

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD)No.602 of 2018  
and C.M.P.No.3175 of 2018

M/s. Home Finders Housing Limited,  
Rep. By its Chairman and  
Managing Director,  
Lamicale Club, Michael Garden,  
Tiruvalluvar Salai,  
Ramapuram,  
Chennai – 600 089.

... Petitioner

Vs.

1. D.A.Selvam  
2. L.A.Selvam

... Respondents

**Prayer :-** Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order dated 08.12.2016 passed in C.M.A.No.13 of 2016 on the file of the learned III Additional District Judge, Tiruvallur at Poonamallee confirming the order dated 19.02.2016 passed in I.A.No.262 of 2014 in O.S.No.154 of 2008 on the file of the learned Subordinate Judge, Poonamallee and allow the I.A.No.262 of 2014 in O.S.No.154 of 2008 as prayed for.

For Petitioner : Mr.J.Saravana Vel

For Respondents : Mr.M.V.Seshachari

**ORDER**

This Civil Revision Petition is directed as against fair and decreetal order dated 08.12.2016 passed by the learned III Additional District Judge, Tiruvallur, Poonamallee, in C.M.A.No.13 of 2016, confirming the order dated 19.02.2016 passed by the learned Subordinate Judge, Poonamallee in I.A.No.262 of 2014 in O.S.No.154 of 2008, thereby dismissing the application filed by the petitioner herein to direct the respondents to sell the suit property as per clause 1(b) of the Tamil Nadu City Tenants Protection Act (herein after referred to as 'TNCTP Act').

2. The petitioner is the defendant and the respondents are the plaintiffs. The respondents filed suit in O.S.No.154 of 2008 for ejectment in respect of the suit property. Pending the suit, the petitioner filed petition in I.A.No.262 of 2014 for direction, directing the respondents to sell the suit property for the price fixed by the Court below. The same was dismissed and aggrieved by the same, the petitioner filed appeal in C.M.A.No.13 of

2016 before the learned III Additional District Judge, Tiruvallur, Poonamallee and the same was also dismissed by an order dated 08.12.2016. Aggrieved by the same, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that all the four ingredients required for granting the relief under Section 9 of the TNCTP Act are available in the present suit as such, the petitioner is entitled to purchase the suit property. He further submitted that the present suit filed for ejectments in which, there is subsisting lease of the land, construction of the super structure by the lessee and applicability of the Act in that area, and filing of the suit by the lessor are available in the present suit. The cutoff date viz., 03.03.1980 not applicable in the case on hand, since the gazettee notification which has been referred in the provision of the Act has already been issued with respect to Chennai City and subsequent inclusion of the suit village within the jurisdiction of the Chennai city will automatically bring the suit village within the ambit of the provisions of the Act retrospectively.

3.1. Further Section 1(3)(b) of the TNCTP Act, is applicable to the facts of the present case, since initial notification bringing the provisions of the Act to be effective within the area demarcated as Chennai Corporation area will itself establish that no further notification is required in terms of the Section 1(3)(b) of the TNCTP Act. Therefore, he prayed to set aside the order passed by the Court below and to allow the petition filed by the petitioner. In support of his contention, he relied upon the following reported judgments:-

- (i) 1942 SCC Online Mad 443 – V.Ranganathan Chettiar  
Vs. Mariappa Mudali**
- (ii) 1985 Mh.L.J.J.937 – Suryakant Shah Vs. Shahanavaz**

4. Per contra, the learned counsel appearing for the respondents would submit that the petitioner became a tenant under them and their tenancy commenced only from 21.09.2001. The TNCTP Act applicable to the tenancies prior to 03.03.1980. The relevant provisions of the TNCTP Act are Section (1)(3)(a) and Section (1)(3)(b) of the TNCTP Act. As per Section 1(3)(a) of the Act, it is applicable only to the tenancies of land

created before the commencement of the TNCTP Amendment Act 1979 viz., before 03.03.1980. In the present case, the tenancy only created on 21.09.2001, as such, the petitioner is not entitled to claim any benefits under the TNCTP Act. In fact Section 1(3)(b) of the TNCTP Act is not applicable to the fact of the present case, since the said Act has not yet been extended to the suit village. Therefore, the petitioner cannot invoke the provisions under Section 1(3)(b) of the Act. Hence the Court below rightly dismissed the petition and prayed for dismissal of the present Civil Revision Petition. In support of his contention, he relied upon the following reported judgments:-

***(i) 1988 (1) LW 400 – Raja D.V.Appa Rao Bahadur***

***Vs. C.T.Senthilnathan***

***(ii) AIR 1998 SC 3207 – Aundiappa Nadar Vs. Gnanambal Ammal***

5. Heard Mr.J.Saravana Vel, learned counsel appearing for the petitioner and Mr.M.V.Seshachari, learned counsel appearing for the respondents.

