

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.08.2021

PRONOUNCED ON : 03.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (NPD) Nos.1054 and 1070 of 2019
and C.M.P. Nos.6965 and 7050 of 2019

1.Renuka Devi
2.S.Rajesh Kumar
3.Vijayalakshmi

...

Petitioners /
legal heirs of Tenant
[in both C.R.Ps.]

versus

G.R.Swame Chetty

...

Respondent /
Landlord
[in both C.R.Ps.]

COMMON PRAYER: Civil Revision Petitions have been filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the fair and decreetal order dated 24.01.2019 passed in R.C.A. Nos.2 and 1 of 2015 on the file of the learned Rent Control Appellate Authority (learned Subordinate Judge), Tirupattur, Vellore District, confirming the fair and decreetal order dated 23.12.2014 passed in R.C.O.P.Nos.5 and 4 of 2012, on the file of the Rent Controller (learned Principal District Munsif), Tirupattur, Vellore District and to dismiss these R.C.O.Ps.

For Petitioners : Mr.T.M.Hariharan
[in both C.R.Ps.]

For Respondent : Mr.Karthikeyan
[in both C.R.Ps.] for Mr.S.Joel

COMMON ORDER

Civil Revision Petition Nos.1054 and 1070 of 2019 have been preferred against the judgments of the learned Rent Control Appellate Authority (learned Subordinate Judge), Tirupattur, in R.C.A. Nos.2 and 1 of 2015, which confirmed the orders of the learned Principal District Munsif, Tirupattur, Vellore District in R.C.O.P.Nos.5 and 4 of 2012 respectively.

2. The landlord and tenants in both the cases are same persons. R.C.O.P. No.4 of 2012 was filed under Sections 10(2)(i), 10(2)(ii)(a)(b), 10(3)(a)(iii) and R.C.O.P. No.5 of 2012 was filed under Sections 10(2)(i), 10(2)(ii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. The tenanted premises in both R.C.O.Ps. is situated at Door Nos.24 and 24/1, Tirupathur Town, Krishnagiri Road. The ground floor premises was leased out in R.C.O.P. No.4 of 2012. The first floor was leased out in R.C.O.P. No.5 of 2012. The respondent as a landlord filed both the petitions for eviction on the grounds aforesaid.

3. It is the case of the respondent / landlord that, he became the owner of the tenanted premises, as per the Settlement Deed dated 01.02.2010. The petitioners are the tenants under respondent / landlord from 01.02.2010. The premises in R.C.O.P. No.4 of 2012 was leased out for the purpose of running a jewellery business on the monthly rent of Rs.5,000/-. The tenanted premises in R.C.O.P. No.5 of 2012 was leased out for running a photo studio on the monthly rent of Rs.4,000/-. The tenancy is an oral tenancy. The rent is to be paid on or before the 5th of every succeeding month. The petitioners / tenants have not paid the rent from 01.02.2010 to till 31.12.2011. There is an arrears of rent for 23 months in both the cases. The arrears comes to Rs.1,15,000/- in R.C.O.P. No.4 of 2012 and Rs.92,000/- in R.C.O.P. No.5 of 2012. Despite several requests, the petitioners have not paid the rent and it clearly amounts to wilful default.

4. The premises in R.C.O.P. No.4 of 2012 was leased out for the purpose of running a jewellery business. However, the petitioners, without the permission of the landlord have leased out a portion of the

tenanted premises to third parties for running a telephone booth. The landlord has good experience in selling jewellery and he has sufficient means to invest in jewellery business. He has no other building to run the own jewellery shop. He requires the tenanted premises in R.C.O.P. No.4 of 2012 for his own use. Similarly, the tenanted premises in R.C.O.P. No.5 of 2012 though it was leased out for running a photo studio, the tenants had leased out a portion of the building to some other person for running a cable T.V. business. The landlord requires the premises for starting a jewellery business.

