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C.R.P.(NPD)Nos.1378 to 1380 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)Nos.1378 to 1380 of 2009
and M.P.Nos.1,1,1 of 2009

- 1.Soundarambal
- 2.Rajasekar (died)
- 3.Rajavelu Mudaliar (died)

- 4.R.Nagavalli
- 5.R.Selvakumar
- 6.Selvakumari

.. Petitioners in
all the three CRPs

Vs.

- 1.M.Dakshinamoorthy (died)
(Represented by Power of Attorney
M.D.Thiyagarajan)

- 2.Vedammal
- 3.Panjabikesan
- 4.Palanivel
- 5.Jothi

- 6.D.Vijayalakshmi
- 7.D.Thiyagarajan
- 8.D.Natarajan

.. Respondents in
all the three CRPs.



C.R.P.(NPD)Nos.1378 to 1380 of 2009

(Petitioners 4 to 6 brought on record as the legal heirs of the deceased 2nd petitioner viz., Rajasekar and the respondents 6 to 8 brought on record as the legal heirs of the deceased 1st respondent viz., M.Dakshinamoorthy vide Court order dated 22.02.2021 made in C.M.P.Nos.8309 to 8314 of 2018 and C.M.P.No.21250 to 21255 and 20774 to 20779 of 2017 in C.R.P.Nos. 1378 to 1380 of 2009)

(Respondents 2 to 5 brought on record as the legal heirs of the deceased 3rd petitioner viz., Rajavelu Mudaliar vide Court order dated 02.11.2017 made in M.P.Nos.1 to 3 of 2011 in C.R.P.Nos.1378 to 1380 of 2009)

COMMON PRAYER: Civil Revision Petitions are filed under Section 25 of the Pondicherry Buildings (Lease and Rent Control) Act, 1969 against the order of eviction passed in R.C.A.Nos.1 to 3 of 2004 dated 23.02.2007 on the file of the Additional District Court, Pondicherry at Karaikal in reversing the order dismissing R.C.O.P.Nos.37, 39 & 38 of 2000 dated 30.09.2003 on the file of the Rent Controller at Karaikal.

In all the three CRPs.

For Petitioner	: Mr.R.Natarajan
For RR2 to 4	: No appearance
For R7 & R8	: Mr.S.Saravana Kumar



C.R.P.(NPD)Nos.1378 to 1380 of 2009

COMMON ORDER

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These three revisions are preferred under Section 25 of the Pondicherry Buildings (Lease and Rent Control) Act, 1969. The 1st respondent M.Dakshinamoorthy, before me initiated H.R.C.O.P.Nos.37 to 39 of 2000 on the file of the Rent Controller, Karaikal. There were three applications, which had been presented for the purpose of eviction of the tenants for own occupation, wilful default and denial of title respectively.

2. The parties are referred to as per their respective ranks in the H.R.C.O.Ps.

3. It is the case of the petitioner in HRCOPs. that he is the landlord of the property. The property was let out to one Ponnusamy Mudaliar, the father-in-law of the 1st respondent, father of the 3rd respondent and grand father of the 2nd respondent. The said Ponnusamy Mudaliar had taken the property on lease from one Mahadeva Mudaliar, the father of the petitioner. To that effect, the lease deed had been executed on



C.R.P.(NPD)Nos.1378 to 1380 of 2009

30.06.1942. The lease deed had also been registered with the French Government, because during the relevant time, Pondicherry was under the French control.

4. After the death of Ponnusamy Mudaliar, i.e., the predecessor in possession of the property of the respondents, his sons Somasundara Mudaliar and Rajavelu Mudaliar were in occupation of the property paying the rents to Mahadeva Mudaliar, the father of the petitioner. The sons of Rajavelu Mudaliar left the property in custody of the respondents and the respondents were paying the rents to the original landlord.

5. It is the further case of the landlords that there was a family arrangement in Mahadeva Mudaliar's family and the petition mentioned premises fell to the share of Dakshinamoorthy Mudaliar, who is the petitioner in the R.C.O.P. As the respondents did not pay the rent, a notice was issued by the landlord on 06.01.1999. It was replied to by the respondents claiming title to the property. Since the respondents claimed



C.R.P.(NPD)Nos.1378 to 1380 of 2009

title denying the right of the petitioner, R.C.O.P.No.39 of 2000 was filed by the landlord for denial of title. As the respondents did not pay the rent despite the demand, R.C.O.P.No.38 of 2000 was presented. In addition to these two RCOPs, R.C.O.P.No.37 of 2000 was filed for own occupation.

