



C.R.P.Nos.1671 & 1672 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	20.06.2022
PRONOUNCED ON	:	05.12.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.Nos.1671 & 1672 of 2016

and C.M.P.No.8953 of 2016

C.R.P.No.1671 of 2016:

- 1) S.K.Nizamuddin
- 2) S.K.Shakfuddin
- 3) S.K.Shahabuddin
- 4) S.K.Shamshuddin
- 5) S.K.Kilamuddin
- 6) S.K.Alamudeen

.. Petitioners/
Respondents 3 to 8 in RCA.542/2015

Versus

- 1)S.Ravichandran
- 2) Mohammed Aquil
- 3) L.Shabana Jabeen

..1st respondent/Appellant in
RCA.542/2015

.. Respondents 2 and 3/
R1 and R2 in RCA.542/2015

C.R.P.No.1672 of 2016:

- 1) Mohammed Aquil
- 2) L.Shabana Jabeen

.. Petitioners in CRP.1672/2016



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C.R.P.Nos.1671 & 1672 of 2016

/R1 and R2 in RCA.542/2015

Versus

1)S.Ravichandran

..R1 in CRP.1672/2016

/Appellant in RCA.542/2015

2) S.K.Nizamuddin

3) S.K.Shakfuddin

4) S.K.Shahabuddin

5) S.K.Shamshuddin

6) S.K.Kilamuddin

7) S.K.Alamudeen

.. Respondents 2 to 7 in

CRP.1672/2016

/R2 to R8 in RCA.542/2015

COMMON PRAYER: Civil Revision Petitions filed under Article 227

of the Constitution of India against the fair and decretal order of the Rent

Control Appellate Authority, dated 02.04.2016 passed in R.C.A.No.542

of 2015 on the file of IX Small Causes Court at Chennai, reversing the

fair and decretal order dated 13.08.2015 in R.C.O.P.No.1787 of 2008 on

the file of the XV Small Causes Court at Chennai.

In both cases:

For Petitioners : Mr.G.R.M.Palaniappan

For Respondents : Mr.R.Thiagarajan
For M/s.L.Rajan



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COMMON ORDER

Aggrieved against the judgment made by the Rent Control Appellate Authority, dated 02.04.2016 passed in R.C.A.No.542 of 2015 on the file of IX Small Causes Court at Chennai, reversing the fair and decretal order dated 13.08.2015 in R.C.O.P.No.1787 of 2008 on the file of the XV Small Causes Court at Chennai, Respondents 3 to 8 in RCA.542/2015 filed CRP.No.1671 of 2016; Respondents 1 and 2 in RCA.542/2015 filed CRP.No.1672 of 2016. Since the issue involved in both the cases are one and the same, they are disposed of by this common order.

2. (a) R.C.O.P.No.1787 of 2008 was filed by the Landlords namely Mohammed Aquil and L.Shabana Jabeen against the Tenant viz., Ravichandran (R1 in both CRPs) and also against R2 to R7.

(b) The learned Rent Controller ordered eviction of R1 in



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RCOP.No.1787/2008 viz., Ravichandran from the premises, within a period of two months. Aggrieved against the same, the first respondent/tenant namely S.Ravichandran filed an appeal in R.C.A.No.542 of 2015 against the Landlords and other respondents 2 to 7.

(c) The learned Rent Control-Appellate Authority, after hearing the submissions made on either side, set aside the order of the Court below made in R.C.O.P.No.1787 of 2008 holding that there is no jural relationship between the appellant/tenant and R1 & R2 / landlords and terminated the order of eviction.

(d) Aggrieved against the said order, the Landlords preferred C.R.P.No.1672 of 2016 against the tenant (R1) and the respondents 2 to 7 in R.C.O.P.No.1787 of 2008. On the other hand, Vendors R2 to R7 preferred a revision against the Landlords and the first respondent in C.R.P.No.1671 of 2016, against the order of the Rent Control Appellate Authority.



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3. The revision petitioners in CRP.1671 of 2016 are the respondents 2 to 7 in RCOP.No.1787 of 2008 and they are the vendors of the Landlords.

4. The case of the petitioners in C.R.P.No.1671 of 2016 is that the petitioners/respondents 2 to 7 in R.C.O.P.No.1787 of 2008, had sold the property under a registered deed of sale document No.675 of 2008 dated 30.05.2008 to the Landlords Mohammed Aquil and L.Shabana Jabeen. The first respondent herein and other tenants of previous owners were paying monthly rent of Rs.2,300/-. After the purchase of the property, the Landlords sent a notice dated 2.07.2008 through registered post to the tenants, requesting to attorn tenancy in their favour and pay the monthly rent due from them in respect of the tenanted portion from 01.06.2008 and also to obtain receipt of the same. The first respondent, in reply to the said notice, declined to attorn tenancy in their favour by stating that he had entered into an Agreement of Sale, dated 24.10.2007 with the previous owners i.e., respondents 2 to 7, and since they declined to sell the property to him, he has filed a civil suit for specific



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performance upon the said Agreement of Sale in C.S.No.428 of 2008 before this Court.

5. It is the further case of the Review Petitioners in C.R.P.No.1671 of 2016 is that the first respondent refused to pay rent for the petition premises from 01.06.2008 on the ground of wilful default and denial of title. According to the learned counsel for the petitioners, the Rent Control Appellate Authority failed to consider Exhibits Ex.P6 & Ex.P8/ statement of accounts which revealed that the first respondent has been paying rent even after entering into the Agreement of Sale, dated 24.10.2007 till January 2008, confirming the status of the first respondent as a 'tenant'. Without considering this vital aspect, the Rent Control Appellate Authority has erred in reversing the findings of the learned Rent Controller.

