



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA(MD)No.1168 of 2021 &

CMP(MD)No.11239 of 2021

WEB COPY

1.Hamid Khan
2.H.Mohammed Ali ... Appellants/Petitioners/Appellants
vs.

S.M.S.Frose Khan (died)

1.S.M.S.Mohamed Mahaboop
2.S.M.S.Sadathaq Naina
3.S.M.S.Surekha Beevi
4.S.M.S.Basula Umma
5.S.M.S.H.Nabeesha Beevi
6.H.Alura Umma
7.H.Syed Mohamed Ibrahim
8.Mohammed Ibrahim
9.Nabisa Amma
10.Kathija Khan
11.Masutha Khan
12.Abdul Aziz ... Respondents/Respondents/Respondents

(R9 to R12 were impleaded as LR's of the deceased R1 as per order in IA.No.42/2016 dated 14.06.2017)

PRAYER : Civil Miscellaneous Appeal filed under Section 9 - A of the Chennai City Tenant Protection Act, 1920 against the order dated 11.11.2021 in IA.No.10 of 2011 in AS.No.13 of 2010 on the file of the Additional District Court, Ramanathapuram.

For Appellants :Mrs.M.Parameswari
for Mr.S.M.S.Johnny Basha
For Respondents :Mr.J.M.Hassanul Bazari

J U D G M E N T

The appellants / petitioners filed this appeal to set aside the order dated 11.11.2021 in IA.No.10/2011 in AS.No.13/2010 on the file of the Additional District Court, Ramanathapuram.

2. The brief case of the petitioners in IA.No.10/2011 is that the respondents have leased out their land to the petitioners. The respondents are now attempting to sell away the same to third parties. The petitioners have constructed superstructures and have also planted machineries therein. If the respondents are willing to sell away the suit property, first preference ought to be given to the petitioners.



3. The respondents filed memo of objection stating that the petitioners committed wilful default in paying rent regularly and hence the tenancy right is terminated. The petitioners are not entitled to get any relief since the tenancy right is terminated.

4. The learned Additional District Judge, Ramanathapuram dismissed the Interlocutory Application on the ground that the subsequent purchaser of the suit property, namely, Anandhalingam was not impleaded as a party in the application and that Anandhalingam purchased the suit property before filing of the Interlocutory Application and hence the prayer becomes infructuous.

5. Heard the learned counsels on both sides.

6. It is seen that Anandhalingam has purchased the suit property from the respondents on 31.12.2010 itself. The appellants / petitioners have filed a suit in OS.No.70/2011 before the Sub Court, Ramanathapuram. One of the reliefs sought for in the suit is to declare the sale dated 31.12.2010 as null and void. The suit was dismissed on 06.03.2019. No appeal was filed against the dismissal order. Subsequent to the purchase of the suit property by Anandhalingam, IA.No.10/2011 has been filed, without impleading him as a party. Since the suit property has already been purchased by Anandhalingam on 31.12.2010, the prayer sought for by the appellants / petitioners in IA.No.10/2011 has become infructuous. The learned Additional District Judge, Ramanathapuram had also considered the above facts and rightly dismissed the Interlocutory Application. This Court finds no valid reason to interfere with the said order.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed. The order dated 11.11.2021 in IA.No.10 of 2011 in AS.No.13 of 2010 on the file of the Additional District Court, Ramanathapuram is confirmed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

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To
The Additional District Judge,
Ramanathapuram.

CMA (MD) No.1168 of 2021
04.01.2022

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