6. The petitioner is the tenant and the respondents are the plaintiffs. The petitioner entered into a registered agreement of lease on 21.09.2001. The suit land was leased out to the petitioner and the petitioner put up a construction on the suit land. Thereafter, the respondents filed suit in O.S.No.154 of 2008 for ejectment in respect of the suit property as against the petitioner. While pending the suit, the petitioner filed petition in I.A.No.262 of 2014 directing the respondents to sell the suit land under the TNCTP Act. Both the Courts below dismissed the said petition as against which the present Civil Revision Petition.

7. The point for consideration in the present Civil Revision Petition is that whether the TNCTP Act is applicable to the suit land or not?

8. The learned counsel appearing for the petitioner submitted that as per the TNCTP Act, Section 1(2)(b)(iii) has been extended to any specified village within 8 k.m., of the Chennai city or townships referred to, therefore the tenant is entitled for the benefits under the Act, since the suit property is within the radius of 8 km., of the Chennai city. In fact, as per the

gazette notification in G.O.Ms.No.97 dated 19.07.2011, the Act is extended to Ramapuram Village as such the petitioner is entitled to get the benefits under the Act.

9. On perusal of the gazette notification relied upon by the learned counsel appearing for the petitioner in G.O.Ms.No.97 dated 19.07.2011, the municipal administration and water supply department limitation has been extended to certain division under the Chennai City Municipal Corporation Act for the administrative purpose. It is not issued under the TNCTP Act. Therefore, the suit village is not covered under Section 1(2)(b)(3) of the TNCTP Act.

10. As rightly pointed out by the learned counsel appearing for the respondents, the petitioner cannot claim under the provisions contemplated under Sections 1(3)(a) and 1(3)(b) of the TNCTP Act. The Act is applicable only to the tenancy created prior to 03.03.1980. As per the provisions under Section 1(3)(a), the said Act is applicable only to the tenancies of the land created before the Tamil Nadu City Tenants Protection (Amendment) Act,

1979 viz., 03.03.1980. Admittedly, the tenancy in the present case was created only on 21.09.2001 and as such the petitioner is not entitled to claim the benefits under the TNCTP Act.

11. In this regard, it is relevant to rely upon the judgment reported in **1988 (1) LW 400** in the case of **Raja D.V.Appa Rao Bahadur Vs. C.T.Senthilnathan**, which reads as follows :-

*“5. Learned Counsel also makes a reference to Sections 9 and 10 of the amending Act 2 of 1980 and submits that it was only with reference to the matters governed by Sections 9 and 10, Section 1(2) will not apply because of the express wording thereof. Learned Counsel submitted that the Legislation being an expropriatory legislation, that should be interpreted strictly and the scope of it should not be extend to tenancies other than those expressly covered by the said legislation. I do not see any substance in the argument of learned Counsel for the petitioner. Clause (ii) of Section 3 of the amending Act substitutes Section 1(3) of the principal Act in entirety. Section 1(3) of*

*the principal Act as it stood before the Tamil Nadu Act 2 of 1980 was passed was in these terms:*

*This Act shall apply, in the City of Madras only to tenancies of land created before the commencement of the Madras City Tenants' Protection (Amendment) Act, 1955, and in any municipal town or village to which this Act is extended by notification under Sub-section (2), only to tenancies created before the date with effect from which this Act is extended to such town or village.*

*This Sub-section (3) of Section 1 has been entirely replaced by the new Sub-section (3). I have already extracted the contents of the relevant provision of new Sub-section (3). If that is incorporated in the principal Act, it will only mean that the principal Act would i apply to tenancies of land created before the date of publication of the Madras City Tenants Protection (Amendment) Act, 1979. The date of publication is 3-3-1980. Consequently, the principal Act would apply to tenancies created before 3-3-1980. Section 1(3) of the principal Act as it stands to-day after the amendment by Act 2 of 1980 does not limit the*

