



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Friday, the Thirteenth day of August Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CMP(MD) . No.4688 of 2020
in CRP(MD).No.1856 of 2018

Raja ... Petitioner/Petitioner

Vs

1 K.G.Ilangkumaran
2 Stalin
3 K.G.Pethuraj
4 K.G.Ganesan

... Respondents/Respondents

Prayer :-

This petition filed under order 41 Rule 27 of C.P.C to receive the additional documents in CRP(MD).No.1856 of 2018.

Prayer in CRP(MD).No.1856 of 2018:-

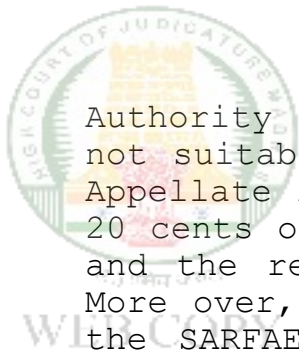
This Civil Revision Petition filed under section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act 18/1960 as amended by Tamil Nadu Act 23/1973 against the fair and decreetal order dated 17.07.2018 passed in R.C.A.No.06 of 2016 on the file of the Rent Control Appellate Authority (Sub Court) Thoothukudi reversing the fair and decreetal order dated 11.01.2016 passed in R.C.O.P.No.07 of 2014 on the file of the Principal District Munsif Court (Rent Control Court) Thoothukudi

ORDER:- This Petition coming on for orders on Tuesday the Twenty Seventh day of July Two Thousand and Twenty One and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. M.P.Senthil, Advocate for the Petitioner and of Mr.B.Rajesh Saravanan, Advocate for the first respondent, this Court made the following order:

This Civil Miscellaneous Petition is filed to receive the additional documents, which is annexed along with the petition as additional evidence in the Civil Revision Petition.

2.Brief substance of the petition is as follows:-

The petitioner filed a petition in R.C.O.P.No.7 of 2014 on the file of the Principal District Munsif, Thoothukudi, for a prayer of eviction on the ground of wilful default and for owner's occupation. The petitioner is doing import and export business at Mani Nagar, whereas, the rented premises in R.C.O.P.No.7 of 2014 is near the Harbour, which is more convenient for him. The Appellate



Authority allowed the appeal, on the ground that one Cent land is not suitable for the occupation of the landlord. The Rent Control Appellate Authority decided that the landlord is doing business in 20 cents of land, whereas, the landlord is occupying only 100 Sqft. and the remaining property was leased out to Logistics Companies. More over, the 20 cents of property was sold by the UCO Bank under the SARFAESI proceedings and was auctioned on 01.02.2007, a sale certificate, dated 11.02.2008 was issued by the UCO Bank. The landlord was not able to point out this points in the Rent Control proceedings. Even before the auction, the property belonged to one Thilak International Partnership Firm, wherein, the landlord is one of the partner and that property was not the individual property of the landlord. The sale certificate, dated 11.02.2008, has to be marked as a document in the Appeal. Since the landlord is busy in filing appeal against the SARFAESI proceedings, he could not file the sale certificate in this proceedings and prayed to receive the documents.

3.On the side of the respondent, it is stated that the landlord has not claimed the property as belonged to a partnership Firm in the earlier proceedings, before the Principal District Munsif or before the Appellate Authority. The landlord has deposed that the property at Mani Nagar belonged to him and he is estopped to deny the same at the stage of revision. The landlord cannot deny title of the property at Mani Nagar. The reason for the delay in filing the documents was not explained by the landlord. If the documents are entertained, the tenant will be put to hardship. If at all the petition is received, an opportunity should be given for the tenant to cross examine the landlord about the above documents.

4.On the side of the petitioner, it is stated that the landlord was occupying only a small portion in the other property and that the entire property was sold by the Bank under the SARFAESI Act, and the landlord has filed a petition before this Court for receiving documents to prove that the alleged own land does not belong to the landlord.

5.On the side of the tenant, it is stated that when the owner has spacious property, there is no necessity for the landlord to claim the property, which was rented and that the claim of the landlord is not bonafide. Judgments of this Court reported in **2004 (1) CTC-668 [Kathan Vs. Scaw Manak Chand Shohaji]** and **2014 (4) L.W.-629 [S.Ramesh Vs. A.Swaminathan]** are cited.

6.It is seen that the alleged sale certificate is dated 11.02.2008 and the R.C.O.P was filed only in the year 2014. Even after the filing of the counter by the tenant, the landlord has not chosen to file the present documents. There is an inordinate delay in filing this petition.



WEB COPY

CMP(MD). No.4688 of 2020

7. In the above circumstances, there is no necessity to receive his documents at the stage of revision. Hence, this Civil Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Rent Control Appellate Authority (Sub Court) Thoothukudi
2. The Principal District Munsif Court (Rent Control Court) Thoothukudi

ORDER DATED : 13/08/2021

=====
ORDER
=====

CMP (MD) . No.4688 of 2020
in
CRP (MD) .No.1856 of 2018

Dismissed.

KM(CO)
TR(03.09.2021) 3P 3C