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CRP No.2209 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

**Civil Revision Petition No.2209 of 2023
& C.M.P.No.13345 of 2023**

1. S.Selvam
2. S.Domomic Xavier
3. S.Samikannu

... Petitioners

Vs.

Arulmigu Anjaneyaswamy Temple
rep. By its Managing Trustee,
C.R.Dharmalingam,
D.No.177, New Bangalow,
Suramangalam main road,
Thiruvagoundanoor Bye-pass,
Salem – 636 005

... Respondent

Civil Revision Petition filed under Section 25(1) of the Tamilnadu Buildings (Lease and Rent) Control Act 18 of 1960 to set aside the order and decreetal order dated 29.08.2022 made in R.C.A.No.3 of 2018 on the file of learned Principal Subordinate Judge, Salem (Appellate Rent Controller) Salem confirming the order and decreetal order dated 29.06.2018 made in R.C.O.P.No.43 of 2007 on the file of the Rent Controller / II Additional District Munsif, Salem and allow the present CRP

For Petitioner : Mr.V.R.Anna Gandhi

For Respondents : Mr.V.Sekar



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ORDER

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The present Civil Revision Petition has been filed to set aside the order and decreetal order dated 29.08.2022 made in R.C.A.No.03 of 2018 on the file of learned Principal Subordinate Judge, Salem (Appellate Rent Controller) Salem confirming the order and decreetal order dated 29.06.2018 made in R.C.O.P.No.43 of 2007 on the file of the Rent Controller / II Additional District Munsif, Salem.

2. The brief facts of the case is as follows:-

The respondent preferred R.C.O.P. No.43 of 2007 to evict the petitioners from the petition mentioned properties for their willful default in payment of rent to the respondent with costs. Upon considering the pleading, counter pleadings, exhibits, documents and on examining the witnesses, the trial court, allowed the said petition, thereby ordered eviction and to pay the cost of the suit on 29.06.2018. Aggrieved by the said order, the petitioners have preferred RCA No.3 of 2018. The appellate court by an order dated 29.08.2022 confirmed the order passed in RCOP No.43 of 2007, thereby ordered the petitioners to vacate the petition mentioned property within two months. As against the same, the petitioners have come forward with the present Revision.



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3. The learned counsel for the petitioners would submit that the court below has failed to look into the aspect that the respondent / landlord miserably failed to prove that the building was leased out to the petitioners' father and that there is no locus standi of signatory by the landlord to maintain eviction petition against the petitioners in the capacity of managing trustee.

4. The learned counsel for the petitioners also submits that the suit property belongs to temple and the reliance placed by the trial court on the Judgment reported in 2009 (2) CTC page 25 relates to trust property, therefore, the said judgment as no application to the facts of the case, thereby pleaded to allow the present Revision.

5. On the other hand, the learned counsel for the respondent would submit that he is the managing trustee of Arulmigu Anjaneyaswamy temple and its properties situated in T.S.No.2 in Pallapatti Town of Salem District and the petitioners are the sons of one Sowrinathan, who entered into agreement for rent with the respondent's elder brother namely, C.Ramalingam on 23.06.1986 and as such, the said Sowrinathan executed a lease document, but he did not pay rent regularly except few months and after his death, the petitioners being sons of said Sowrinathan continuing as tenants and the monthly rent of the building is Rs.10,000/- and the



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petitioners did not pay any rent for merely five years and thus committed willful default for which, the respondent have come forward with the RCOP petition for the eviction on the ground of willful default. The trial court has rightly ordered eviction and the appellate court has upheld the same, which does not warrant any interference, thereby pleaded to dismiss the Revision.

6. Heard the learned counsel on either side and perused the documents placed on record.

7. It is alleged by respondent that originally the suit temple was constructed by the respondent's great grand father and was maintained subsequently by respondent's grand father, viz., Varadarajulu chettiar and the said Varadarajulu Chettiar had three wives namely, Ammathayammal, Chinnammal and Pathriyammal and the said Varadarajulu executed registered Will in favour of his three wives and their daughters and by executing the Will, he had appointed Ammathayammal and one Govindasamy chettiar as the trustees to manage the affairs of the Arulmigu Anjaneyaswamy temple which is nothing but the subject mentioned property and the said Ammathayammal had executed a registered Will in favour of the respondent's mother namely, Rajammal and respondent's elder brother, C.D.Ramalingam by appointing them as managing trustees



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of the Anjaneyawamy temple and based on that Will and subsequent family arrangement between the parties, this respondent was appointed as managing trustee on 11.06.2003 by the family members, hence the respondent is the managing trustee of the suit temple.

8. On a perusal of the additional counters dated 06.01.2011 and 21.12.2016 filed by the petitioners before the court below it reveals that the petitioners had admitted that the petition mentioned property has been given to Arulmigu Anjaneyaswamy Temple, leigh Bazaar, Salem by the family members of late Ammathayammal, as per the registered Trust deed and hence it is a trust property. Thus, by filing additional counters, the petitioners had accepted that the petition mentioned property belongs to Ammathayammal, who is the ancestor of the respondent. Further, the landlord and tenant relationship between the parties is also admitted by the petitioners in the additional counter dated 06.01.2011.

9. It is pertinent to point out that to substantiate the claim, the respondent has filed the Will executed by Varadarajulu Chettiar as Ex.P.1, which shows that Anjaneyaswamy Temple was created by his father and maintained by him and the Will, which is marked as Ex.P.4 is executed by the said Ammathayammal, who is none other than the wife of Varadarajulu Chettiar, by giving powers to Rajammal, who is said to be daughter of



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Varadharajulu Chettiar and her son C.D.Ramalingam and the said C.D.Ramalingam is the brother of the respondent. Hence from the documents filed by the respondent and additional counters filed by the petitioners, it is clear that the petition mentioned property belongs to the respondent and previously to his ancestors and it is admitted by the petitioners also, though initially they have denied the same.

10.In the present case on hand, it is clear as per Ex.P.6, Trust deed that a trust has been created only between the family members of the Ammathayammal to maintain the temple as per the Will and from the income of family properties. Further, Ex.P.6, Trust deed clearly shows that it is a private trust created between family members in respect of maintenance of temple and hence it will not be deemed as public trust. Therefore, this Court is of the view that the petitioners have not made out any grounds to interfere with the orders passed by the Trial Court as well as the Appellate court. Further, there is a willful default by the petitioners in paying rent from the year 2007.

11. In the result, the present Revision is dismissed and the petitioners are directed to vacate the subject mentioned premises on or before 30.11.2023, failing which, the respondent is at liberty to proceed



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against the petitioners in accordance with law. Consequently, connected miscellaneous petition is closed. No costs.

22.08.2023

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd

To

1. The Principal Subordinate Judge,
Salem (Appellate Rent Controller)
2. The Rent Controller / II Additional District Munsif,
Salem



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V.BHAVANI SUBBAROYAN J.

ssd

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