



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	20.04.2022
DELIVERED ON	29.04.2022

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD)No.2611 of 2014

- 1.A.Madalaimuthu (Died)
- 2.A.Ganesan
- 3.Arumugam (Died)
- 4.Krishnammal
- 5.Pichaiammal
- 6.Madhavan
- 7.Thilagavathy
- 8.Valarmathi
- 9.Lakshmi
- 10.Rakkayee
- 11.Minor Ezhilarasi ...Petitioners/Appellants/Petitioners
Landlords

[Petitioners 5 to 9 are brought on record as LR's of the deceased 1st petitioners and petitioners 10 & 11 are LR's of the deceased 3rd petitioner, vide Court order dated 25.11.2016.]

[Minor 11th petitioner is represented through her mother 10th petitioner]

Vs.

M.N.Ramalingam ...Respondent/Respondent/Respondent/
Tenant

PRAYER: Civil Revision Petition under Section 25 of the Tamil Nadu Buildings [Lease and Rent Control Act, 1960], to set aside the Fair and Decreeal Order, dated 01.11.2014 passed in R.C.A.No.43 of 2012 on the file of the learned Principal Subordinate Judge (Rent Control Appellate Authority), Madurai, confirming the fair and decreeal order dated 01.10.2012 passed in R.C.O.P.No.210 of 2005 on the file of the learned Principal District Munsif(Rent Controller), Madurai and allow the present Civil Revision Petition.



For Petitioners :Mr.M.Saravanan
For Respondent :Mr.T.Thirupathy

ORDER

WEB COPY

This Civil Revision Petition has been filed by the revision petitioners to set aside the order, dated 01.11.2014 in R.C.A.No.43 of 2012 passed by the learned Principal Subordinate Judge (Rent Control Appellate Authority), Madurai, confirming the fair and decreetal order, dated 01.10.2012 passed in R.C.O.P.No.210 of 2005 on the file of the learned Principal District Munsif(Rent Controller), Madurai.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The petitioners/landlords have filed a petition in R.C.O.P.No.210 of 2005 to evict the respondents from the petition mentioned property on the ground of willful default and the same was dismissed. Against the said dismissal order, they have preferred an appeal in R.C.A.No.43 of 2012 and the same was also dismissed. Aggrieved by the same, these petitioners are before this Court.

4.Heard on either side. Perused the material documents available on record.

5.This Civil Revision Petition is filed on the ground that the subject property belonged to the petitioners' father Ayyadurai as pere Ex.P.1/Will dated 30.03.1952 executed by Madhalaimuthu Konar. The Courts below ought to have seen that Ayyathurai died on 26.12.2004 leaving the petitioners as legal heirs. The Courts below ought to have seen that the respondent in Ex.R.4-Reply Notice had clearly admitted the Ex.P.1/Will. The Courts below ought to have seen that the respondent is not claiming title to the subject property and hence, the R.C.O.P is not maintainable in law. The Courts below overlooked to see that Ex.P.1 Will was admitted in Ex.R.4/reply notice and Ex.R.1 is not proved in a manner known to law.

6.The petitioners have stated in the petition that the petition mentioned property bequeathed to the petitioners' father Ayyadurai on 30.03.1952 through a Will and the said Will was confirmed by this Court in S.A.No.1916 of 1991. The said Ayyadurai rented the property to the respondent/brother of the petitioner. The respondent defaulted in paying rent from 01.07.2004 to 30.09.2005. The said Ayyadurai died. So, his sons have filed R.C.O.P. No.210 of 2005.



7.The respondent has admitted the execution of Will. But, he has not filed suit against the Will. But, he denied the relationship of landlord and tenant.

8.So, the petitioners have to prove the tenancy. The petitioners have not filed any documents to prove the relationship of tenancy between themselves and the respondent. They claimed possessionary rights on the basis of an agreement, dated 05.06.1997, in which the father of the petitioners had also signed.

9.The respondent claimed right of possession only based on the agreement. The respondent denied the tenancy relationship. So the petitioners have to prove that there is a tenancy relationship.

10.No document was filed by the petitioners to prove the relationship of landlord and tenant. So, willful default also not proved.

11.The petitioners have not filed any reply counter to object the argument dated 05.06.1997.

12.Since the relationship of landlord and tenant is not proved the petitioners cannot file petition under Rent Control Act. They may file a suit for recovery of possession since the respondent denied the title of petitioners.

13.Since the tenancy was not proved both the Courts have rightly dismissed the claim. This Court has no valid reason to interfere with the findings passed by the Courts below.

14.Finally, this Civil Revision Petition is dismissed by confirming the order, dated 01.11.2014 in R.C.A.No.43 of 2012 passed by the learned Principal Subordinate Judge (Rent Control Appellate Authority), Madurai, confirming the fair and decreetal order, dated 01.10.2012 passed in R.C.O.P.No.210 of 2005 on the file of the learned Principal District Munsif(Rent Controller), Madurai. No Costs.

Sd/-

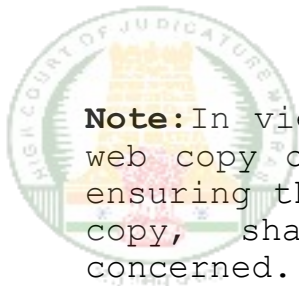
Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ksa



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.

WEB COPY

To

- 1.The Principal Subordinate Judge,
(Rent Control Appellate Authority),
Madurai.
- 2.The Principal District Munsif,
(Rent Controller),
Madurai.

COPY TO:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-22803[F] dated 29/04/2022)

Order made in
C.R.P. (MD)No.2611 of 2014
29.04.2022

SRR (CO)

GC (03.06.2022) 4P 6C