



C.R.P(NPD).No.2483 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	22.04.2022
PRONOUNCED ON	:	02.08.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(NPD) No.2483 of 2008
& C.M.P.No.5315 of 2022

Kuppanur Palanisamy

.. Petitioner/ Respondent/
Respondent

Versus

Gokilam (Died)

1. R.Ravichandran

2. R.Lalitha Mani

3. R.Jayanthi

4. R.Chitra

.. Respondents/ Petitioners/
Appellants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order passed in I.A.No.613 of 2005 in R.C.A.No.55 of 1999 dated 17.07.2006 on the file of the Rent Controller Appellate Authority (1st Additional Sub Court), Coimbatore.



WEB COPY



C.R.P(NPD).No.2483 of 2008

For Petitioner : Mr.Issac Mohanlal
For Mr.Ma.Pa.Thangavel

For RR 1 to 4 : Dr.D.Simon

ORDER

Challenging the order dated 17.07.2006, passed in I.A.No.613 of 2005 in R.C.A.No.55 of 1999 on the file of the Rent Controller Appellate Authority (1st Additional Sub Court), Coimbatore, the petitioner herein has preferred the present revision.

2. For the sake of convenience, the parties are referred to as per their ranking before the trial Court. The facts, barely needed for the disposal of the present Civil Revision Petition are as follows:-

2.1. The case of the respondents herein/petitioner before the learned District Munsif and Rent Controller of Coimbatore in R.C.O.P.No.212 of 1996 is that the petitioner therein is the landlady of the demised premises within the meaning of Tamil Nadu Rent Control Act. When the petitioner was an employee of Radhakrishna Mills, the Labour Department Authorities had allotted a house bearing D.No.41, at Jeganathan Colony, Peelamedu vide



C.R.P(NPD).No.2483 of 2008

allotment letter B-1300/65, dated 15.07.1965. Thereafter, the petitioner and her family members were in enjoyment of the demised premises till the year 1975. Due to unavoidable family circumstances, the petitioner and her husband were unable to take care of their young aged children and therefore, the petitioner moved to her mother's house during the period 1975 itself. At this time, the respondent, being a native of Kuppanaickanoor, who was unable to work in night shift, had influenced the petitioner and obtained the demised premises from the petitioner, for lease, and agreed to pay a rent sum of Rs.15/- per month. On the request made by the petitioner, the respondent remitted the rent in the account of the petitioner in Tamil Nadu Housing Board till 14.08.1989, for which the official receipts have been handed over by the respondent to the petitioner.

2.2. According to the petitioner, the respondent, with an ulterior motive has not remitted the rent from 14.09.1989 to till date to the petitioner and therefore, he has committed wilful default for a period of over 70 months, in non-payment of rent. According to the learned counsel for the petitioner, the petitioner has four children and they are facing financial crisis due to lower income. Therefore, the demised premises was required by the petitioner's family members. The petitioner insisted the respondent to vacate the demised



C.R.P(NPD).No.2483 of 2008

premises on several occasions, whereas the respondent has been adopting dilatory tactics and failed to vacate the demised premises. Subsequently, the petitioner sent a legal notice on 03.06.1996 and demanded delivery of vacant possession of demised premises within a period of 15 days from the date of receipt of the notice. The respondent had received the notice on 05.06.1996 but has not taken any steps to vacate the demised premises.

3. The substances averred in the counter filed by the respondent therein are as follows:

According to the respondent, there is no landlord-tenant relationship between the respondent and the petitioner. The respondent had stated that on 01.07.1996, the petitioner sold the demised premises for a sum of Rs.500/- and he has been in possession of the subject demised premises. He had further submitted that he has paid the rent to the Tamil Nadu Housing Board regularly and is in possession of the receipts. In view of the same, the respondent claimed ownership of the demised premises and prayed for the dismissal of R.C.O.P.No.212 of 1996 on the file of the learned District Munsif and Rent Controller of Coimbatore.