5. Both the petitions had been contested by the petitioners / tenants alleging that, there is no relationship of landlord and tenant between the parties. The petitioners denied the ownership and title claimed by the respondent in the petition mentioned property. Other aspects like monthly rent, the terms of tenancy, have all been denied by the petitioners. The case of the petitioners is that, the respondent has no right whatsoever in the petition mentioned property. The property originally belonged to one Ramanatha Chettiar. He leased out the building to the deceased Subramani /

tenant at a rent of Rs.50/- per month. It was a tiled roof building at the time of lease in 1976. The deceased Subramani paid a sum of Rs.10,000/- to Ramanatha Chettiar. Subramani started his business in a portion of the building. Ramanatha Chettiar constructed a new building in the remaining area. Ramanatha Chettiar got Rs.9,00,000/- from Subramani. After the construction of the building, the ground floor, first floor and second floor were handed over to Subramani. At that time, Ramanatha Chettiar got Rs.10,00,000/-. Then, Ramanatha Chettiar got Rs.21,00,000/- from Subramani as loan and promised to repay the same with interest at 24% per month. However, he has not paid either principal or interest, till date. He undertook to sell the property to Subramani whenever required. Despite asking him to execute the Sale Deed, he refused to execute the same.

6. Vijaya Gold Palace and Vijaya Studio of the petitioners were inaugurated by Ramanatha Chettiar. The electricity connection for this property was secured in the name of Subramani's son, namely, Rajesh Kumar. The entire sale consideration for the property was given to Subramani by Ramanatha Chettiar and he was in possession and enjoyment

of the property, as its owner. Therefore, the claim that the petitioners are tenants under respondent, is absolutely not correct. Only to avoid the execution of sale in favour of Subramani, Ramanatha Chettiar executed a Settlement Deed in favour of his son, i.e. the respondent on 01.02.2010, This Settlement Deed is not binding on the petitioners. There was no lease between the parties at any point of time. The respondent owns 1 acre near the petition mentioned property. He constructed the building and gave it for lease. There are other buildings owned by him in Tirupattur. Therefore, the respondent's claim that he requires the building for his own use, is not correct. The petitioners have spent several lakhs for improving the building and constructed a showroom. Both these petitions have been filed only to harass the petitioners and to evict them by hook or by crook.

7. On considering the oral and documentary evidence produced, the learned Rent Controller has found in R.C.O.P. No.4 of 2012 that, there is a valid landlord and tenant relationship between the parties, the tenants had committed wilful default; the denial of title of the landlord, is not *bona fide*, the premises was sub-let to third parties, without the

knowledge of the landlord and the premises was used for the purpose of other than, for which, it was leased and on these grounds, eviction was ordered. The petition filed for eviction on the ground of owners occupation was negated on the ground that the landlord should have asked for additional accommodation instead of owner's occupation.

8. Similarly, it was held in R.C.O.P. No.5 of 2012 that, there is a valid landlord and tenant relationship between the parties, the tenants had committed wilful default; the denial of title of the landlord, is not *bona fide*, the tenants sub-let the premises to third parties, without the knowledge of the landlord that was used for the purpose other than, for which, it was leased and on these grounds, the eviction petition was allowed. Against the orders of the learned Rent Controller, the tenants preferred R.C.A. No.1 of 2015 against the order passed in R.C.O.P. No.4 of 2012 and R.C.A. No.2 of 2015 against the order passed in R.C.O.P. No.5 of 2012.

9. The learned Rent Control Appellate Authority, on appreciating the oral and documentary evidence found no reason to differ from the findings of the learned Rent Controller and confirmed the findings and dismissed the Rent Control Appeals. Against the dismissal of R.C.A. Nos.1 and 2 of 2015, these Civil Revision Petitions have been preferred.

10. In both the matters, the landlord is the same person and the tenants are also the same persons. The tenanted premises is a single building in the ground floor and in the first floor. For the sake of convenience, both these Civil Revision Petitions are taken up together and disposed of by this common order.

11. The learned counsel for the petitioners in both the Civil Revision Petitions has canvassed mainly on the ground that, there is no landlord and tenant relationship between the parties. It is true that the first petitioner's husband had been initially inducted as tenant in the petition mentioned property. At the time of inducting the deceased, husband of the first petitioner, namely, Subramani, as a tenant in 1976, the monthly rent

was Rs.50/-. Then, the building was tiled building, a sum of Rs.10,000/- was paid as an advance. In one portion, Subramani was running his business. Ramanatha Chettiar, the father of the respondent was the owner and he planned to construct a new building in the remaining portion. For the purpose of construction of the building, he got Rs.9,00,000/- from Subramani. After the construction was over, ground floor with two floors were handed over to Subramani and at that time, a sum of Rs.10,00,000/- was paid to Ramanatha Chettiar. Then, Ramanatha Chettiar borrowed a sum of Rs.21,00,000/- with a promise to return the money with interest at 24% per month. He did not pay either principal or interest. He promised to execute the sale in respect of the building in favour of Subramani but refused to do it later. This is the specific case of the petitioners that Subramani was in possession and enjoyment of the petition mentioned property, as a owner and not as a tenant. After the death of Subramani, petitioners are in possession and enjoyment of this property as owners.

