



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) Nos.542 & 610 to 615 of 2018
and
C.M.P. (MD) Nos.2356 & 2712 to 2717 of 2018

C.R.P. (PD) (MD) No.542 of 2018 :-

1.Sirajudeen
2.Subu Kanudeen .. Petitioners

-vs-

1.P.Haja Nasubudeen
2.S.Kumar .. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 15.09.2017 made in I.A.No.136 of 2015 in R.C.O.P.No.11 of 2015 on the file of Rent Controller (District Munsif Court), Ramanathapuram.

C.R.P. (PD) (MD) No.610 of 2018 :-

1.Sirajudeen
2.Subu Kanudeen .. Petitioners

-vs-

1.P.Haja Nasubudeen
2.Ganesan .. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 15.09.2017 made in I.A.No.131 of 2015 in R.C.O.P.No.17 of 2015 on the file of Rent Controller (District Munsif Court), Ramanathapuram.

C.R.P. (PD) (MD) No.611 of 2018 :-

1.Sirajudeen
2.Subu Kanudeen .. Petitioners

-vs-

1.P.Haja Nasubudeen
2.K.Kumar .. Respondents



Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 15.09.2017 made in I.A.No.132 of 2015 in R.C.O.P.No.16 of 2015 on the file of Rent Controller (District Munsif Court), Ramanathapuram.

C.R.P. (PD) (MD) No.612 of 2018 :-

1.Sirajudeen
2.Subu Kanudeen .. Petitioners

-vs-

1.P.Haja Nasubudeen
2.Sethuraman .. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 15.09.2017 made in I.A.No.133 of 2015 in R.C.O.P.No.15 of 2015 on the file of Rent Controller (District Munsif Court), Ramanathapuram.

C.R.P. (PD) (MD) No.613 of 2018 :-

1.Sirajudeen
2.Subu Kanudeen .. Petitioners

-vs-

1.P.Haja Nasubudeen
2.K.Karmegam .. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 15.09.2017 made in I.A.No.134 of 2015 in R.C.O.P.No.14 of 2015 on the file of Rent Controller (District Munsif Court), Ramanathapuram.

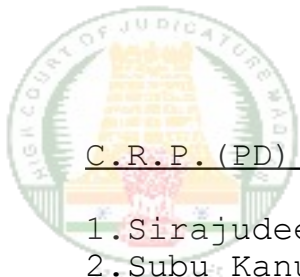
C.R.P. (PD) (MD) No.614 of 2018 :-

1.Sirajudeen
2.Subu Kanudeen .. Petitioners

-vs-

1.P.Haja Nasubudeen
2.M.Mohamed Maideen .. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 15.09.2017 made in I.A.No.135 of 2015 in R.C.O.P.No.12 of 2015 on the file of Rent Controller (District Munsif Court), Ramanathapuram.



C.R.P. (PD) (MD) No.615 of 2018 :-

1.Sirajudeen
2.Subu Kanudeen

.. Petitioners

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-vs-

1.P.Haja Nasubudeen
2.M.Vellaramachandran

.. Respondents

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order dated 15.09.2017 made in I.A.No.140 of 2015 in R.C.O.P.No.13 of 2015 on the file of Rent Controller (District Munsif Court), Ramanathapuram.

For Petitioners : Mr.A.Pushpanathan
(In all CRPs)

For R1 : Mr.S.A.Ajmal Khan
(In all CRPs)

For R2 : No appearance
(In all CRPs)

COMMON ORDER

These revisions are filed challenging the orders, dated 15.09.2017 passed by the learned Rent Controller (District Munsif), Ramanathapuram, in I.A.Nos.136, 131 to 135 and 140 of 2015 in R.C.O.P.Nos.11, 17, 16, 15, 14, 12 and 13 of 2015 respectively.

2.The common question involved in all the above Civil Revision Petitions is whether the revision petitioners could maintain an application under Order I Rule 10 of the Code of Civil Procedure before the Rent Controller considering the fact that the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 is a complete code in itself to which the provisions of the Code of Civil Procedure will not apply.

