



W.P.No.5343 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	24.08.2022
Pronounced On	10.10.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.5343 of 2022

L.Jebaraj [M/s.Prince Corporation]

... Petitioner

Vs.

1.The Assistant Revenue Officer-VI,
Corporation of Chennai,
No.5, Anderson St.,
Aynavaram, Chennai 23.

2.M/s.Madrassa Jamalia Wakf
Rep.by its Muthavalli, M.J.S.Sultan,
No.30, Perambur High Road,
Chennai 600 012.

... Respondents

(R2 impleaded vide order dated
11.07.2022 in W.M.P.No.14086/2022)

Writ Petition filed under Article 226 of the Constitution of India,
for issuance of a Writ of Certiorarified Mandamus, to call for the records
relating to the order of the first respondent dated 08.11.2019 ம.அ.6.
வ.து.ந.க.எண். Nil and quash the same and direct the first respondent to



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issue an order of assessment and demand bills in the petitioner's name separately.

For Petitioner : Mr.G.Appavu
For R1 : M/s.P.T.Ramadevi
For R2 : M/s.R.V.Rukmani
for Mr.P.B.Ramanujam

ORDER

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order of the first respondent dated 08.11.2019 bearing reference Ma.A.6.Va.Thu.Na.Ka.No./Nil/ and quash the same and to direct the first respondent to issue an order of assessment and demand bills for property tax assessment of the property allegedly paid by the petitioner over the land belonging to the second respondent.

3. By the impugned order dated 08.11.2019, the first respondent



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has declined the request of the petitioner dated 24.09.2018 to assess the property in the name of the petitioner stating that the petitioner is the tenant of the second respondent.

4. Initially, the petitioner had filed the present writ petition without impleading the second respondent. Thereafter, the second respondent filed W.M.P.No.14086 of 2022 to implead it as the second respondent. W.M.P.No.14086 of 2022 was allowed on 11.07.2022. The second respondent has filed a separate counter.

5. Facts on record indicate that the second respondent has leased out the property to the petitioner in the year 1986. The lease arrangement was renewed from time to time. The last renewal of lease expired on 31.03.2002. There are no other documents to indicate any further renewal of the lease in favour of the petitioner.

6. The second respondent appears to have filed a suit in O.S.No.3148 of 2004 before the I Assistant City Civil Court against the petitioner, Chennai, to recover possession of the property and to recover



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arrears of rent amounting to Rs.3,78,000/- and amount towards damages for future use and occupation of the property.

7. The suit filed by the second respondent appears to have been partially decreed in favour of the second respondent by allowing the relief to recover rental arrears and damages towards use and occupation alone.

8. In the said proceedings, the petitioner appears to have exercised rights as a tenant under the provisions of the Madras City Tenants Protection Act, 1921. However, the claim of the petitioner insofar as protection under the provisions of the aforesaid Act is concerned appears to have been rejected.

9. Aggrieved by the Judgement and Decree dated 20.07.2011 of the Trial Court in O.S.No.3148 of 2004, both the petitioner and the second respondent had filed A.S.No.453 of 2011 and A.S.No.47 of 2013 respectively before the IV Additional City Civil Court Chennai. By a Common Judgement and Separate Decrees dated 03.09.2015, these two



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Appeal Suits were dismissed. Thus, Judgement and Decree dated 20.07.2011 of the Trial Court in O.S.No.3148 of 2004 was affirmed.

10. Aggrieved by the above Judgment dated 03.09.2015, S.A.No.286 of 2016 was filed by the second respondent, whereas, S.A.No.1122 of 2019 was filed by the petitioner, before this Court. Both Second Appeals are said to be pending before this Court as on date.

11. Meanwhile, it appears that the petitioner has sub-let the part of super-structure to various tenants and has filed R.C.O.P.No.1351, 739, 740 & 1150 of 2018 and 140 of 2019 against the sub-tenants who were inducted by the petitioner. The proceedings have been initiated on the premise that the petitioner is the owner of the property, before the XI Court of Small Causes, Chennai (Rent Control Court).