12. It is further submitted by the learned counsel for the petitioners that, it is claimed in the Eviction Petition that, the tenancy commenced from 01.02.2010 and from 01.02.2010, the tenants have not

paid the rent. There is no proof filed to show that the so called tenants attorned tenancy with the respondent. When the title of the landlord and attornment of tenancy are disputed, the jurisdiction of the Rent Controller is ousted. Only a Civil Court can decide on the question of title.

13. The learned counsel for the petitioners drew the attention of this Court to the evidence of R.W.1 with regard to the attornment of tenancy. During the enquiry before the learned Rent Controller, no sufficient opportunity was given to the tenants to give evidence and their evidence was closed and the case was decided on merits. So, the finding of the learned Rent Controller that there is wilful default, subletting the premises and different user, are all not based on independent evidence. The learned counsel for the petitioners submitted that the finding of the learned Rent Controller, which is confirmed by the learned Rent Control Appellate Authority that, there is relationship of landlord and tenant between the parties, the denial of title is not *bona fide*, there is wilful default, subletting the premises and different users, are all not based on proper appreciation of the evidence and law. Therefore, he prayed for setting aside the judgments

of the learned Rent Control Appellate Authority and for dismissing the Eviction Petitions, by allowing these Civil Revision Petitions.

14. In support of his submissions, the learned counsel for the petitioners relied on the following judgments. He submitted that when there is a clear denial of title of the landlord raised by the tenants, the issue must be decided by the Civil Court. In support of his submissions, the learned counsel for the petitioners relied on the judgment of the Hon'ble Supreme Court in ***EAST INDIA CORPORATION LTD. vs. SHREE MEENAKSHI MILLS LTD.*** reported in (1991) 3 SCC 230, wherein it has held as follows;

“9. What is stated in the second proviso to Section 10(1) is the sole circumstance in which the civil court is invested with jurisdiction in matters of eviction. But this jurisdiction cannot be invoked otherwise than as stipulated in the second proviso. This means that the condition precedent to the exercise of jurisdiction by a civil court is that the tenant should have denied the title of the landlord or claimed right of permanent tenancy and the Controller should, on such denial or claim by the tenant, reach a decision whether such denial or claim is bona fide. Upon such decision, the Controller must record a finding to that effect. In that event, the landlord is entitled to sue for eviction of the tenant in a civil court.”

15. In the case of **J.J. LAL PVT. LTD. vs. M.R. MURALI** reported in **(2002) 3 SCC 98**, the Hon'ble Supreme Court has observed as follows;

“11. The scheme of the Act is that an application for eviction of tenant has to be filed before the Controller. One of the objects sought to be achieved by the Act is the prevention of unreasonable eviction of tenants. Needless to say it is for the landlord to allege and prove a ground for eviction entitling him to an order of eviction and disentitling the tenant of his protection enjoyed under the Act. To claim eviction under Section 10(2)(vii), it is for the landlord to allege that the tenant has denied the title of the landlord or claimed a right of permanent tenancy and that such denial or claim was not bona fide. Once the landlord has adduced evidence substantiating the twin ingredients of the ground for eviction, the onus would shift on the tenant to show that either there was no denial or claim attracting applicability of clause (vii) or the same was bona fide.”

16. Similarly, in **THANGAVELU vs RAMADOSS** reported in **1997-1-L.W.1**, this Court has held as follows;

“11.....For a petitioner seeking to evict a person, who is in occupation of a premises, the petitioner will have to establish his rights to the relief. He must show that the occupant is a tenant and he, the petitioner is his landlord. He must also establish that the occupant is a tenant and he, the petitioner is receiving monthly rent from him.”