4. After considering the submissions of the petitioner and the respondent, the learned District Munsif and Rent Controller of Coimbatore,



C.R.P(NPD).No.2483 of 2008

had rendered a finding that since the Landlord- Tenant relationship has not been established by way of supporting documents on the side of the petitioner, the burden of proof lies on the petitioner to establish the same and held that the petitioner shall approach the concerned forum to prove her possession and dismissed the petition as not maintainable.

5. Aggrieved against the dismissal of the petition, the appellants/ petitioner has approached the Rent Controller Appellate Authority (1st Additional Sub Court), Coimbatore by way of filing R.C.A.No.55 of 1999. Meanwhile, I.A.No.613 of 2005 was also filed by the aggrieved appellants/petitioners under Order XLI Rule 27 read with Section 151 of the Civil Procedure Code, requesting to receive the registered sale deed dated 21.02.2002 bearing Registration No.310/2002, which according to the petitioner is a vital document to prove that the demised premises absolutely belongs to her and upon her death, to her legal heirs as per the Hindu Succession Act, with respect to the demised premises executed by the Tamil Nadu Housing Board in favour of the first petitioner/ appellant and mark the same as additional evidence on the side of the appellants.



C.R.P(NPD).No.2483 of 2008

WEB COPY

6. Reversing the order of the lower Court, the learned Rent Controller Appellate Authority allowed the appeal, by way of a common order passed in both R.C.A.No.55 of 1999 and I.A.No.613 of 2005, by considering the submissions made on either sides and on perusal of exhibits Ex.D1 to D3, rendered a finding that there was wilful default committed by the respondent in non-payment of rent to the appellant from the year 1989. The learned Judge, clarified that the appellant has the right to possession of the demised premises on the ground that the registered sale deed, dated 21.02.2002 bearing Registration No.310/2002 with respect to the demised premises executed by the Tamil Nadu Housing Board, is in favour of the first petitioner/appellant. Since the appellant was not in possession of the above said document during the trial, she was unable to produce the same before the Court below.

7. Aggrieved against the common order passed by the Rent Controller Appellate Authority, the respondent therein has approached this Court by way of filing the present revision.

8. The case of the revision petitioner is that he has not committed any wilful default in the payment of monthly rent to the appellants under Section



C.R.P(NPD).No.2483 of 2008

10(2)(i) of the Tamil Nadu Buildings (Lease and Rent Control) Act. He further added that the Landlord – Tenant relationship between the petitioner and the respondent has not been proved. The lower Court has rightly rendered a finding that it is for the petitioner therein to prove the title of the property before the appropriate Civil Court, before seeking for the direction for payment of rent by the respondent. Therefore, the petitioner prays for setting aside the common order made in I.A.No.613 of 2005 in R.C.A.No.55 of 1999 on the file of the Rent Control Appellate Authority (1st Additional Sub Court) Coimbatore.

9. Heard the learned counsel for the petitioner and the respondent and perused the materials available before this Court.

10. In the considered opinion of this Court, upon examining the bonafide of the registered sale deed dated 21.02.2002 bearing registration No.310/2002 with respect to the demised premises executed by the Tamil Nadu Housing Board in favour of the first respondent herein, the learned Rent Controller Appellate Authority (1st Additional Sub Court), Coimbatore has rightly allowed the application in I.A.No.613 of 2005 and considered the same as additional evidence on the side of the appellants, and thereby allowed the



C.R.P(NPD).No.2483 of 2008

Appeal in R.C.A.No.55 of 1999 on the ground that there was wilful default committed by the respondent in the non-payment of rent to the appellant from the year 1989, in which, this Court finds no infirmity in the order passed by the Court below and the same does not warrant any interference of this Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.08.2022

Index : Yes / No
Internet : Yes
sts

To:

- 1) The Rent Controller Appellate Authority
(1st Additional Sub Court),
Coimbatore.
- 2) The District Munsif and Rent Controller.
Coimbatore.
- 3) The Section Officer,
V.R.Section, High Court of Madras.

J.NISHA BANU, J.,



WEB COPY



C.R.P(NPD).No.2483 of 2008

sts

Order made in
C.R.P.(NPD) No.2483 of 2008

Dated:
02.08.2022