

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.12.2021
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22397 of 2021

1. Rajam Radhakrishnan
2. A. Jayanthi ... Petitioners

Vs.

1. The Managing Director
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005.

2. C. Kasi

3. Rani

4. Raja ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records, relating to the proceedings of the 1st respondent vide Na.Ka.No.Nee.Aa.1(2)/8126/2020, dated 26.09.2020, culminating in his order, dated 26.09.2020, quash the same and direct the 1st respondent to grant permission to the 2nd petitioner to execute the order of the eviction initiated against respondents 2 to 4 in E.P.Nos.1175 to 1177 of 2019, on the file of the XII Small Causes Court (Rent Controller), Chennai.

For Petitioner : M/S.M.Syed Ibrahim

For Respondent R1 : Mr.M.Rajasekhar
for Tamil Nadu Slum Clearance Board

For Respondent
R2 to R4 : No Appearance

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records, relating to the proceedings of the 1st respondent vide Na.Ka.No.Nee.Aa.1(2)/8126/2020, dated 26.09.2020, culminating in his order, dated 26.09.2020, quash the same and direct the 1st respondent to grant permission to the 2nd petitioner to execute the order of the eviction initiated against respondents 2 to 4

in E.P.Nos.1175 to 1177 of 2019, on the file of the XII Small Causes Court (Rent Controller), Chennai.

2. Heard the arguments advanced on either side and perused the materials available on record.

3.The case of the petitioners is that the 1st petitioner was the absolute owner of the land and building at Old No.11, New Door No.8, Thomaiaippan Street, Royapettah, Chennai - 600 014, measuring an extent of 1450 Sq.ft., in R.S.No.135/15. The said land with the building, was originally purchased by the father of the 1st petitioner, by name C.Kathirvel Pillai, by a sale deed, dated 26.07.1951. The said C.Kathirvel Pillai released the said property in favour of the 1st petitioner, by a release deed, dated 28.06.1967. A hut situated in the above said land was let out by the father of the 1st petitioner to one Chinnathambi, on a monthly rent of Rs.50/- since 1987. After the death of Chinnathambi, the 2nd respondent attorned to the above said tenancy. Similarly, two other huts in the said land, were let out to the 3rd and 4th respondents, individually, on a monthly rent of Rs.50/-.

4. The respondents 2 to 4 were chronic defaulters in the payment of rent. The 1st petitioner filed eviction petitions in R.C.O.P.Nos.860, 858 and 861 of 2006 against the respondents 2 to 4 respectively before the Rent Controller and the same were dismissed on the ground the 1st petitioner is debarred from initiating eviction proceedings against a tenant, in view of the provision contained in Section 29 of the Tamil Nadu Slum Area (Improvement and Clearance) Act, 1971, inasmuch as the area, wherein the premises, scheduled in those eviction proceedings, were declared as slum areas by its common order dated 27.11.2006. Aggrieved by the same, the 1st petitioner filed an appeal in R.C.A.No.679, 680 and 681 of 2007 on the file of the IX Small Causes Court, Chennai. During the pendency of those appeals, the 1st petitioner sold the said premises, in favour of the 2nd petitioner by a sale deed, dated 07.07.2010, registered as Doc.No.584/2010 on the file of the District Registrar, Central Chennai.

5. The Rent Control Appellate Authority allowed all those appeals by common judgement, dated 14.11.2014, holding that those premises were not excluded from the purview of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and therefore the landlord could very well initiate eviction proceedings, invoking the provisions of the said Act and held that the respondents 2 to 4 has committed willful default in the payment of rent and are liable to be evicted. The respondents 2 to 4 filed Revision Petitions before this Court in C.R.P.(NPD) Nos.2103, 2104 and 2105 of 2015 respectively and the same were

dismissed by a common order, dated 12.06.2019, holding that the private respondents 2 to 4 are liable for eviction, on the ground of willful default. Subsequently, the 2nd petitioner filed execution petitions, before the XII Small Causes Court (Rent Controller), Chennai, in E.P.Nos.1175 to 1177 of 2019 and based on the common order, the Court closed those petitions with liberty to obtain permission from the 1st respondent, for execution, by order, dated 11.08.2021.

6. The 2nd, 3rd and 4th respondents, in the meanwhile, filed Review Applications in Review Application Nos.201, 202 and 203 of 2019 respectively before this Court, against the common order, dated 12.06.2019. This Court modified its order to a certain extent by order, dated 04.02.2020, while sustaining the order of the Rent Control Appellate Authority, for eviction on the ground of wilful default and hold that there is no bar for initiating eviction proceedings under the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, with a condition that the decretal order obtained could be enforced only after getting permission from the prescribed Authority, as envisaged under Section 29 of the Tamil Nadu Slum Areas (Improvement & Clearance) Act, 1971. Against the order, the respondents 2 to 4 have not filed any appeal before the Hon'ble Supreme Court of India. Therefore, the order, dated 04.02.2020 passed by this Court has become final. The 2nd respondent immediately submitted a petition, dated 05.03.2020, to the 1st respondent, seeking permission to execute the order of eviction, as against the respondents 2 to 4 and the same was rejected by the 1st respondent dated 26.09.2020. Hence, the Writ Petition is filed.

7. The learned counsel appearing for the petitioners submitted that the order of this Court dated 04.02.2020 makes it clear that the petitioners are entitled to initiate proceedings for evicting the respondents 2, 3 and 4 without permission of the competent authority. However, after the decrees were obtained, the petitioner/landlord should obtain appropriate permission from the competent authority under Section 29 of the Tamil Nadu Slum Areas (Improvement & Clearance) Act, 1971.

8. In view of the facts and circumstances, 1st respondent has to comply with the order passed by this Court dated 04.02.2020 in letter and spirit, but he has made an evasive reply by way of the impugned order, which is not sustainable one. Hence, it would suffice, if this Court issues direction to the 1st respondent to comply with the order of this Court in Rev. Appl. Nos.201 to 203 of 2019 in C.R.P.(NPD).Nos.2103 to 2105 of 2015 dated 04.02.2020 and to grant permission to the petitioners for enforcing the decree passed by the Rent Control Authorities within a reasonable time limit as fixed by this Court.

9. The learned counsel appearing for the first respondent submitted that he is not a party to the proceedings initiated by the petitioner as against the private respondents. Though the petitioners are not managing the said property, however, the order of this Court dated 04.02.2020 will be complied by the 1st respondent within a stipulated time as fixed by this Court.

10. In view of above submissions, this Court directs the 1st respondent to comply with the order of this Court dated 04.02.2020 and issue appropriate permission to the 2nd petitioner for enforcing the decree passed by the Rent Control Authorities within a period of two weeks from the date of receipt of copy of this order.

11. This Writ Petition is disposed of with the aforesaid direction. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

The Managing Director
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005.

+1 cc to Mr.M.Syed Ibrahim, Advocate Sr.NO. 65410
W.P.No.22397 of 2021

ksm(CO)
A.SK(21.01.2022)