17. When it is claimed on a derivative title, the landlord should bring it to the notice of the tenant and the landlord is required to establish the derivative title. In support of this proposition, the learned counsel for the petitioners relied on the judgment of the Hon'ble Supreme Court in **VINAY EKNATH LAD vs. CHIU MAO CHEN** reported in (2019) 20 SCC 182, wherein it observed thus;

“12. It has been held by a two-Judge Bench of this Court in Bismillah Be v. Majeed Shah (2017) 2 SCC 274;

“24. Law relating to derivative title of the landlord (lessor) and challenge, if made, to such title by the tenant (lessee) during subsistence of tenancy in relation to demised property is fairly well settled. Though by virtue of Section 116 of the Evidence Act, 1872, the tenant is estopped from challenging the title of his landlord during continuance of the tenancy, yet the tenant/lessee is entitled to challenge the derivative title of an assignee/vendee of the original landlord (lessor) of the demised property in an action brought by the assignee/vendee against the tenant for his eviction from the demised property under the rent laws. This right of a tenant is, however, subject to one caveat that the tenant/lessee has not attorned to the assignee/vendee. In other words, if the tenant/lessee pays rent to the assignee/vendee of the tenanted property then it results in creation of an attornment between the parties which, in turn, deprives the tenant/lessee to challenge the derivative title of an assignee/vendee in the proceedings.”

18. In reply, the learned counsel for the respondent / landlord submitted that, it is admitted by the petitioners that Subramani was inducted as a tenant by the father of the respondent. The respondent's father settled the property in favour of the respondent on 01.02.2010. It is not necessary that the tenants should have to attorn tenancy with the new owner of the property. When the attornment of tenancy is automatic, the tenants are expected to pay rents to the new owner. It is claimed by the petitioners that, they are in possession and enjoyment of the premises not as tenants, but as owners thereof. They claimed that the first petitioner's husband and other petitioner's father Subramani paid Rs.9,00,000/- for the construction of the building and then paid Rs.10,00,000/- after the construction of the building and at the time of taking possession, Subramani lent Rs.21,00,000/- to Ramanatha Chettiar, the father of the respondent. After these money transactions, it is claimed that Subramani became owner of the property and he was in possession and enjoyment of the property.

19. However, it is submitted by the learned counsel for the respondent that the petitioners have not produced any single piece of

evidence to show that Subramani gave Rs.9,00,000/- to the construction of the building, Rs.10,00,000/- after the construction of the building and Rs.21,00,000/- as a loan. There is no proof to prove these claims. The claim of the petitioners that they are in possession as that of owners, not as tenants in respect of the petition mentioned property, is devoid of merits. The denial of title by the petitioners was found to be *mala fide* denial and therefore, that was held against the petitioners. The learned Rent Controller found the respondent had made out the case of eviction on the ground of wilful default, subletting the premises and different user and ordered eviction. The order of the learned Rent Controller was confirmed by the learned Rent Control Appellate Authority. There is no infirmity or illegality or perversity in appreciating the evidence or applying the law to the facts of the case. Therefore, the learned counsel for the respondent prayed for confirming the judgments of the learned Rent Control Appellate Authority and for dismissal of these petitions.

20. The learned counsel for the respondent relied on the following judgments with regard to attornment of tenancy. In the case of

NATARAJAN vs. MANIMEGALAI reported in **2008 (1) CTC 385**, wherein this Court has held as follows;

“Attornment is creature of contract. Attornment is not a mere agreement in favour of a third party to pay rents but has been defined as an act of the tenant putting one person in the place of another as his landlord. It is clear from Section 109 after the transfer of lessor's right in favour of the transferee he gets all the rights and liabilities of the lessor in respect of the subsisting tenancy. This Section does not insist that the transfer will take effect only when the tenant attorns. The provisions of this Section give a validity to the transfer made by the lessor with regard to his right in favour of the transferee regarding the subsisting tenancy.

An attornment by lessee to the assignee of lessor is not necessary for creating a subsisting tenancy. The transferee of the lessee steps into the shoes and possess all the rights which the transferor has. The attornment by tenant is not essential to give validity to the transfer made in favour of the transferee. The submission made on behalf of the tenant that the suit for eviction was not maintainable, as there was no attornment by the tenant, therefore is without any substance.”

21. In AMBICA PRASAD vs. MOHD. ALAM reported in **(2015) 13 SCC 13**, the Hon'ble Supreme Court has observed as follows;

“15.....From a perusal of the aforesaid section, it is manifest that after the transfer of lessor's right in favour of the transferee, the latter gets all rights and liabilities of the lessor in respect of subsisting tenancy. The section does not insist that transfer will take effect only when the tenant attorns. It is well settled that a transferee of the landlord's rights steps into the shoes of the landlord with all the rights and liabilities of the

transferor landlord in respect of the subsisting tenancy. The section does not require that the transfer of the right of the landlord can take effect only if the tenant attorns to him. Attornment by the tenant is not necessary to confer validity of the transfer of the landlord's rights. Since attornment by the tenant is not required, a notice under Section 106 in terms of the old terms of lease by the transferor landlord would be proper and so also the suit for ejectment.”

