

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

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

CRP.NPD.No.2424 of 2017

and

CMP.No.11430 of 2017

M.P.Sivasamy

..Petitioner

Vs.

M.P.Palaniappan

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decreetal order dated 20.04.2017 made in RCA.No.1 of 2015 on the file of the Rent Control Appellate Authority and Subordinate Judge, Sathyamangalam reversing the fair and decreetal order dated 25.08.2014 made in RCOP.No.1 of 2013 on the file of the Rent Controller & District Munsif, Sathyamangalam.

For Petitioner : Mr.A.V.Arun

For Respondent : M/s.R.Shase,
for Mr.M.Guruprasad

ORDER

This civil revision petition is arising out of fair and decreetal order dated 20.04.2017 passed in RCA.No.1 of 2015 on the file of the Rent Control Appellate Authority and Subordinate Judge, Sathyamangalam thereby reversing the fair and decreetal order dated 25.08.2014 passed in RCOP.No.1 of 2013 on the file of the Rent Controller & District Munsif, Sathyamangalam thereby dismissing the petition for eviction on the ground of owner's occupation, denial of title and wilful default.

2. The petitioner is the tenant and the respondent is the landlord. The respondent filed eviction petition on the ground of wilful default, owner's occupation and denial of title. The tenant and the landlord are brothers. According to the landlord, the petition premises was rented out to the tenant in the month of January 1985 for the monthly rent of Rs.750/-. Thereafter he failed to pay monthly rent and also denied the title. The tenant filed suit in OS.No.183 of 1998 on the file of the I Additional Subordinate Court, Gobichettipalayam for partition as against the landlord. It was dismissed and aggrieved by the same, the respondent filed appeal suit in AS.No.74 of 2009 and the same was also dismissed.

While pending the second appeal, the learned Rent Controller dismissed the petition on the ground that the landlord categorically denied the relationship of landlord tenant between the petitioner and the respondent herein. Further Ex.A4 is the reply notice sent by the tenant and categorically denied the ownership of the premises and as such no question of rental arrears. The learned Rent Control Appellate Authority reversed the said finding on the ground that the suit filed by the tenant for partition was dismissed. The petition premises was not purchased by the family income and also not purchased by the income earned by the tenant. Therefore, the partition suit filed by the tenant was dismissed and confirmed by the appellate court. Further concluded that the tenant failed to deny the landlord tenant relationship. When the tenant specifically denied the title of the landlord, he has to prove that he is the owner of the property. Admittedly, the suit filed by the tenant for partition on the ground that the petition premises was purchased by the joint family income and also on his contribution is negated by the courts below. Therefore, he is liable to be evicted on the ground of denial of title as well as wilful default.

3. The learned counsel for the respondent landlord would submit that the second appeal filed by the tenant in SA.No.451 of 2017 was also dismissed by this Court by order dated 05.03.2018. Therefore, the tenant is liable to pay rent and he has to be evicted on the ground of denial of title.

4. On perusal of the order passed by this Court in SA.No.451 of 2017, this Court found that the tenant did not produce any evidence to show that the rice mill business was carried out jointly by brothers. The house site to an extent of 1872.50 sq.ft. was also purchased only in the name of the landlord. Further the specific case of the landlord is that the tenant is only in permissive occupation for monthly rent. Further the tenant failed to establish that the petition premises was purchased out of jointly family income and constructed out of jointly family business income. Therefore, the tenant is not entitled to claim for partition. While being so, the learned Rent Control Appellate Authority rightly reversed the findings of the Rent Controller and ordered for eviction. As such, this Court finds no irregularity or infirmity in the order passed by the court below.

5. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

01.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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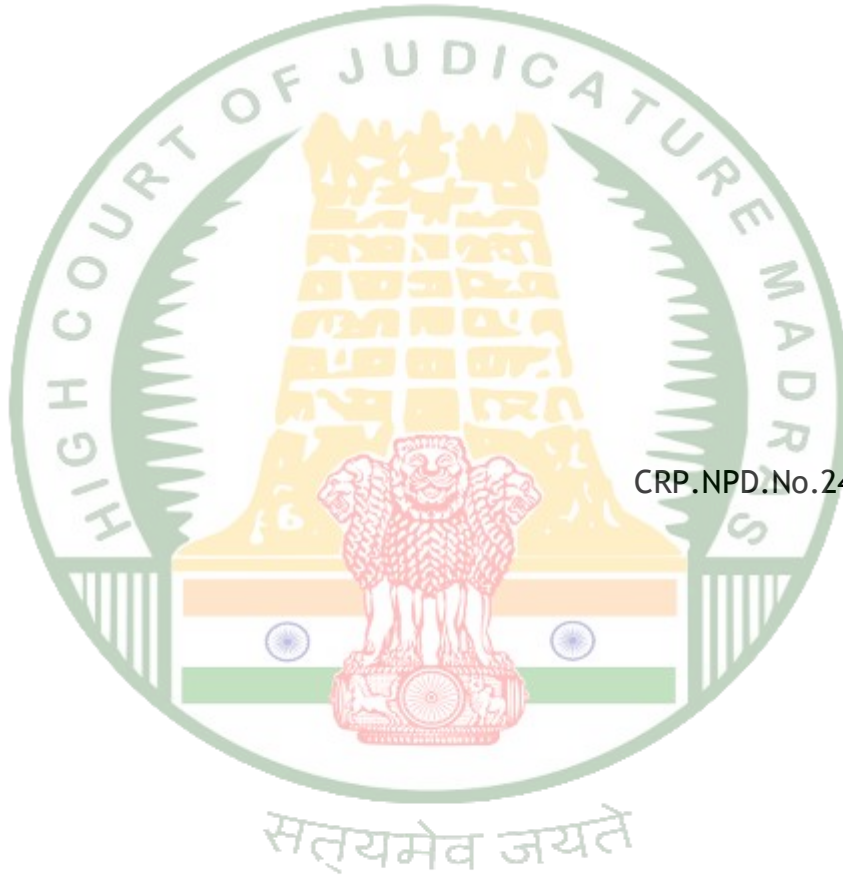
- 1.The Rent Control Appellate Authority
and Subordinate Judge,
Sathyamangalam
- 2.The Rent Controller & District Munsif,
Sathyamangalam



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G.K.ILANTHIRAIYAN,J.

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