6. The respondents filed counters stating that they are the owners of the property and they have been in long possession and enjoyment of the property. They would claim that they have bonafidely denied the title, but also they would say the requirement of the landlord is also not so.

7. It is pertinent to point out in the pleadings that had been filed by the respondents/tenants, they would claim that the patta to the property stands in the names of Somasundara Mudaliar and Rajavelu Mudaliar, sons of Ponnusamy Mudaliar. The 1st respondent/tenant viz., Soundarambal would claim that she got married only on 14.09.1942 and therefore, she could not have spoken about the registered lease deed dated 30.06.1942. The basis for denial of title was the patta, electricity



C.R.P.(NPD)Nos.1378 to 1380 of 2009

bills and the house tax assessment issued by the Commune Panchayat.

8. The learned Rent Controller found that there has been a bonafide denial of title and therefore, dismissed the RCOP No.39 of 2000. Since he came to a conclusion that there was no relationship between the landlord and the tenant, the other RCOPs automatically stood dismissed.

9. Against the said order and decretal order dated 30.09.2003, R.C.A.Nos.1, 2 & 3 of 2004 were preferred before the Additional District Judge-cum-the Rent Control Appellate Authority at Karaikal. The said authority placed reliance upon Exs.A3 and A4 in order to come to a conclusion that the petitioner is the landlord and denial of title by the respondents is not bonafide and therefore, allowed the appeals and decreed the RCOPs.



C.R.P.(NPD)Nos.1378 to 1380 of 2009

WEB COPY

10. Against this reversal finding, the present revisions have been preferred by the tenants.

11. Heard Mr.R.Natarajan and Mr.S.Saravana Kumar, the learned counsel for the respective parties. I have carefully gone through the records.

12. Mr.R.Natarajan, would plead that there is a differentiation between the notice that had been issued claiming wilful default and the pleading in the R.C.O.P. He would state that nowhere in the notice had the averments that had been made in the petitions have been setforth. He would then point out to the electricity bills, the patta that had been granted to the tenants as well as the house tax receipts for the purpose of ascertaining the right of the tenants to the property. The Rent Controller cannot go into the question of title and therefore, the order of the learned trial Judge is erroneous and requires interference.



C.R.P.(NPD)Nos.1378 to 1380 of 2009

WEB COPY

13. Per contra, Mr.S.Saravana Kumar, would invite my attention to Exs.A4 and A5 in order to state that a person, who enters into possession of the property as a tenant is not entitled to deny the title, especially when the document is registered.

14. A perusal of Ex.A4, the **sale deed** would show that under the notaire **sale deed**, the predecessor in title of the landlords had acquired the property. Further, a perusal of Ex.A3 dated 30.04.1942 would also show that Ponnusamy Mudaliar, the father-in-law of the 1st respondent had come about the property only pursuant to the said agreement. I have to point out when Pondicherry was being ruled by the French, the practice of transfer of title was by way of a notaire **sale deed** and he had acquired the property on 27.04.1942.

15. A perusal of Ex.A3 would show that a registered lease document had been entered into between the father of the petitioner and the father-in-law of the 1st respondent namely, between Mahadeva



C.R.P.(NPD)Nos.1378 to 1380 of 2009

WEB COPY

Mudaliar and Ponnusamy Mudaliar. Having entered the property under a registered lease agreement, the tenants could not have denied the title to the landlord. The lower Appellate Court had looked into this very aspect and had come to a conclusion that the plea of the tenants that Arumuga Mudaliar, the vendor to Ponnusamy Mudaliar on 27.04.1942 is a different person from Arumuga mudaliar through whom, the tenants claim. This is seen from the perusal of paragraph 16 of the said judgment.

16. Apart from that, I concur with the view of the Rent Control Appellate Authority that the Rent Controller is concerned only with the relationship of the landlord and the tenants, which in this case has been proved under Ex.A3 and he is not concerned with the dispute relating to the title. The predecessor of the tenants having obtained possession through Ex.A3 are estopped by virtue of Section 116 of the Indian Evidence Act from denying the title of the landlords.