6. The learned counsel further submits that the Rent Control Appellate Authority has not considered the well settled principle of law that claiming of possession by a tenant on the strength of part



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performance of agreement of sale is not valid.

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7. Further, the learned counsel for the revision petitioners in CRP.1671/2016 also drew the attention of this Court that the first respondent/tenant filed a suit in C.S.No.428 of 2008 on the file of this court seeking for specific performance of the agreement of sale dated 24.10.2007. After contest, this court rendered a finding that the first respondent/tenant has not proved his readiness and willingness for purchase of the subject property and as such, he is not entitled for the relief of specific performance. The suit was dismissed on 04.12.2017 as against which, the first respondent/tenant filed appeal in O.S.A.No.101 of 2018, which was also came to be dismissed by this Court vide judgment dated 18.04.2022. Therefore, the learned counsel for the revision petitioners in CRP.1671/2016 prayed for setting aside the order of the Rent Control Appellate Authority.

8. Per contra, the learned counsel for the respondent No.1/Tenant would submit that the RCOP itself is not maintainable since there is no



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Landlord and Tenant relationship between the Rent Control Original
Petitioners/Landlord.

9. Heard the learned counsel for the Revision Petitioners/vendors (1671/2016) and the learned counsel for the 1st respondent/tenant and perused the materials placed before this Court.

10. The order of Rent Control Original Petition is that the tenant is liable to pay the rents to the landlords. However, the Appellate Authority, reversed the order passed in R.C.O.P.No.1787 of 2008.

11. The short question in the present revision petitions that has to be decided is as to whether the act of the tenant is said to be wilful and deliberate in default in payment of rent.

12. In this connection, a perusal of the judgment passed by a Division Bench of this court in O.S.A.No.101 of 2018, dated



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18.04.2022, would go to show that the 1st respondent/tenant filed the said Original Side Appeal against the judgment passed in C.S.No.428 of 2007 dated 04.12.2017.

13. The said Civil Suit was filed by the 1st respondent/tenant as plaintiff against the owners of the suit property. Sale agreement was entered into between the parties as per which delivery of vacant portion of the first floor of the premises and also to close the entrance to the adjacent building from the first floor by the vendors was agreed. In view of the failure on the part of the plaintiff to comply with the terms of the agreement, the defendants [owners] called upon the plaintiff to receive a sum of Rs.4,00,000/- after deducting the advance amount. The plaintiff claimed that when he filed the suit for specific performance of the agreement of sale dated 24.10.2007 the defendants 1 to 6 / landlords sold the suit property to the defendants 7 & 8/revision petitioners in CRP. 1672/2016.

14. In the said suit, the defendants filed written statement and



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contended that the plaintiff is not entitled for the relief of specific performance as he has not come forward to pay the balance sale consideration within the stipulated time and the plaintiff was not ready and willing to perform his part of the contract within the stipulated time.

15. The learned Single Judge, found that the plaintiff/tenant has not established his readiness and willingness to pay the balance sale consideration and get the sale deed executed in his favour and dismissed the suit.

16. Aggrieved by the said judgment, the tenant/plaintiff filed OSA. The Division Bench of this court, held that the contention of the appellant/tenant that the defendants 1 to 6/owners(vendors) sold the property to landlords/defendant 7 and 8 in RCOP during the pendency of the suit and therefore, being pendente lite purchasers, their impleading shall not alter the position, cannot be accepted as the subsequent sale made by defendants 1 to 6 shall not bind the plaintiff in any manner as they are not signatories of Ex.P.1 sale agreement. The Division Bench



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also held that the plaintiff/tenant approached this court for the relief of specific performance but neither proved that he was ready and willing to perform his part of the contract, nor proved that he complied with all the terms of the agreement on his part.

17. Thus, the judgment passed by the learned Single Judge in C.S.No.428 of 2008 was confirmed by the Honourable Division Bench of this Court in O.S.A.No.101 of 2018.

18. The above judgment passed by this court would clearly go to show that the tenant/plaintiff has neither proved that he was ready and willing to perform his part of the contract nor complied with the terms of the agreement on his part. Secondly, the tenant's default to pay rent was also deliberate. With full knowledge of legal consequences the tenant committed wilful default in payment of rent. The first respondent is only a tenant and as such, he is liable to pay rent for his occupation of the subject property. In such circumstances, the order of eviction passed by the learned Rent Controller is liable to be restored. The order passed in



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RCA holding that there is no jural relationship between the tenant and the vendors and landlords, is not sustainable since a Division Bench of this court held as against the tenant/plaintiff who has neither proved that he was ready and willing to perform his part of the contract. Further, it is settled law that Rent Control Act is self contained code and so the provisions of Civil Procedure Code are not to be applied for the same. The provisions of CPC shall not apply to Rent Control Proceedings.

19. In the light of the above reasonings, the order of the Rent Control Appellate Authority, dated 02.04.2016 passed in R.C.A.No.542 of 2015 is set aside. The order passed in RCOP.NO.1787 of 2008 is restored. Accordingly, the Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

05.12.2022

Index : Yes / No

sts / nvsri

To:



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- 1) The Judge, IX Small Causes Court at Chennai.
- 2) The Section Officer, V.R.Section, High Court of Madras.

J.NISHA BANU, J.,

sts

Pre-Delivery Order
in
CRP.Nos.1671 and 1672 of 2016



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