

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP.No.889 of 2021
and
CMP.No.7276 of 2021

1.K.Devaraj
2.K.Ramesh

....Petitioners / Respondent
Vs.

1.Suseela Rajasekaran
2.A.S.Damodaran (Deceased) Respondents / Petitioners

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the Order and Decreetal Order dated 01.03.2021 made in E.A.No.1 of 2020 in E.P.No.241 of 2020 in RCOP.No.1549 of 2010 on the file of the Court of the XIV Small Causes Judge, Chennai by allowing this Civil Revision Petition.

For Petitioner : Mr.R.Agilesh

For Respondents : No appearance

O R D E R

(This case has been heard through video conference)

This Civil Revision Petition is focused against the order dated 01.03.2021 passed in E.A.No.1 of 2020 in E.P.No.241 of 2020 in RCOP No.1549 of 2010. The petitioner in RCOP No.1549 of 2010 is still struggling to get the fruits of the decree even after a decade.

2.RCOP No.1549 of 2010 had been filed by two petitioners viz., Suseela Rajasekaran and A.S.Damodaran. It had been filed under Section 10 (2) (1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. This naturally meant that the respondents therein / revision petitioners herein were in default of rent even in the year 2010. While explaining their locus to jointly file the said Rent Control Petition in paragraph No. 3, they have very specifically stated that the petition premises was jointly owned by them and that it was

originally leased out to one Viswanathan who was paying a rent of Rs.1,200/- per month and the lease was for residential purposes. After that, the 1st revision petitioner / Devaraj, who was residing in the petition premises along with Viswanathan, continued to be in occupation. He did not pay the rents from the month of October 2009. It was also stated that he had, unauthorizedly and without consent and permission permitted the 2nd revision petitioner / K.Ramesh to occupy the petition premises. It was claimed that the 2nd revision petitioner is an unauthorized sub tenant.

3.A counter was filed by Devaraj before the Rent Controller. In the said counter, he very specifically stated that

"I submit that we are close relatives and occupied the premises with the consent and concurrence of the 1st petitioner viz., Mrs.Suseela Rajasekaran".

4.After contending that he had entered into the tenancy with the permission of Mrs.Suseela Rajasekaran, in the Execution Petition, a contention had been raised in E.A.No.1 of 2020 claiming that the said Mrs.Suseela Rajasekaran does not have any right to proceed further with the Execution Petition.

5.It is pointed out that the Rent Control Petition went through its natural course and was decreed on 28.04.2014 more than six years back. Time of two months was granted for eviction. Still the present revision petitioners appear to be in possession. The 2nd revision petitioner / K.Ramesh then filed a supporting affidavit in E.A.No.1 of 2020. It must be kept in mind that originally in the Rent Control Petition, he was shown as a sub tenant under unauthorized occupation. I hold the entire E.A. No.1 of 2020 is totally misconceived and the facts stated amount to fraud being played before the Court.

6.The 2nd petitioner in the Rent Control Petition died intestate as a bachelor, on 01.06.2018.

7.Thereafter an Appeal was filed with an application to condone the delay before the VIII Judge of the Court of Small Causes, Chennai and the said application was also dismissed on 11.01.2019. It had been stated that the 2nd petitioner in the Rent Control Petition had died and the Death Certificate had also been produced.

8. Section 2 (6) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 defines a landlord as a "person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the building were let to a tenant".

9. Therefore, the said Revision Petitioners herein have no grounds to question the locus of the 2nd respondent herein particularly when they had very specifically admitted the fact that Mrs. Suseela Rajasekaran had actually permitted R. Devaraj, to be in occupation of the petition premises.

10. When that is the fact, it is an act of utmost fraud at the time of the Execution Petition to turn around and question the locus of the petitioner in the Execution Petition. The 2nd petitioner in the Rent Control Proceedings might have died, but that does not mean that the 1st respondent herein does not have any right to maintain the Execution Petition. I hold that E.A.No.1 of 2020 had been rightly dismissed and the said order of dismissal is confirmed.

11. With these observations, the Civil Revision Petition stands dismissed with cost of Rs.10,000/- [Rupees Ten Thousand Only]. The said cost of Rs.10,000/- is to be collected during the hearing of the Execution Petition. Consequently, the connected miscellaneous petition stands dismissed. No order as to cost.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

The XIV Small Causes Judge, Chennai.

+1cc to M/s.A.Sumathy, Advocate, S.R.No.24454
+1cc to Mr.T.Dhanasekaran, Advocate, S.R.No.24525

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RSV(CO)
CB(18/06/2021)