22. In the case of **D.N. JOSHI vs. D.C. HARRIS** reported in **(2017) 12 SCC 624**, the Hon'ble Supreme Court has observed thus;

“32.....It is not open to the appellant-defendants to question the ownership of the respondent-plaintiffs in respect of the suit premises. The factum which impressed the trial court and the first appellate court to hold that the gift deed in favour of Zamir Ahmad was invalid, namely, that donor (Akhtari Begum) did not request the tenant (defendant) to attorn to the donee (plaintiff), is also devoid of substance. For, this Court in Ambica Prasad v. Mohd. Alam [(2015) 13 SCC 13] has enunciated that it is well settled that after the transfer of the landlord's right in favour of the transferee, the latter gets all rights and liabilities of the landlord in respect of the subsisting tenancy. Section 109 the Transfer of Property Act does not require that the transfer of the right of the landlord can take effect only if the tenant attorns to him and that attornment is not necessary to confer validity of the transfer of the landlord's rights.”

23. In reply, the learned counsel for the petitioners submitted that the case of the landlord is that, the petitioners became tenants under him on 01.02.2010, meaning thereby the tenancy was commenced on

01.02.2010. It is not the case of the landlord that the tenants were under his father and they attorned tenancy to him on 01.02.2010. As per the landlord, it was a new tenancy. There is no agreement either oral or documentary evidence with regard to the commencement of tenancy between the landlord and tenants. Petitioners were tenants under respondent's father in the tiled structure and not in a present building. Unless the attornment is established, it cannot be said that there is a continuance of tenancy from his father to the respondent. There is no subsisting tenancy in this case from 01.02.2010. When there is no subsisting tenancy, no proof of attornment, the claim of the petitioners that they are in possession and enjoyment of the property as owners and not as tenants, is correct.

24. In response to his reply, the learned counsel for the respondent submitted that, the respondent sent notice dated 29.10.2011 informing that the petitioners were tenants under him from 01.02.2010, the date, on which, the property was settled in his favour. The notice specifically states about the non-payment of rent and wilful default committed by the tenants and other grounds which necessitated the tenants

to vacate the premises. The first petitioner's husband Subramani received this notice but no reply was given. When there is no evidence produced in support of the tenants case that, they are in possession and enjoyment of the property as owners, it has to be necessarily concluded that they are in possession of the petition mentioned property as tenants.

25. Considered the rival submissions and perused the records.

26. The primordial question that arises for the consideration in these petitions is that, whether the possession and enjoyment of the petition mentioned tenanted premises by the petitioners, is in their capacity as tenants or in their capacity as owners. As seen from the case of the parties and submissions made, there is absolutely no dispute with regard to the fact that the first petitioner's husband and other petitioner's father Subramani came as a tenant in respect of the property under Ramanatha Chettiar in 1976. The claim of the ownership in the petition mentioned property by the petitioners, is based on the alleged monetary support provided to Ramanatha

Chettiar by Subramani to the tune of Rs.9,00,000/- for the construction of the building.

27. It is further said that after the building with ground floor and two floors were constructed, Subramani said to have paid Rs.10,00,000/- to Ramanatha Chettiar and took possession of the property. He said to have advanced Rs.21,00,000/- to Ramanatha Chettiar for interest at 24% per month. It is the case of the petitioners that Ramanatha Chettiar did not pay either principal or interest. Ramanatha Chettiar inaugurated Vijaya Gold Palace and Vijaya Studio of the petitioners. The electricity connection stands in the name of Rajesh Kumar, son of Subramani. Ramanatha Chettiar undertook to sell the property to Subramani but did not do that. Since Subramani paid the entire sale consideration, he possessed and enjoyed the property as a owner. However, in support of these claims, the petitioners have not produced any single piece of evidence, that is, petitioners have not produced any documentary evidence in support of their claim to show that Subramani paid Rs.9,00,000/-, Rs.10,00,000/- and Rs.21,00,000/- to Ramanatha Chettiar.

