



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (NPD) (MD) No.2453 of 2015

P.T.Vasudevan

.. Petitioner/Appellant/
1st Defendant

-vs-

1.Prabhakaran
2.Arun Vadivelu

.. Respondents/Respondents/
3rd Parties

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in A.S.No.34 of 2002 dated 18.04.2007 passed by the I Additional Subordinate Judge, Madurai by confirming the judgment and decree made in O.S.No.1680 of 1996 dated 25.09.2001 passed by the Additional District Munsif of Madurai Town.

For Petitioner : Mr.V.Srinivasan

For Respondents : Mr.S.Chandrasekaran

ORDER

This Civil Revision Petition is filed challenging the concurrent orders passed by the learned Additional District Munsif, Madurai Town in O.S.No.1680 of 1996 directing the revision petitioner/1st defendant to pay a sum of Rs.14,400/- towards arrears of rent together with interest at 9% per annum, which was confirmed by the learned I Additional Subordinate Judge, Madurai in A.S.No.34 of 2002.

2. Pending the first appeal, the respondents therein died and their legal representatives were brought on record as respondents 3 and 4 in the first appeal, who are the respondents herein.

3. The parties shall be referred to as per the same array as before the trial court, for ease of the understanding.



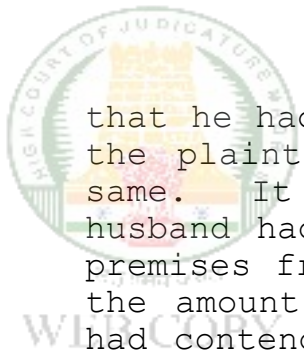
4. The facts in brief are as follows:-

4.1. The plaintiff had filed the suit in O.S.No.917 of 1989 on the file of the learned Subordinate Judge, Madurai, which was subsequently transferred to the file of the learned Additional District Munsif, Madurai Town and re-numbered as O.S.No.1680 of 1996. The said suit was filed for recovery of a sum of Rs.14,400/- being the arrears of rent for three years prior to the filing of the suit, that is, from 01.10.1986 to 01.10.1989 together with interest at 9% per annum.

4.2. The plaintiff had contended that the suit property belonged to her and had consisted of 9 portions leased out to various persons for residential purposes. The petitioner/1st defendant had become a tenant under the plaintiff in respect of 9th portion in Door No.42, in Sivagangai Road, Sri Vadivel Nilayam, Sathamangalam, Madurai in the year 1975. The rent was originally fixed at Rs.150/- and it was subsequently enhanced to a sum of Rs.400/- with effect from 1985. An advance of Rs.300/- had been paid initially. From January, 1986, the 1st defendant had not paid the rent. However, he kept promising the plaintiff that he would pay the rent in a lump sum. The 1st defendant had also not paid the electricity charges for the power consumed by him. In fact, on an average in a month, the defendant would consume electricity to the tune of Rs.60/-.

5. Meanwhile, the 1st defendant had entered into an agreement of sale with the plaintiff's husband regarding some house plots. However, he was unable to complete the same by paying the balance sale consideration. As a result of the failure on the part of the 1st defendant to conclude the contract, the plaintiff's husband had incurred a loss and he had insisted upon the 1st defendant paying damages to him. With a view to escape from this liability, the 1st defendant had all of a sudden vacated the premises on 20.09.1989 without informing the plaintiff and handed over the key to the plaintiff's watchman. The plaintiff thereafter, met the 1st defendant and informed him that he had not paid the arrears of rent. Not only was the rent in arrears, the plaintiff on taking possession of the house, also found that the defendant had removed two tube lights and two ceiling fans worth about Rs.800/-. The plaintiff also had to spend money on repairing the house. The plaintiff therefore, issued a legal notice dated 15.10.1989 demanding payment. The 1st defendant received the same, but did not send a reply and therefore, the suit came to be filed.

6. The 1st defendant had filed a written statement admitting the monthly rent of Rs.400/-, but denying the fact that he was in arrears. He would contend that the plaintiff's husband, who had agreed to sell the property to him at Rs.1,100/- per cent on a total extent of 6 cents and 397 sq.ft. had received an advance of Rs.2,000/- and thereafter, received amounts on various dates totaling a sum of Rs.9,300/-. The 1st defendant would submit



that he had been ready and willing to conclude the same, but it was the plaintiff's husband, who had not come forward to execute the same. It is in these circumstances, that the plaintiff and her husband had permitted the defendant to continue to occupy the suit premises free of rent till such time, the plaintiff's husband repay the amount paid by the 1st defendant. In short, the 1st defendant had contended that he was not liable to repay the rent, as he was residing in the property till such time the payments due to him viz., Rs.9,300/- was paid. Thereafter, by judgment and decree dated 25.09.2001, the learned Additional District Munsif, Madurai Town had decreed the suit as prayed for observing that the 1st defendant had not proved his case. The judgment was challenged by the 1st defendant in A.S.No.34 of 2002 on the file of the learned I Additional Subordinate Judge, Madurai. The appellate court also confirmed the judgment and decree of the trial court. Challenging the same, the revision petitioner/1st defendant is before this Court.

7. Heard the learned counsels on either side.

8. The only defence that has been put forward by the 1st defendant is that he had entered into an agreement to purchase another property with the plaintiff's husband and had paid amounts to the plaintiff's husband. Though he was ready to conclude the contract, the plaintiff's husband did not come forward to pay the balance and it is his case that the plaintiff and her husband have agreed to permit the 1st defendant to continue to occupy the premises. However, the written statement of the 2nd defendant/3rd party would clearly establish that there was no such arrangement permitting the 1st defendant to continue to occupy the suit property in lieu of the payments to be made to him by the plaintiff's husband. In the absence of any proof regarding the arrangement between the plaintiff's husband and the defendant, the defence taken by the 1st defendant is not substantiated by proof and therefore, cannot be accepted. Both the Courts below have extensively considered the evidence and come to the conclusion that the 1st defendant is liable to pay the arrears of rent to the plaintiff.

9. In the light of the orders passed by both the courts below, this Court sitting in revision does not propose to interfere with the finding of fact. Consequently, the Civil Revision Petition is dismissed and the orders passed by both the courts below stand confirmed. No costs.

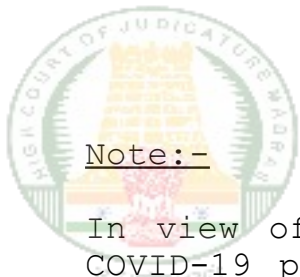
Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



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

1.The I Additional Subordinate Judge,
Madurai

2.The Additional District Munsif,
Madurai Town.

+1 CC to M/s.S.CHANDRASEKARAN, Advocate (SR-2312[F] dated
25/01/2022)

C.R.P. (NPD) (MD) No.2453 of 2015

Dated: 24.01.2022

nsn(CO)

TR(14.02.2022) 4P 4C