



CRP (MD) No.1215 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

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and

CMP (MD) No.4938 of 2022

P.Chinnanki

... Petitioner

Vs

Belongs to 24 Manai Telugu Chettiar's
Arulmigu Shri Pethanna Samy Tirukoil
represented by its Management Members

1.P.Pethannan Chettiyar

2.A.Natesan Chettiyar

3.A.Nagendran Chettiyar

... Respondent

PRAYER: Civil Revision Petition is filed under Section 227 of the Constitution of India, to allow this civil revision petition challenging the judgment and decree dated 29.04.2022 in RCA No.2 of 2021 on the file of the Principal Sub Court, Thirumangalam confirming the judgment and decree dated 27.11.2020 in RCOP.No.9 of 2016 on the file of the Rent Controller (Principal District Munsif Court, Thirumangalam.

For Petitioner : Mr.R.G.Shankarganesh



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ORDER

WEB COPY This civil revision petition is filed as against the judgment and decree dated 29.04.2022 in RCA No.2 of 2021 passed by the learned Rent Control Appellate Authority/ the Principal Sub Judge, Thirumangalam confirming the judgment and decree dated 27.11.2020 in RCOP.No.9 of 2016 passed by the learned Rent Controller / Principal District Munsif, Thirumangalam.

2.The petitioner is the tenant of the suit schedule property, which belongs to the respondents' temple. They entered into a rental agreement dated 28.07.2004 and rent was fixed as Rs.600/- per month and advance was fixed as Rs.20,000/-. While so, the respondents filed a petition in RCOP.No.9 of 2016 before the Rent Controller, Thirumangalam for eviction of the petitioner on the grounds of wilful default and own use and it has been allowed in favour of the respondents/ land lords. Aggrieved over the same, the petitioner/ tenant has filed an appeal before the Rent Controller Appellate Authority, Thirumangalam and the appeal was dismissed. Challenging the same, the present civil revision petition is filed.



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3. The learned Counsel for the petitioner submits that the land lord / respondents filed the petition under Sections 10(2)(i), 20(2)(ii)(b) and 10(2)(v) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 for eviction. Since it is a temple property and it belongs to a public trust, as per G.O.Ms.No.1998 Home Department dated 12.08.1974, there is an exemption granted to the temple trust under Section 29 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and therefore, the proceedings under this Act will not apply and only the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 will Apply. When the lands lords have not proved the grounds on which the eviction petition was filed, the courts below ought not to have passed orders in favour of the respondents / landlords. Therefore, the civil revision petition has to be allowed.

4. The learned Counsel for the respondents submits that the respondents' temple and its properties are administered by a private trust. As per the government order in G.O.Ms.No.2000 Home Department dated 16.08.1976, the exemption under Section 29 of the Tamil Nadu Buildings



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(Lease and Rent Control) Act, 1960 was granted only to the public trust and not to the private trust and therefore, the proceedings initiated under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 is maintainable. Further, the tenant has not paid the rent from the month of January 2016 till the date of filing of the eviction petition. Both the courts considering the above grounds, have rightly passed the orders. Hence the tenant has to vacate the property.

5. Heard the learned Counsel on either side and perused the materials placed on record.

6. The petitioner is the tenant of the respondent temple's property and he is running a petty shop in the temple premises by way of an agreement dated 28.07.2004. Initially rent was fixed as Rs.600/- per month and later it was increased to Rs.700/- and advance amount of Rs.20,000/- was paid. The tenant himself has admitted that from the month of January 2016, he has not paid the rent. The main ground raised by the petitioner is that as per the government order in G.O.Ms.No.1998 Home Department dated



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12.08.1974, there is an exemption granted to the temple trust under Section 29 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and the proceedings under this Act is not maintainable and proceedings has to be intimated only under the Tamil Nadu Hindu Religious and Charitable Endowments Act.

7.At this juncture, it is relevant to refer to Section 29 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, which reads as follows:

"22. Exemptions-Notwithstanding anything contained in this Act, the Government may, subject to such condition as they deem fit, by notification, exempt any buildings or class of buildings from all or any of the provisions of this Act"

As per the powers provided in the above provision, the government of Tamil Nadu exempted all the buildings owned by the Hindu, Christian, Muslim and Charitable institutions from all the provisions of the Act by way of government order in G.O.Ms.No.1998 Home Department dated 12.08.1974. However subsequently, another government order in G.O.Ms.No.2000 Home Department dated 16.08.1976 was



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issued by the government of Tamil Nadu in supersession of the earlier government order dated 12.08.1974, confined the exemption to all buildings owned by Hindu, Christian, Muslim and Public Trusts and Public Charitable Trusts. Thus it is clear that the exemption granted under G.O.Ms.No.2000 Home Department dated 16.08.1976 is only applicable to public trust and the same has been further clarified by the Hon'ble Apex Court in **S.Kandasamy Chettiyar vs State of Tamil Nadu and Others**, reported in **AIR 1961 SC 1731**.

8.Now the point to be considered is whether the respondent trust is a public trust or not?. In order to substantiate that the respondents' trust is not a public trust and it is a private trust, the respondents have relied on Exp6, dated 24.03.1997 which is a registered trust deed in the name of the temple. On perusal of the trust deed shows that the respondents' trust is a private trust and it belongs to a particular community. Therefore, the respondents / landlords can very well maintain the proceedings under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and hence, the ground raised by the



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petitioner / tenant in respect of the maintainability of the petition is not acceptable.

9.Further the petitioner has also raised a ground that the landlords have not substantiated their claim for own use / occupation for eviction. Perusal of the records shows that when the land lords claimed that they need the property for establishment of statue of lord Anjaneya, the petitioner/ tenant did not deny the same nor he made any attempt to cross examine the land lords / respondents to disprove the same. Therefore, this ground raised by the petitioner before this Court is also not acceptable.

10.In view of the above discussion, this Court is not inclined to interfere with the orders passed by the appellate authority and accordingly, this civil revision petition is dismissed. No costs. Consequently connected miscellaneous petition also stand dismissed.

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Index: Yes/No.

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To

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- 1.The Rent Control Appellate Authority/
The Principal Sub Judge,
Thirumangalam.
- 2.The Rent Controller /
The Principal District Munsif,
Thirumangalam.



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B. PUGALENDHI, J.

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