by the landlord, the respondent herein, in the year 2007 in R.C.O.P.Nos.1, 2 and 3 of 2007.

2. The grounds for eviction are one and the same, namely, willful default and owner's occupation. The landlord claimed that he had purchased the property, subject matter of these eviction proceedings under a sale deed dated 10.08.2005. He has issued a notice to the tenants, the petitioners herein, on 10.06.2006, terminating the tenancy, calling upon them to pay the rents for the period from April 2005 to January 2007 and calling upon them to vacate and hand over the possession as he requires the same for his own use and occupation.

3. These petitions were resisted by the tenants contending that there is no default in payment of rent and they have taken proceedings for deposit of rent, since they had already sent the rent to the erstwhile



C.R.P.(NPD).Nos.485, 488 & 489 of 2021

landlord. It was also contended that the requirement for owner's occupation is not bonafide and therefore the landlord was not entitled to the order of eviction.

4. At trial, the respondent / landlord was examined as P.W.1 and Ex.P.1 to Ex.P.10 were marked on his side. The respective tenants were examined as D.W.1 and no document was marked on the side of the petitioners / tenants. The learned District Munsif, Thiruvottiyur, upon consideration of the evidence dismissed the petitions on the ground that the respondent / landlord has not proved his title by producing the sale deed.

5. Aggrieved by the said order, the respondent / landlord preferred the three appeals as stated above. Before the Appellate Authority, the sale deed dated 10.08.2005 was produced in I.A.No.42 of 2019. Moreover, the Appellate Authority has also found that the petitioners / tenants had in their counter itself admitted the title of the



C.R.P.(NPD).Nos.485, 488 & 489 of 2021

respondent / landlord. Relying upon the said sale deed and the counter statement filed before the Rent Controller, the learned Appellate Authority concluded that the landlord has proved his title and that the tenants have committed willful default in payment of rents. On the above finding the Appellate Authority reversed the findings of the learned Rent Controller and ordered eviction.

6. I have heard Mr.S.Raghavan, learned counsel appearing for the petitioners / tenants and Mr.E.Prabu, learned counsel appearing for the respondent / landlord.

7. Mr.S.Raghavan, learned counsel appearing for the petitioners would vehemently contend that there cannot be any willful default in payment of rent as there is a doubt about the ownership of the land. I am unable to countenance the contention of the learned counsel for the petitioners.



C.R.P.(NPD).Nos.485, 488 & 489 of 2021

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8. At least, in C.R.P.Nos.485 and 489 of 2021, namely, R.C.O.P.Nos.2 and 3 of 2007, the notice issued by the landlord on 10.06.2006 were received by the tenants and the tenants neither paid the rent nor sent a reply. Therefore, the default is presumed to be willful, in view of the first explanation to Section 10 (2) of the Tamil Nadu Buildings (Lease and Rent) Control Act. The tenants, therefore, cannot explain default or contend the fact that they have paid the rent.

9. As regards C.R.P.No.488 of 2021, which arises out of R.C.O.P.No.1 of 2007, though the notice was returned unserved, atleast after filing of the eviction petition the tenant should have taken action to deposit the rents. There is no evidence of such proceedings or any attempt by the tenant to pay the rent either at the first hearing of the R.C.O.P or later.



C.R.P.(NPD).Nos.485, 488 & 489 of 2021

10. I therefore, do not see any reason to interfere with the findings of the Appellate Authority on the question of default. As regards the owner's occupation, the learned Appellate Authority has not rendered any finding. Therefore, I do not think I should go into that issue. The orders of eviction passed by the learned Appellate Authority are confirmed on the ground of willful default alone.

11. Mr.S.Raghavan, learned counsel for the petitioners / tenants would seek some time to vacate and hand over the possession. Considering the fact that the petitioners are senior citizens and they have been in possession as tenants for nearly 20 years now, a years time is granted for them to vacate and deliver vacant possession.

12. The tenants shall file an affidavit undertaking to vacate and deliver vacant possession of the property by 30.11.2022 without driving the landlord to file Execution Petition. Such an affidavit shall be filed into this Court on or before 15.12.2021. If the affidavit is not



C.R.P.(NPD).Nos.485, 488 & 489 of 2021

filed by 15.12.2021, it is open to the respondent / landlord to execute the eviction orders as if no time has been granted by this Court. It is needless to state that the petitioners / tenants shall pay the rents regularly till they surrender possession.

13. In the result, the Civil Revision Petitions are dismissed. Consequently, the connected Civil Miscellaneous Petitions are also closed. No costs.

29.11.2021

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Index :No
Internet: Yes
Speaking order

To:-

- 1.The Principal Sub Judge, Ponneri.
- 2.The District Musif, Thiruvottiyur.



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C.R.P.(NPD).Nos.485, 488 & 489 of 2021

R.SUBRAMANIAN, J.

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