



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

WEB COPY

C.R.P.(NPD) (MD) No.1957 of 2008

1.Anjugam,
W/o.Kaliyan
2.Kaliyan,
S/o.Mayavan

.. Petitioner/Appellant/
Petitioner/Landlord

-vs-

1.M.Kaliyan (Died)

.. Respondent/Respondent/
Respondent/Tenant

2.K.Renganayaki

3.K.Arumugan

4.K.Vanitha

.. Respondents 2 to 4

[RR 2 to 4 are brought on records as LR's of the
deceased R1 vide order dated 04.03.2021 made
in C.M.P.(MD) Nos.5782 to 5784 of 2019 in
C.R.P.(NPD) (MD) No.1957 of 2008]

Prayer :- Petition filed under Section 25 of the Tamil Nadu Building Lease and Rental Control Act to set aside the fair order and decretal order dated 10.12.2007 in R.C.A.No.30 of 2005 on the file of the Rent Control Appellate Authority (Principal Sub-Judge), Trichirappalli confirming the fair and decretal order in R.C.O.P.No.175 of 2002 dated 24.06.2005 on the file of the Rent Controller (Additional District Munsif), Trichirappalli.

For Petitioners : Mr.Kavin Prasad
for M/s.Veera Associates
For RR 2 to 4 : Mr.R.Sundar Srinivasan

ORDER

The petitioners, as landlords of the demised premises, had filed R.C.O.P.No.175 of 2002 on the file of the Rent Controller (District Munsif), Trichy.

2.The said petition was dismissed by judgment and decree dated 24.06.2005 and the subsequent appeal in R.C.A.No.30 of 2005 on the file of the Rent Control Appellate Authority (Principal Sub-Judge), Trichirappalli also ended in dismissal by judgment and decree dated 10.12.2007. Challenging this concurrent order, the landlords are before this Court.



3.The facts in brief are as follows:-

3.1.The petitioners herein had filed a petition seeking to evict the deceased 1st respondent from the demised premises on the grounds of owners occupation and wilful default. In the petition, the petitioners would submit that the property belonged to one Mayavan, who was the father of the 2nd petitioner and father-in-law of the 1st petitioner. The deceased 1st respondent is none other than the maternal uncle of the 2nd petitioner. The property was settled by the 1st petitioner's father-in-law in favour of the 1st petitioner. The petitioners were living in the petition mentioned property till 1986 and thereafter, they have left for Ulundurpet, on account of their avocation. The monthly rent was earlier fixed as Rs.100/- and later it was enhanced to Rs.200/- in 1992.

3.2.It is the case of the petitioners that the deceased 1st respondent had executed a document on 07.01.1992 styled as “வீட்டு வாடகை ரசீது” in favour of the 2nd petitioner, who is none other than the husband of the 1st petitioner. The Deed clearly described the 1st petitioner as the owner of the property. The deceased 1st respondent had failed to pay the agreed rent and when the rent was asked, he had denied the relationship of landlord and tenant.

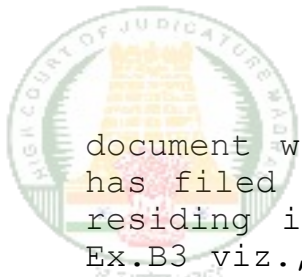
4.The Rent Controller (District Munsif), Trichy, after hearing both the parties, had come to the conclusion that the petitioners have not been able to prove, by any shred of evidence, their right and title to the petition property. Therefore, there was no question of the deceased 1st respondent vacating the premises on the ground of wilful default or owners occupation. The Court below concurred with the finding of the trial court and therefore, aggrieved by the same, the petitioners are before this Court.

5.Mr.Kavin Prasad, learned counsel appearing for the petitioners would reiterate the contentions raised in the grounds of revision.

6.Mr.R.Sundar Srinivasan, learned counsel appearing for respondents 2 to 4 prayed for confirming the concurrent judgment and decree of the court below.

7.Heard the learned counsel on both sides and perused the records.

8.The petitioners have come forward with the case that the property was settled on the 1st petitioner by her father-in-law, viz., the 2nd petitioner's father. The petitioners have not been able to file any document to show as to how they have title to the property. In fact, Ex.A1, dated 07.01.1992, which was originally marked, has thereafter been rejected by the Court, since the said



document was not registered. However, the deceased 1st respondent has filed documents to show his occupation and to prove that he is residing in the property as the owner, produced Ex.B1, Ex.B2 and Ex.B3 viz., house tax receipts, electricity card, election card etc. The petitioners have miserably failed to prove that they are the landlords in respect of the suit property and that the deceased 1st respondent/defendant is their tenant.

9.In the absence of such proof, the order passed by the learned Rent Control Appellate Authority (Principal Sub-Judge), Trichirappalli, dated 10.12.2017 in R.C.A.No.30 of 2005, confirming the fair and decretal order, dated 24.06.2005 in R.C.O.P.No.175 of 2002 on the file of the learned Rent Controller (District Munsif), Trichy cannot be called into question and accordingly, the Civil Revision Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

1.The Rent Control Appellate Authority
(Principal Sub-Judge), Trichirappalli.

2.The Rent Controller (Additional District Munsif), Trichy.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-36200[F] dated 26/11/2021)

+1 CC to M/s.R. SUNDARSRINIVASSAN, Advocate (SR-36467[F] dated 30/11/2021)

C.R.P.(NPD) (MD) No.1957 of 2008

Dated: 26.11.2021

RD(4.01.2022) 3P 5C