12. In these proceedings, the second respondent filed M.P.Nos.246, 244, 245, 247 and 243 of 2019, to implead itself as a necessary party for an effective adjudication of the case. The Rent Control Court had however dismissed the M.P.Nos.246, 244, 245, 247 and 243 of 2019 vide



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a common order dated 26.11.2019.

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13. Aggrieved by the same, the second respondent appears to have filed R.C.A.Nos.5, 8, 9, 6 & 7 of 2020 before the VIII Judge, Court of Small Causes, Chennai (Rent Control Appellate Court). The Rent Control Appellate Court has dismissed R.C.A.Nos.5, 8, 9, 6 & 7 of 2020 vide a Common Judgment dated 16.02.2021 confirming the common order of the Rent Control Court dated 26.11.2019.

14. Thereafter, the second respondent has filed Civil Revision Petitions in C.R.P. (NPD) Nos.1059, 1062, 1063, 1070 & 1065 of 2021 before this Court, against the Common Judgment dated 16.02.2021 of the Rent Control Appellate Court in R.C.A.Nos.5, 8, 9, 6 & 7 of 2020. The said Civil Revision Petitions were allowed by this Court vide its common order dated 23.09.2021 and thereby set aside the common Judgment dated 16.02.2001 of the Rent Control Appellate Court in R.C.A.Nos.5, 8, 9, 6 & 7 of 2020 upholding the order dated 26.11.2021 of the Rent Control Court in M.P.Nos.246, 244, 245, 247 and 243 of 2019. Thus, the second respondent was impleaded as a party in the Rent Control



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proceedings initiated by the petitioner.

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15. *Prima facie*, it appears that the land belongs to the second respondent waqf on which the petitioner has put up super-structure and is collecting rents from his tenants against whom proceedings have been initiated by the petitioner for eviction in R.C.O.P.No.1351, 739, 740 & 1150 of 2018 and 140 of 2019.

16. Under the provisions of the Chennai City Municipal Corporation Act, 1919, there is no scope for twin assessment for the same property. There cannot be a separate assessment for the land and a separate assessment for the super-structure which is said to have been put up by the petitioner as a tenant of the land. As a tenant, at best, the petitioner may have been entitled for protection under the provisions of the Madras City Tenants Protection Act, 1921 as it stood prior to 1996. The petitioner may have had a right to purchase the land prior to the amendment in 1996.

17. The property tax assessment has to be only in the name of the



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second respondent who is admittedly the owner of the land over which the petitioner claims to have allegedly put up a super-structure and has leased out the same to his tenant against whom Rent Control proceedings are pending before the Rent Control Court in R.C.O.P.No.1351, 739, 740 & 1150 of 2018 and 140 of 2019.

18. Therefore, there are no merits in this Writ petition. Therefore, this Writ Petition is liable to be dismissed. However, while dismissing this Writ Petition, it is made clear that any observations herein touching upon the merits of the case shall not bind either of the parties either in the Second Appeals that are pending before this Court in S.A.No.286 of 2016 & S.A.No.1122 of 2019 or in the Rent Control proceedings pending before the Rent Control Court in R.C.O.P.No.1351, 739, 740 & 1150 of 2018 and 140 of 2019 at the behest of the petitioner against his tenants in which proceedings the second respondent has been impleaded pursuant to the order dated 23.09.2021 in C.R.P. (NPD) Nos.1059, 1062, 1063, 1070 & 1065 of 2021 of this Court.



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19. This Writ Petition stands dismissed with the above observation.

No cost.

10.10.2022

Internet : Yes/No

Index : Yes / No

Jen

To

The Assistant Revenue Officer-VI,
Corporation of Chennai,
No.5, Anderson St.,
Aynavaram, Chennai 23.

C.SARAVANAN, J.



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Pre-Delivery Order
in
W.P.No.5343 of 2022

10.10.2022