C.R.P.(NPD)Nos.1378 to 1380 of 2009

WEB COPY

17. The other aspect also has to be seen in this light namely, the submissions of Mr.R.Natarajan that the pleadings do not match with the Advocate notice. I should remind myself that I am not dealing with the regularly instituted civil suit for title for me to be concerned about the pleadings as required under Order VI of C.P.C. Rent Control proceedings are summary proceeding and the Court should not pay much attention to the pleadings between the parties, if it is convinced to the relationship between the landlord and tenant. This is moreso when the parties have joined in the issues and have understood each other's case.

18. As I have already come to a conclusion by virtue of Exs.A3 and A4, which proves that the respondents in these revisions are the landlords of the premises and the denial of their title by the petitioners in these revisions is not only wilful, but with a malafide intention to grab the property, I am not willing to apply the same principles that is applied for pleadings for declaration of title to the Rent Control proceedings.



C.R.P.(NPD)Nos.1378 to 1380 of 2009

WEB COPY

19. The revenue documents that have been relied upon namely, the house tax receipts, the electricity bills and the patta have not been shown to the satisfaction of the Court that they were issued during the presence of the landlords. Furthermore, the revenue documents cannot confer title is too well settled for me to reiterate. I have to also take note of the defence of the tenants. The tenants took a defence that the vendor of Ponnusamy Mudaliar namely, Arumuga mudaliar is also their predecessor in title, which means the entire idea was to confuse the identity of Arumuga mudalair. The vendor Arumuga mudalair who was the Mirasudhar, alienated the property in favour of Mahadeva Mudaliar, the other Mirasudar (the predecessor in title of Ponnusamy Mudaliar) reflects the ulterior motive of the tenants to grab the property.

20. I do not find any reasons to go against the registered documents under Exs.A3 and A4. Furthermore, I have come to a conclusion that the denial of title is not bonafide and hence, the landlords are entitled to succeed. Therefore, the Civil Revision Petition preferred



C.R.P.(NPD)Nos.1378 to 1380 of 2009

against HRCOP No.38 of 2000 stands dismissed.

21. In so far as the revision preferred against the wilful default aspect, going through the counter, one is clear that from the time the tenants projected the title to themselves, they did not pay the rents on the basis of their malafide assertion of title in themselves. Therefore, the aspect on wilful default is also proved and denial of payment of the rental due to the landlords is also wilful. Consequently, the revision preferred against the HRCOP No.38 of 2000 also stands dismissed.

22. In so far as the petition filed under Section 10(2)(i) of the Pondicherry Buildings (Lease and Rent Control) Act, 1969, the landlord has stated that he requires an accommodation for his son, who is the power of attorney. He has also entered the witness box and deposed that they do not have any other property in the area other than the property, which is a subject matter of the revision. I am satisfied that the requirement of the landlord is bonafide and therefore, the appeal filed



C.R.P.(NPD)Nos.1378 to 1380 of 2009

against HRCOP No.37 of 2000 also stands dismissed.

23. At this stage, Mr.R.Natarajan seeks time to vacate and handover the possession.

24. If an affidavit of undertaking is filed stating that the tenants/petitioners herein will vacate and handover the peaceful possession of the property to the landlords/respondents herein without putting any third party in possession of the same and after clearing the arrears of rent and continuing to pay the rent as long as they are in possession, time for vacating and handover the possession to the landlords is granted one year from today. Time for filing an affidavit of undertaking is granted till 08.09.2023. It is made clear that if the affidavit of undertaking is not filed by 08.09.2023, the time granted will not enure in favour of the tenants and the landlord is free to execute eviction.



C.R.P.(NPD)Nos.1378 to 1380 of 2009

WEB COPY

25. In fine, C.R.P.Nos.1378 to 1380 of 2009 stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

26. Call the matter for compliance on 11.09.2023.

28.08.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
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To

1. The Rent Controller at Karaikal.
2. The Additional District Court
Pondicherry at Karaikal.



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C.R.P.(NPD)Nos.1378 to 1380 of 2009

V.LAKSHMINARAYANAN,J.

Kj

C.R.P.(NPD)Nos.1378 to 1380 of 2009
and M.P.Nos.1,1,1 of 2009

28.08.2023