



C.R.P. No.4249 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4249 of 2018
and
C.M.P. No. 23301 of 2018

C.Manoharan,
S/o. Late Chinnasamy Gounder

... Petitioner

versus

1. K.Venkatesan,
S/o. Keppaiya Chettiar

2. K.Balakrishnan,
S/o. Keppaiya Chettiar

... Respondents

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the petition docket order dated 28.11.2018 passed in E.P.No.6 of 2015 in R.C.O.P. No. 9 of 2008 on the file of District Munsif, Mettupalayam.

For Petitioner : Mr.T.Saikrishnan

For Respondents : Mr.Karthik Ranganathan for R1

R2 – batta due



C.R.P. No.4249 of 2018

WEB COPY

ORDER

Challenging the impugned order passed in E.P.No.6 of 2015 in R.C.O.P. No. 9 of 2008, on the file of District Munsif, Mettupalayam, Coimbatore District, the judgment debtor/tenant preferred this Civil Revision Petition.

2. The contention of Revision Petitioner is that as a tenant, he enjoyed the property and the landlords filed a petition in R.C.O.P.No. 9 of 2008 for eviction on the ground of willful default under Sec. 10(2)(i) of Tamil Nadu Buildings (Lease and Rent Control) Act and the said petition was allowed by the learned Rent Controller on 03.04.2008. To execute the said order, the landlords preferred E.P. No. 60 of 2008 and during the pendency of execution proceedings, there was a compromise between the parties. Accordingly, the tenant paid a sum of Rs.7 lakhs for bogie amount and entered into a compromise with the landlords to enjoy the property and to that effect, the endorsement was made on the backside of rental agreement. Subsequent to that, he enjoyed the property. Now, suppressing the earlier compromise, the landlords preferred another execution petition in E.P.No. 6



C.R.P. No.4249 of 2018

of 2015 for eviction, as such, is not maintainable and by raising objections, the tenant filed counter statement before the executing court, but the same was not accepted by the trial court and ordered for eviction on 28.11.2008. Challenging the said findings, the tenant preferred this Civil Revision Petition.

3. At the time of argument, the learned counsel for Revision Petitioner submitted that having entered into a compromise on 09.08.2012, the landlords have no right to execute the eviction order passed in R.C.O.P.No.9 of 2008. But, the trial judge without appreciating the compromise entered between the parties, erroneously passed an order of eviction. Hence, he prayed to set aside the findings of the trial judge.

4. By way of reply, the landlords submitted that as the tenant failed to pay the rent and last rent paid only in the year of 2005, thereafter, he failed to pay the rent. Therefore, the landlords filed a petition in R.C.O.P.No.9 of 2008, on the file of District Munsif Court, Mettupalayam for eviction and the said petition was allowed in their favour. Thereafter, they filed an



C.R.P. No.4249 of 2018

execution petition in E.P.No.60 of 2008 before the District Munsif Court, Mettupalayam, but one of the landlord was an advocate, the court informed that the execution petition was transferred to District Court, Coimbatore, but no such bundle was transferred. Subsequently, they filed the present execution petition in E.P.No. 6 of 2015 for eviction before the same District Munsif Court, Mettupalayam, in which, the tenant filed objections stating that already compromise was entered and based on which, he paid a sum of Rs.7 lakhs. Therefore, the landlords are not entitled to execute the order of eviction passed in R.C.O.P.No. 9 of 2008. But, the trial court not accepted the contentions of tenant and ordered for eviction.

5. Now, the learned counsel for Revision Petitioner pointed out that with regard to payment of Rs.7 lakhs paid on 09.08.2012, there is an endorsement to that effect on the back side of rental agreement dated 03.05.2000. The said endorsement was strongly opposed on the side of landlords stating that the amount was paid in favour of one of landlords viz., Balakrishnan, but there is mentioning about another landlord viz., Mr.Venkatesan. On perusal of the said endorsement in the document also



C.R.P. No.4249 of 2018

reveals that only one person said to be signed in the endorsement. But, the learned counsel for Revision Petitioner would submit that in fact, the execution petition was filed by only one person, so the amount was paid to the said Balakrishnan alone. Even assuming that it is true, but as per the endorsement, three years period was given to enjoy the property and the same was ended in the year of 2016. As rightly pointed out by the learned counsel for respondents that from the year of 2016, there is no document on the side of tenant that he is paying the rent to the landlords, and as on date, there is no proof for the tenant for payment of rent to the landlords. Even the alleged amount, it was paid in the year of 2012, subsequent to that, three years lapsed.

6. In the result, the order passed by the learned trial judge in E.P.No.6 of 2015 is confirmed and this Civil Revision Petition is dismissed as no merits. Furthermore, the learned counsel for landlords also denied that they have not entered into such agreement with the tenant and the alleged endorsement also fabricated by the tenant and for the past 17 years, rent was not paid. Accordingly, time for the period of two months is granted to the



C.R.P. No.4249 of 2018

tenant to vacate the premises. However, liberty is granted to the landlords to

work out their remedy for recovery of arrears of rent. No costs.

Consequently, the connected C.M.P. stands closed.

23.11.2022

rpp

To

District Munsif,
Mettupalayam,
Coimbatore Dt.



WEB COPY



C.R.P. No.4249 of 2018

T.V.THAMILSELVI, J.

rpp

C.R.P. No.4249 of 2018

23.11.2022