



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.839 of 2022

1.Rani
2.Raja

.. Appellants/ RR 3, 4 in
WP.22397/2021 on
the file of this court

Vs

1.Rajam Radhakrishnan

2.A.Jayanthi

3.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

.. Respondents/Petitioners 1, 2
and R1 in WP.22397/2021 on
the file of this court

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 09.12.2021 in W.P.No.22397 of 2021.

Prayer in W.P.No.22397 of 2021: Writ Petition filed under Article 226 of Constitution of India pray that this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus or any other order or direction in the nature of a writ, calling for the records relating to the proceedings of the 1st respondent vide Na.Ka.No. Nee. Aa.1(2)/ 8126/2020, dated 26.09.2020 culminating in his order dated 26.09.2020, quash the same and direct the 1st respondent to grant permission to the 2nd petitioner to execute the order of the eviction initiated against respondents 2 to 4 in E.P. Nos. 1175 to 1177 of 2019, on the file of the XII Small Causes Court (Rent Controller), Chennai.

For the Appellants : Mr.K.Venkateswaran



JUDGMENT
(Delivered by the Hon'ble Chief Justice)

This writ appeal has been filed to assail the judgment dated 09.12.2021 passed by the learned Single Judge disposing of the writ petition filed by the writ petitioners/non-appellants with certain directions.

2. The facts on record show that respondents 2 to 4 in the writ petition were defaulters in making payment of rent and accordingly, the first writ petitioner/non-appellant filed eviction petitions before the competent Court. After an order was passed by the competent Court, appeals were preferred before the Rent Control Appellate Authority, which allowed the appeals by a common judgment dated 14.11.2014 holding that the premises occupied by the appellants were not excluded from the purview of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 [for short, "the Act of 1960"] and therefore the landlord could very well initiate eviction proceedings looking under the Act of 1960 and held that respondents 2 to 4 in the writ petition have committed willful default in payment of rent and thus, they are liable to be evicted from the premises.

3. Challenging the aforesaid order, the appellants and the second respondent in the writ petition, namely Kasi, have filed C.R.P. (NPD) Nos.2103, 2104 and 2105 of 2015 before this Court and those revision petitions were dismissed by a common order dated 12.06.2019 holding that the appellants are liable for eviction on the ground of willful default in payment of rent. Thereafter, second writ petitioner/non-appellant has filed execution petitions before the XII Small Causes Court (Rent Controller), Chennai in E.P.Nos.1175 to 1177 of 2019. Based on the common order, the Court closed the execution petitions with liberty to obtain permission from the Tamil Nadu Slum Clearance Board for execution.

4. The appellants and Kasi have filed Review Application Nos.201, 202 and 203 of 2019 against the order dated 12.06.2019. This Court, after detailed discussion, disposed of the review applications by an order dated 04.02.2020. While sustaining the order of the Rent Control Appellate Authority for eviction on the ground of willful default and holding that there is no bar for initiating eviction proceedings under the provisions of the Act of 1960, a condition was imposed on the decree-holder to get permission from the competent authority for enforcement of the decree as per Section 29 of the Tamil Nadu Slum Areas (Improvement & Clearance) Act, 1971 [for short, "the Act of 1971"]. No appeal against the order dated 04.02.2020 passed in the review applications was filed by the appellants and the order dated 04.02.2020 attained finality.



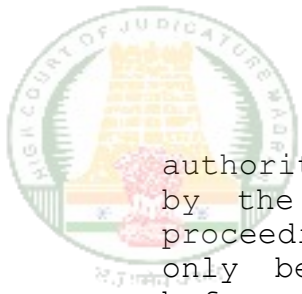
5. The writ petitioners/non-appellants then approached the competent authority pursuant to the direction given in the review applications. It was basically to seek permission for execution of the decree passed by the Rent Control Appellate Authority. However, the same was rejected by the competent authority treating it to be a case for removal of encroachment, which was assailed by the writ petitioners/non-appellants before the learned Single Judge.

6. The learned Single Judge found that the order of the competent authority to be erroneous, rather in ignorance of the order passed by the High Court on the review applications. Accordingly, while disposing of the writ petition, the learned Single Judge issued direction to the competent authority to comply with the order dated 04.02.2020 passed in the review applications i.e. to grant permission to the writ petitioners/non-appellants for enforcement of the decree passed by the Rent Control Appellate Authority.

7. The judgment of the learned Single Judge has been assailed mainly in reference to the order passed by the competent authority and also in reference to the closure of the execution petitions by the XII Small Causes Court (Rent Controller), Chennai.

8. It is submitted by learned counsel for the appellants that when the execution petitions were closed by the competent Court, learned Single Judge could not have issued direction to the competent authority to grant permission to proceed for execution of the eviction decree passed by the Rent Control Appellate Authority.

9. We have considered the submissions aforesaid and find that the closure of the execution petitions was subject to its revival after getting permission from the competent authority under the Act of 1971. The writ petitioners/non-appellants approached the authority concerned after the dismissal of the revision petitions and disposal of the review applications preferred by the appellants against the decree granted by the Rent Control Appellate Authority for eviction and in view of the direction in the review applications dated 04.02.2020. However, the competent authority rejected the application ignoring the order passed by the High Court and treating it to be a case of encroachment. Realizing the mistake of the competent authority, the learned Single Judge disposed of the writ petition with a direction to the competent authority to comply the order dated 04.02.2020. The order of the XII Small Causes Court (Rent Controller), Chennai would have no effect, because the execution petitions would be revived on the permission of the competent



authority under the Act of 1971, yet, this appeal has been filed by the appellants to somehow delay or avoid the execution proceedings, despite being defaulters in payment of rent. Not only before the Rent Control Appellate Authority, but even before the High Court in the review applications preferred by the appellants, the order of eviction was maintained.

10. The only formality was to seek permission from the competent authority under the Act of 1971 for the execution of the decree. Thus, no ground is made out for acceptance of the present writ appeal and we do not find any error in the judgment of the learned Single Judge. Rather, the effort of the appellants is to delay the eviction proceedings.

11. Accordingly, finding no merit in the writ appeal, the same is dismissed with costs assessed at Rs.10,000/- to be deposited by the appellants with the Tamil Nadu State Legal Services Authority within fifteen days from today. The Registrar (Judicial) would ensure the compliance of the said direction and if it is not made, the disposed of writ appeal may be listed before the Court for appropriate order for compliance. Consequently, C.M.P.No.5652 of 2022 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

bbr

To:

The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai-600 005.

Copy To:

1.The Secretary,
Tamil Nadu State Legal Services Authority,
High Court, Chennai.

2.The Registrar (Judicial)
High Court, Madras.

+lcc to Mr.M.Venkateswaran, Advocate, S.R.No.26644

W.A.No.839 of 2022

MG(CO)
SB(22/04/2022)