3.The common facts in all the above Civil Revision Petitions are that the 2nd respondent/tenants had been inducted under the mother of the 1st petitioner and the 1st respondent herein. She had been collecting the rent through her husband. While so, she passed away and thereafter, her husband continued to collect the rents for and on behalf of other legal representatives. After his demise, there was a default in the payment of rents and therefore, the 1st respondent, who is his elder son, had stepped in to file petitions to evict the tenants in respect of the different demised premises on the ground of willful default.

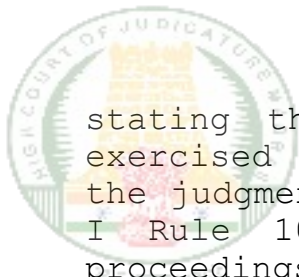


4.While the petitions were so pending, the revision petitioners herein had taken out an application stating that the 1st petitioner is the owner of the demised premises and the 2nd respondent in each of the cases are the tenants under him and not under the 1st respondent. The petitioners would further contend that the 1st respondent had manipulated and fabricated the documents and had brought out a sale deed as if the same had been signed by the 1st respondent and separate proceedings have been initiated in O.S.No.59 of 2007 to set aside these deeds. Therefore, in order to protect their interest, the petitioners sought have themselves impleaded. These applications have been dismissed by the learned Rent Controller relying on the judgment in **M.Paul Raj vs. N.Paramasivam and another [(2009) 6 MLJ 985]** wherein, the learned Judge of this Court had held that the provisions of Order I Rule 10 would not apply and these are the orders that have been challenged before this Court.

5.As already said, the issue involved is "Whether the provisions of the Code of Civil Procedure would apply in respect of proceedings before the Rent Controller". The Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 is a self-contained Act providing for the various contingencies. It has been time and again held by this Court as well as by the Apex Court that since the procedure before the Rent Controller is summary in nature, the intricate procedures contemplated in the Code of Civil Procedure is not applicable to the Rent Control Proceedings. The 1st respondent herein has initiated the Rent Control proceedings against the 2nd respondent in each of the cases on the ground that these respondents, who are tenants have committed a willful default in the payments of rents. The 2nd respondent has clearly narrated in the petition how he as a co-owner has initiated the proceedings.

6.It is needless to state that under the Rent Control Act, a landlord is defined as a person who receives or is entitled to receive the rent of the building. In fact, the explanation to the definition would further expand that where a landlord sublets the building, he will be the landlord of the sublessee. Therefore, the ownership of the property is immaterial for initiating proceedings under the Rent Control Act. That apart, the petitioners herein have not stated as to why the 1st respondent cannot initiate the eviction proceedings or how they claim the exclusive right to initiate proceedings.

7.This Court, in an unreported judgment in the case of **S.Meganathan vs. Sankaran @ Sankaramoorthy and Others [C.R.P(NPD) No.2324 of 2009, dated 18.09.2017]**, had discussed the issue at length. The learned Single Judge has also referred to the judgment of the Hon'ble Supreme Court in **Richard Lee vs. Girish Soni and another** reported in **2017 4 LW 78** and distinguished the same by



stating that the Hon'ble Supreme Court by itself had *suo motu* exercised the rights under Order I Rule 10 to implead a party and the judgment has not laid down a ratio that the provisions of Order I Rule 10 would be applicable in the case of rent control proceedings.

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8.I concur with the view taken by the learned Judge. In the case before the Hon'ble Supreme Court, the lessee was a partnership firm and the Hon'ble Supreme Court had *suo motu* invoked the provisions of Order I Rule 10 to implead all the partners of the firm so as to have a binding order. Such is not the facts of instant case. Therefore, in the light of the above, I do not find any reason to interfere with the orders dated 15.09.2017 passed by the learned Rent Controller (District Munsif), Ramanathapuram, and they are, accordingly, confirmed. Consequently, the Civil Revision Petitions are dismissed. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

abr

Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The Rent Controller (District Munsif),
Ramanathapuram.

+2 CC to M/s.P.V.SELVAKUMAR, Advocate (SR-2639[F] dated 27/01/2022)

C.R.P. (PD) (MD) Nos.542 &
610 to 615 of 2018
Dated: 24.01.2022

RK(02/02/2022) 5P 4C