



CRP PD(MD)Nos.162 & 163 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 26.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP PD(MD) Nos.162 & 163 of 2022

1.Jacob Selvin Jebaraj

2.J.Sujatha Jacob

Represented by their General Power Agent

Mr.Samraj Peter

... Petitioners in both CRPs

(Power Agent deleted and the petitioners are permitted to conduct the revision vide Court order dated 21.09.2022, made in CMP(MD) No.6515 and 6517 of 2022 in CRP(MD) Nos.162 and 163 of 2022 by BPJ)

Vs

1.P.Jeyaseelan Danial Raj

... Respondent in both CRPs

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decreetal orders dated 08.04.2021 passed in I.A.Nos.1 & 1 of 2019 in R.C.A.Nos.1 & 2 of 2017 on the file of the Rent Control Appellate Authority/Subordinate Court at Thoothukudi.

For Petitioners : Mr.T.Lajapathi Roy

For Respondent : Mr.D.Srinivasa Raghavan

(In both CRPs)



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COMMON ORDER

These Civil Revision Petitions are filed as against the fair and decreetal orders passed by the Rent Control Appellate Authority/ Subordinate Judge, Thoothukudi in I.A.Nos.1 & 1 of 2019 in R.C.A.Nos.1 & 2 of 2017, dated 08.04.2021.

2.The respondent herein/the tenant has filed R.C.O.P.No.37 of 2013 before the Rent Controller/Principal District Munsif Court, Tuticorin to deposit the rent amount. The petitioners/the Landlords herein filed R.C.O.P.No.18 of 2015 before the same Court, for eviction on the ground of willful default and on owners occupation. The petition filed by the tenant in R.C.O.P.No.37 of 2013 was allowed by the learned Rent Controller and the petition filed by the landlords in R.C.O.P.No.18 of 2015 was dismissed. Aggrieved over the same, the landlords preferred appeals in R.C.A.Nos.1 and 2 of 2017 before the first Appellate Authority and the same is pending. Pending the appeals, the counsel for the landlords noted down that the door number of the suit schedule property has been mentioned as 95H/25A



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instead of 97H/2. Hence, they filed interlocutory applications in I.A.Nos.1 & 1 of 2019 in R.C.A.Nos.1 & 2 of 2017, to rectify the error with the support of a tax receipt issued by the Corporation Authorities. The Appellate Authority dismissed the said applications that those applications have been filed belatedly in the Appellate stage and therefore the same cannot be entertained. Aggrieved over the same, the present Civil Revision Petitions are filed.

3.The learned counsel appearing for the petitioners submits that the petitioners contested the RCOP proceedings through the power agent and the mistake has been committed inadvertently. He further submits that the power agent is also no more and now they are contesting the proceedings through the original owner. Hence, the mistake, which has been committed inadvertently has to be rectified. Otherwise, the petitioners will be greatly prejudiced, even if the appeal preferred by them is allowed in their favour.



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4.The learned counsel appearing for the respondent submits that the mistake in mentioning the door number of the suit property has not been committed inadvertently. R.C.O.P.No.18 of 2015 was filed by the landlords on 26.08.2013 and thereafter power deed was also granted in favour of one Samraj Peter on 10.10.2013. Even in the power deed, which was executed after two months, the door number has been mentioned as 95H/25A and therefore, it is not with regard to the property, where the respondent is residing and therefore, the petitioners are having remedy to file fresh a RCOP proceedings.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The landlords and the tenant have initiated RCOP proceedings in R.C.O.P Nos.18 of 2015 and 37 of 2013 respectively before the Rent Controller. The landlords filed the above application for eviction as against the tenant for willful default and for owners occupation. The tenant initiated RCOP proceedings to deposit the rent. The tenant has not



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disputed the ownership of the property. The learned Rent Controller allowed the petition filed by the tenant and dismissed the petition filed by the landlord. Challenging those orders, the landlords preferred separate appeals in R.C.A.Nos.1 and 2 of 2017. The Rent Control Appellate Authority has also entertained the appeals and the same are pending. The petitioners, who are the landlords have filed interlocutory applications in I.A.Nos. 1 and 1 of 2019 in both the appeals stating that the door number of the suit schedule property has been mentioned as 95H/25A instead of 97H/2. The first Appellate Authority dismissed the applications on the ground that the applications have been filed belatedly in the Appellate stage. It is stated that even in the RCOP proceedings initiated by the tenant for deposit of rent and the power deed, which was executed by the landlords in favour of one Samraj Peter, the door number of the suit property was mentioned as 95 H/25A only. It appears that the mistake has been committed by both sides inadvertently and if it is not rectified, it would affect the further proceedings. Therefore, in order to avoid the multiplicity of proceedings, this Court is inclined to allow these Civil Revision Petitions.



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7. Accordingly, these Civil Revision Petitions are allowed. The orders passed by the Rent Control Appellate Authority/Subordinate Court, Thoothukudi in I.A.Nos.1 & 1 of 2019 in R.C.A.Nos.1 & 2 of 2017, dated 08.04.2021 are hereby set aside. The first appellate Court shall make necessary amendment in the appeals and dispose of the same as expeditiously as possible. No costs.

26.10.2022

Internet : Yes

Index : Yes / No

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To

The Rent Control Appellate Authority/Subordinate Court,
Thoothukudi.



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B.PUGALENDHI, J.

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Common Order made in
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