*scope of the applicability of the Act to tenancies created between 1974 and 1980 and tenancies created before 1955. The language of the section is very plain, simple and clear. The section has to be understood as it stands now. Once the provision of Section 1(3) of the principal Act has been substituted by a new provision, it is only the new provision that exists in the principal Act as on date. The Act has to be understood with reference to the provisions as they are in existence now. Section 1(3) of the principal Act after the amendment of the same by Act 2 of 1980 makes it clear that the principal Act will apply to all tenancies of land created before 3-3-1980.”*

The above judgment squarely applicable to the case on hand. Accordingly, the petitioner is not entitled to claim benefits under Section 1(3)(a) of the TNCTP Act. Therefore, the judgments relief upon by the learned counsel appearing for the petitioner are not helpful to the case on hand.

12. That apart, if the petitioner claims benefits under Section 1(3)(a) of the Act, it has to be extended to the suit village. But the Act is not extended to the suit village as stated supra, the Gazette notification issued

only for the municipality administrative purpose and not issued under the TNCTP Act. In view of the above discussion, both the Courts below rightly dismissed the petition and this Court finds no illegality or infirmity in the orders passed by the Courts below.

13. Accordingly, the Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

13.07.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

To

1. The III Additional District Judge,

Tiruvallur at Poonamallee

2. The Subordinate Judge,

Poonamallee

3. The Section Officer,

V.R. Section,

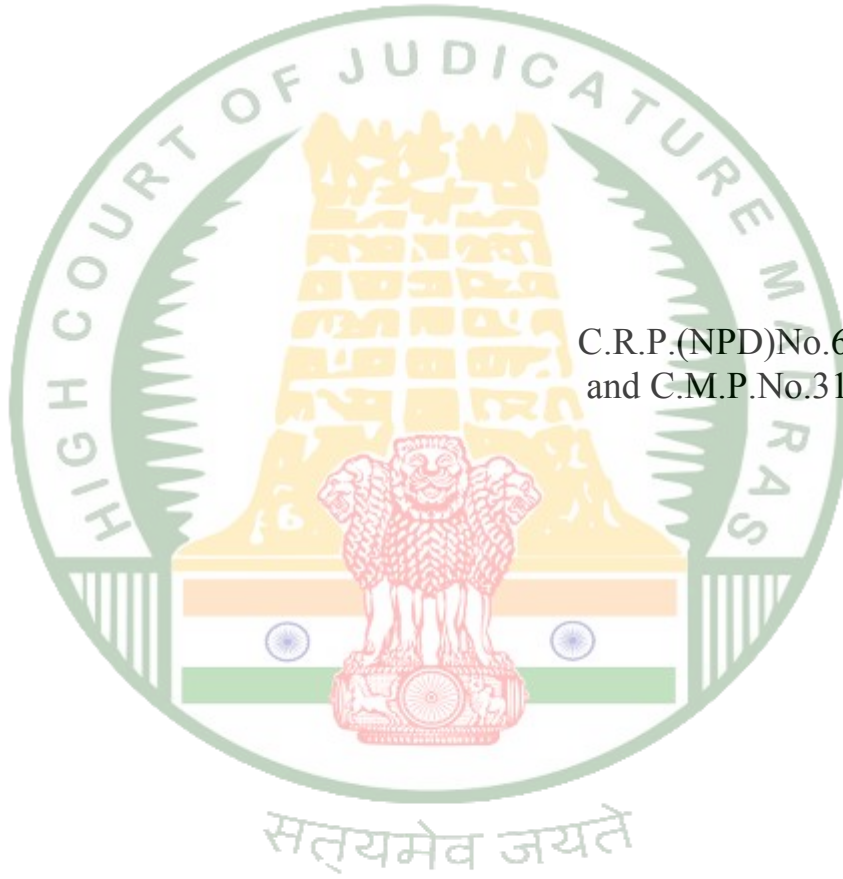
Madras High Court,

Chennai.

*C.R.P.(NPD)No.602 of 2018*

**G.K.ILANTHIRAIYAN, J.**

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