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OSA.Nos.242 & 243/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2022

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU**

OSA.Nos.242 and 243/2022

R.Govindarajan

... Appellant in OSA.No.242/2022

1. J.Thangamma

2. Biju Lukose

3. Binu Alex

4. Brinson Lukose

... Appellants in OSA.No.243/2022

-VS-

The Official Trustee of Tamil Nadu
O/o.Administrator General and Official Trustee,
High Court Campus,
Chennai-600 104.

... Respondent in both OSAs.

Original Side Appeals filed under Order 36 Rule 1 of Original Side Rules read with Clause 15 of the Letters Patent against the Common Order dated 18.02.2022 passed in A.No.2375/2020 in C.S.No.274/1899 by a learned Single Judge of this Court.

In both Appeals :

For Appellants : Mrs.P.Rajalakshmi

For Respondent : Mr.M.R.Jothimanian



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COMMON JUDGMENT

(Judgment of the Court was pronounced by **T.RAJA, J.**)

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Both these Original Side Appeals have been preferred against the Common Order dated 18.02.2022 passed in A.No.2375/2020 in C.S.No.274/1899 by a learned Single Judge of this Court.

2. Mrs.P.Rajalakshmi, learned Counsel for the appellants in both these Appeals submitted that the land-in-question measuring to an extent of 1710 sq.ft. was originally leased out to one Mr.P.V.Karuppan by the Official Trustee and he has put up building to an extent of 3988 sq.ft. in that land. Thereafter, he sold the superstructure with leasehold rights in favour of ibe Maragathammal by way of Deed of Sale dated 05.07.1933 on the file of the Sub-Registrar Office, Triplicane. After the death of the said Maragathammal, her legal heirs sold the superstructure along with leasehold rights in favour of the appellants' father S.Ramasami by a Deed of Sale dated 02.07.1979 registered as Document No.557/1979 on the file of the Sub-Registrar Office, Triplicane. From the date of purchase, the appellants' father was in possession of the entire property till his death and after his death, the appellants as legal heirs of the deceased Ramasami are continued to be in possession of the same and they are paying the rents to the Official Trustee. As such,



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the appellants are the lessees and they have been in possession of the properties-in-question for several years and they are willing to purchase the same for reasonable rate. Further, the rent has been gradually enhanced and the present rent is Rs.4,500/- p.m.

3.Learned Counsel for the appellants further submitted that on an earlier occasion, the Official Trustee filed an Application in A.No.135/1983 in C.S.No.274/1899 seeking permission to sell various properties to nearly 42 lessees similarly placed like that of the appellants herein and this Court also by an order dated 08.04.1983 permitted the respondent to sell the various sites to respective lessees and accordingly, the respondent executed Sale Deeds in favour of nearly 40 lessees on the rate fixed by this Court. Since the appellants herein have also expressed their willingness to purchase the properties-in-question, on an earlier occasion, this Court directed the Official Trustee to sell the properties taking into account the tax liability that may burden the estate that it would be convenient for the estate to sell the land on the premise that the sale proceeds can be released and the same can be made use for better investment for the benefit of the estate. In the meanwhile, the respondent has issued a notice on 02.11.2019 for revision of monthly rent for land and building with a direction to pay Rs.63,000/- as monthly rent from 01.11.2019.



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Disagreeing with the said sum, the appellants approached this Court with an application in A.No.2379/2029 and also for a direction to the Official Trustee to sell the property to the appellants at the rate to be fixed by this Court. By a Common Order dated 18.02.2022, this Court dismissed the prayer made by the appellants on the sole ground that the respondent cannot be compelled to sell the properties-in-question to the appellants-lessees and the learned Single Judge has also held that when there is no specific agreement between the AG&OT and the appellants-tenants for selling the properties, the relief sought for by the applicants/appellants herein are liable to be rejected and accordingly dismissed the said applications. Aggrieved by the same, the both these Appeals have been filed.

4.At the outset, it is seen that the superstructure along with leasehold rights in respect of the properties-in-question were sold out in favour of the appellants' father by the legal heirs of his vendor, namely, S.Ramasami and after the death of the appellants' father, the appellants have been in possession of the properties-in-question for quite a long time. While so, when the respondent has issued a notice on 02.11.2019 for revision of monthly rent for the land and building and also directed the petitioner to pay a sum of Rs.63,000/- as a monthly rent from 01.11.2019, learned Counsel for the respondent submitted that till date, the appellants have been paying only the old



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rate of rent at Rs.4500/- p.m. Secondly, the AG&OT being a guardian of the property and not being the owner, the learned Single Judge has rightly reached the conclusion that the Administrator General and Official Trustee cannot be compelled to sell away the properties to the appellants-tenants and there is no specific agreement between the landlord AG&OT and tenants-lessees for selling away the properties. In this regard, it is relevant to rely upon a decision of the Supreme Court in **Committee of Management of Pachaiyappa's Trust vs. Official Trustee of Madras and another** reported in **(1994) 1 Supreme Court Cases 475** in which it has been held that High Court cannot determine whether the terms were just and reasonable and cannot on that basis direct the Official Trustee to grant lease in favour of the applicant and the proper course for the court would be to order public auction and the Courts' order should be such that the trust may get maximum benefit. In view of the above, as rightly held by the learned Single Judge, when the AG&OT cannot be compelled to sell the property to the tenants and there is no specific agreement between the landlord AG&OT and tenant for selling away the properties-in-question, we do not find any merits in both these Original Side Appeals.

T.RAJA,J.

AND
P.D.AUDIKESAVALU, J.
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5. In the result, both these appeals fail and the same are accordingly dismissed. No costs.

(T.R.J.,) (P.D.A.J.,)

09.09.2022

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To

Official Trustee of Tamil Nadu
O/o.Administrator General and Official Trustee,
High Court Campus,
Chennai-600 104.

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