28. It appears that there is no written Sale Agreement executed between Subramani and Ramanatha Chettiar. Assuming that there had been an oral Sale Agreement between Subramani and Ramanatha Chettiar, there is no explanation given as to why Subramani has not resorted to legal remedy by filing a suit for enforcing the specific performance of the agreement. The learned counsel for the petitioners strongly relied on the evidence of R.W.1, the father of the respondent, to show that he received a sum of Rs.9,00,000/- from Subramani. It is true that during the course of cross examination of R.W.1, he admitted that he leased out the premises to Subramani, after receiving Rs.9,00,000/- in 1988. This admission according to the learned counsel for the petitioners shows that the monetary transaction between Subramani and Ramanatha Chettiar are true.

29. However, the aforesaid admission shows that Ramanatha Chettiar admitted the receipt of Rs.9,00,000/- but he continued to claim that after receiving Rs.9,00,000/- he leased out the premises to Subramani. He

did not say that after receiving Rs.9,00,000/- he sold or undertook to sell the premises to Subramani. In fact, Ramanatha Chettiar specifically denied the suggestion that he handed over the building to Subramani, after the receipt of Rs.9,00,000/-. He also denied the receipt of Rs.21,00,000/-. Therefore, on the basis of the aforesaid admission, the petitioners cannot claim that the monetary transactions alleged in the counter had been proved.

30. When there is no acceptable evidence forthcoming from the petitioners to sustain their claim that the petitioners possess and enjoy the petition property, in their capacity as owners and admittedly, when Subramani, through whom petitioners make their claim that Subramani was inducted as tenant by the father of the respondent Ramanatha Chettiar, the only conclusion we can draw is that, the possession of the petitioners, before them, Subramani, in the petition property, is only in the capacity of tenants. Therefore, this Court finds that the claim of the petitioners that, they are the owners of the petition property, possess the property as owners, is not factually and legally correct.

31. With regard to the attornment of tenancy, the learned counsel for the petitioners drew the attention of this Court to the evidence of R.W.1 that, he did not inform the tenants about the execution of the Settlement Deed in favour of his son and asked the tenants to pay rent to his son. This was sought to be used in favour of the petitioners that there was no attornment of tenancy. As said earlier, there was no reply given to the notice dated 29.10.2011 given by the respondent to Subramani. Only in the counter these pleas like non-attornment of tenancy, claim of ownership have been pleaded. These are important pleas and the tenants are expected to raise these pleas immediately by sending reply. Unfortunately or deliberately, the tenants / petitioners had not sent reply to the notice.

32. It is seen from the judgments relied on by the learned counsel for the respondent that the attornment is creature of contract, it is not a mere agreement in favour of a third party to pay rents but has been defined as an act of the tenant putting one person in the place of another as his landlord. Section 109 of the Transfer of Property Act makes it clear that after the transfer of lessor's right in favour of the transferee, the transferee

gets all the rights and liabilities of the lessor in respect of the subsisting tenancy. Section 109 Transfer of Property Act does not insist that the transfer will take effect only when the tenant attorns. The provisions of this Section give a validity to the transfer made by the lessor with regard to his right in favour of the transferee regarding the subsisting tenancy.

33. It was already decided that the petitioners have not produced any legally acceptable evidence to show that they are in possession in respect of the petition mentioned property, as owners. It is admitted case of the petitioners that Subramani, the husband of the first petitioner, father of other petitioners was inducted as tenant by Ramanatha Chettiar. Ramanatha Chettiar transferred his right in the property in favour of his son, the respondent, through Settlement Deed. Therefore, as per Section 109 of the Transfer of Property Act, the respondent gets all the rights and liabilities of his father in respect of the subsisting tenancy. Therefore, the denial of title of the respondent in the petition mentioned property, is not *bona fide* but it is a *mala fide* denial of title.

34. It is seen from the judgment of the Hon'ble Supreme Court in the case of ***EAST INDIA CORPORATION LTD. vs. SHREE MEENAKSHI MILLS LTD.*** reported in (1991) 3 SCC 230, when there is an issue with regard to denial of title, the learned Rent Controller is mandated to give a finding as to whether the denial of title is a *bona fide* denial of title or *mala fide* denial of title. If it is *bona fide* denial of title, then the parties may be referred to Civil Court for adjudicating their title. If the denial of title is *mala fide* then the learned Rent Controller can order eviction on the ground of *mala fide* denial of title.

