



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	07.10.2021
DELIVERED ON	16.11.2021

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CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P(MD)No.1119 of 2020

Thavasikumar

...Petitioner/Appellant/Petitioner/
Landlord

Vs.

1.Murugesan @ Balu

2.Valliyammal

...Respondents/Respondents/
Respondents/Tenants

PRAYER: Petition filed under Section 25 of the Tamilnadu Buildings, Lease and Rent Control Act, to allow this Civil Revision Petition with costs and set aside the Fair and Decreetal order of the learned Rent Controller (Principal District Munsif Court) Tenkasi in R.C.O.P.No.8 of 2012 dated 27.01.2016 as confirmed by the Rent Control Appellate Authority Cum Principal Sub Court, Tenkasi in R.C.A.No.3 of 2016 dated 05.11.2020 and allow the O.P.No.8 of 2012 in the eviction order of the respondents from the schedule house and but landlord/petitioner in possession thereof.

For Petitioner : Mr.T.S.R.Venkataramana

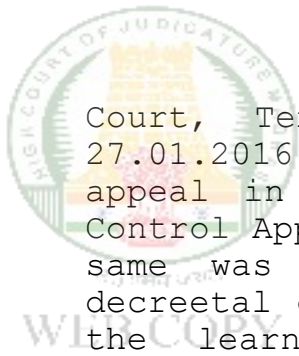
For 1st Respondent : No appearance

For 2nd Respondent : Mr.R.J.Karthick

O R D E R

The Civil Revision Petition has been filed to set aside the fair and decreetal order, dated 27.01.2016 in R.C.O.P.No.8 of 2012 passed by the learned Rent Controller/Principal District Munsif Court, Tenkasi as confirmed by the Rent Control Appellate Authority Cum Principal Sub Court, Tenkasi in R.C.A.No.3 of 2016 dated 05.11.2020.

2.The landlord has filed a petition in R.C.O.P.No.8 of 2012 on the file of the learned Rent Controller/Principal District Munsif
<https://hcservices.ecourts.gov.in/hcservices/>



Court, Tenkasi, for eviction and the same was dismissed on 27.01.2016. Against the dismissal order, the landlord has filed an appeal in R.C.A.No.3 of 2016 on the file of the learned Rent Control Appellate Authority Cum Principal Sub Court, Tenkasi and the same was dismissed on 05.11.2020 and confirmed the fair and decreetal order, dated 27.01.2016 in R.C.O.P.No.8 of 2012 passed by the learned Rent Controller/Principal District Munsif Court, Tenkasi. Aggrieved over the same, the revision petitioner/landlord is before this Court.

3.Heard Mr.T.S.R.Venkataramana, learned counsel appearing for the petitioner and Mr.R.J.Karthick, learned counsel appearing for the 2nd Respondent. Perused the material documents available on record.

4.The learned counsel appearing for the revision petitioner submitted that the fair and decreetal order of the Courts below are contrary to law, weight of evidence, probabilities and circumstances of the case and it is liable to be set aside. He further submitted that Willful default sub lease and owner's occupation are legal and lawful grounds for eviction are overlooked. The Courts below have failed to note that the revision petitioner/landlord has issued Ex.P.1 notice before filing the original petition proved by Ex.A.1, A.2 and A-3 but having received the notice, the respondents have not send any reply is overlooked.

5. The revision petitioner/landlord has filed a petition in R.C.O.P.No.8 of 2012 for eviction on the ground of willful default own occupation and the 1st respondent subleased the property to the 2nd respondent.

6.The 1st respondent was set exparte in R.C.O.P.No.8 of 2012. The 2nd respondent has filed counter and admitted that the property was belonged to the revision petitioner. It is further stated that the 2nd respondent has entered into a oral sale agreement with the revision petitioner on 01.01.2006. The sale price of the property is Rs.4 lakhs and the 2nd respondent has paid a sum of Rs.1,40,000/- as advance in the same day.

7.The revision petitioner has also received 10 sovereign gold for Rs.2 lakhs from the 2nd respondent and handed over the possession to the 2nd respondent on the same day. When the 2nd respondent has approached the revision petitioner for executing the sale deed, the revision petitioner has stated that he did not receive sale deed from Slum Clearance Board and after getting sale deed he is ready to execute the sale deed.

8.The title of the revision petitioner was admitted by the 2nd respondent. As per case of the revision petitioner is that he rented the property to the 1st respondent. The 1st respondent was set



9.The revision petitioner has issued a legal notice to the 2nd respondent which was marked as Ex.P.1. The 1st respondent not claimed and intimation also delivered. The 2nd respondent has received the legal notice and the acknowledgement card was also marked as Ex.P.3. But, the 2nd respondent has not sent any reply to the said lgal notice. The 2nd respondent should deny the tenancy contained in legal notice in the first instance.

10.The 2nd respondent has claimed the possession through oral sale agreement. To prove his possession he has filed a ration card which was marked as Ex.R.1. But, the ration card can be issued even for a rental house.

11.The rental agreement may be oral. But, the sale agreement cannot be oral. The 2nd respondent has contented that he has paid a sum of Rs.1,40,000/-as cash and gave 10 sovereigns for Rs.2 lakhs without single written acknowledgement and also without verifying the documents of the title.

12.Since the title of the revision petitioner and possession from the revision petitioner admitted by the 2nd respondent, he has to prove the sale agreement. He has not denied the tenancy in the first instance. He has not taken any steps to execute the sale deed even after the notice.

13.There is no piece of evidence by the 2nd respondent to prove the sale agreement. He has to prove the sale agreement since he has admitted the title of the revision petitioner.

14.As per statement of the 2nd respondent, the sale agreement was made in the year 2006 and he has paid a sum of Rs.3,40,000/-for the agreement. But, till 2012 (filing of Rent Control Original Petition) he has not even issued any notice.

15.Both the Courts below have erred in finding that the revision petitioner should prove the tenancy.

16.But, only the 2nd respondent has to prove the oral sale agreement. He has not proved the fact. After receiving the advocate notice on 27.04.2012, the 2nd respondent has given complaint to the Hon'ble Chief Minister Cell on 14.08.2013 which is after thought.

17.Therefore, this Court is inclined to interfere with the findings passed by the Courts below.

18.Finally, this Civil Revision Petition is allowed by setting aside the fair and decreetal order, dated 27.01.2016 in R.C.O.P.No.8 of 2012 passed by the learned Rent Controller/Principal District



Authority Cum Principal Sub Court, Tenkasi in R.C.A.No.3 of 2016 dated 05.11.2020. No Costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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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 Controller/
Principal District Munsif,
Tenkasi.
2. The Rent Control Appellate Authority-Cum-
Principal Sub Judge, Tenkasi.

Copy to:

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-34622[F] dated 16/11/2021)

+1 CC to M/s.T.S.R.VENKATRAMANA, Advocate (SR-34663[F] dated 16/11/2021)

C.R.P(MD)No.1119 of 2020
16.11.2021

MGJ(28.03.2022) 4P 7C