35. The learned Rent Controller has found that there is jural relationship of landlord and tenant between the petitioners and the respondent and the denial of title by the petitioners, in the petition mentioned premises of the respondent is *mala fide*. Accordingly, the eviction was ordered on this ground. The admitted case of the petitioners is that, they are not paying rent to the respondent. On the grounds of wilful default, subletting the premises for different user also, the learned Rent Controller found from the evidence that, the respondent proved the case

against the petitioners and ordered eviction in R.C.O.P. No.4 of 2012. In R.C.O.P. No.5 of 2012, the learned Rent Controller found the petitioners committed wilful default, sublet the premises for different user and ordered eviction. The findings of the learned Rent Controller in both the R.C.O.Ps that was confirmed by the learned Rent Control Appellate Authority. The finding of the learned Rent Controller and then by the learned Rent Control Appellate Authority that the petitioners have committed wilful default, sublet the premises for different user and on these grounds, the respondent, is entitled for evicting the petitioners, are based on proper appreciation of oral and documentary evidence. This Court is of the considered view that these findings need no interference from this Court and are confirmed.

36. Resultantly, these Civil Revision Petitions are dismissed.

The judgments passed by the learned Rent Control Appellate Authority (learned Subordinate Judge), Tirupattur, Vellore District, in R.C.A. Nos.2 and 1 of 2015 dated 24.01.2019, are hereby confirmed. Consequently, connected Miscellaneous Petitions are closed. However, there is no order as to costs.

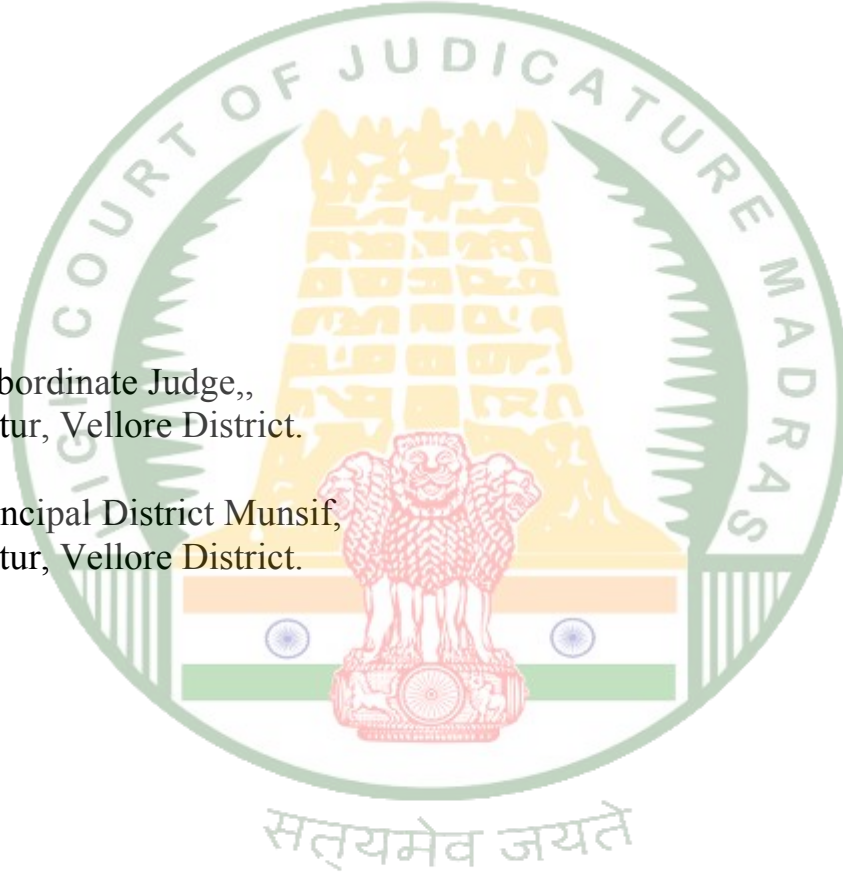
03.09.2021

Speaking order / Non-speaking order
Index : Yes / No

sri

To

- 1.The Subordinate Judge,,
Tirupattur, Vellore District.
- 2.The Principal District Munsif,
Tirupattur, Vellore District.



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G.CHANDRASEKHARAN, J.

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Pre-Delivery Common Order made in
C.R.P. (NPD) Nos.1054 and 1070 of 2019
and C.M.P. Nos.6965 and 7050 of 2019

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03.09.2021