



WEB COPY

CRP(NPD)No.68



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.689 of 2005

T.Maheswari

... Petitioner

Vs.

1. Arulmighu Agatheeswara Swamy Temple
Represented by its Executive Officer
Vellipalayam
Nagapattinam.

2.Arulmighu Varadarajaperumal Temple
Represented by its Executive Officer
Vellipalayam, Nagapattinam.

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, against the fair and decretal order dated 03.08.2004 in C.M.A.No.1 of 2004 on the file of the Principal Sub Court, Nagapattinam, reversing the order dated 19.07.1995 in I.A.No.691 of 1993 in O.S.No.233 of 1992 on the file of the District Munsif Court, Nagapattinam.

For Petitioner : Mrs.R.T.Shyamala

For Respondents : Mr.G.Sugumaran



ORDER

I heard Mrs.R.T.Shyamala, learned counsel for the civil revision petitioner/defendant and Mr.G.Sugumaran, learned counsel appearing for the religious institutions/respondents/plaintiffs.

2. The civil revision petitioner is the defendant and respondents are the plaintiffs in O.S.No.233 of 1992. The suit was filed by the plaintiffs for ejectment. In the suit, the civil revision petitioner/tenant took out an application in I.A.No.691 of 1993 under the provisions of Section 9 of the Tamil Nadu City Tenants Protection Act. The application was allowed on 19.07.1995. Soon thereafter, the tenant deposited an amount of Rs.2,00,000/- on 15.09.1995, Rs.1,00,000/- on 14.02.1996, Rs.1,00,000/- on 30.11.1995 and Rs.47,450/- on 27.02.1996.

3. The matter was taken on appeal by the plaintiffs in C.M.A.No.1 of 2004. Applying the amendment, which the Act had suffered, the appeal was allowed holding that the City Tenants Protection Act does not apply to the properties owned by the religious institutions. There is no dispute that the plaintiffs are religious institutions.

4. As against the order passed in C.M.A.No.1 of 2004 dated 03.08.2004, C.R.P.No.689 of 2005 has been presented.



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5. Mrs.R.T.Shyamala, learned counsel for the Civil Revision Petitioner would submit that entire amount having been deposited by the tenant, nothing further remains for her to be done and therefore, the amendment to the Act made under the Act 2 of 1996 will not apply.

6. On the contrary, Mr.G.Sugumaran, learned counsel for the respondents/plaintiffs will draw attention of this Court to the judgment of the Supreme Court in the case of *S.Bagirathi Ammal vs. Palani Roman Catholic Mission 2007 (5) CTC 881*. In particular, he will draw the attention of this Court to paragraph 11, which reads as follows:

"11. Finally, Mr. M.N.Krishnamani placing reliance on the Full Bench decision of the Madras High Court rendered in CRP(NPD)No.2758 of 1996 titled *Arulmigu Kasi Viswanathaswamy Devasthanam vs. Kasthuriammal 2006(2) CTC 452*, submitted that the moment tenant deposited the amount the order is fully satisfied. He further pointed out that as per the said decision the moment the order under *Section 9(3)* (a) is passed, it shall be construed that the proceedings got terminated and the suit stood dismissed as per *Section 9(3)(b)* of the Act. We are unable to accept the said proposition.

The relevant provisions are as follows:-

"9. (3) (a) On payment of the price fixed under clause (b) of sub-section (1) the Court shall pass an order directing the conveyance by the landlord to the tenant of the extent of land for which the said



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price was fixed. The Court shall by the same order direct the tenant to put the landlord into possession of the remaining extent of the land, if any, the stamp duty and registration fee in respect of such conveyance shall be borne by the tenant.

(b) On the order referred to in clause (a) being made, the suit or proceeding shall stand dismissed, and any decree or order in ejectment that may have been passed therein but which has not been executed shall be vacated."

It is clear that if the tenant complies with the order passed under [Section 9\(1\) \(b\)](#) and deposits the amount within the time as fixed, the Court has to pass an order directing the conveyance by the landlord to the tenant. It is true that as per [Section 9\(3\) \(b\)](#) on passing an order under clause (a) the suit or proceeding shall stand dismissed. In the light of the language used in clause (a) i.e. "conveyance" to be made by the landlord to the tenant, till the proper document conveying title to the tenant it is presumed that the proceeding is kept pending. To put it clear that unless the sale deed is executed by the landlord in favour of the tenant or in the alternative by the Court on behalf of the landlord the fruits of the decree can not be realized. The suit or proceeding will come to an end immediately on execution of sale deed either by the landlord or by the Court on behalf of the landlord. In our case, as said earlier, the sale deed was executed only on 28.10.1996, however the amended Act 2/96 came into force on 11.01.1996 much earlier to the execution of sale deed. The view expressed in the Full Bench decision runs counter to the language used in the statute and we are unable to accept the same."

7. The amendment relied upon by Mrs.R.T.Shyamala was directly in

consideration by the Supreme Court. In paragraph 11, the Supreme Court has held that

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the proceedings will come to an end only if the sale deed had been executed before coming into force of the Act namely, 11.01.1996.

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8. The narration of the facts set forth above would show that the sale deed had not been executed. In fact, even the entire amount had not been deposited before 11.01.1996. Therefore, the judgment of the Supreme Court directly applies to the facts of the case. I have no other option than to confirm the view taken by the learned Principal Subordinate Judge, Nagapattinam, in C.M.A.No.1 of 2004. Consequently, Civil Revision Petition is dismissed. No costs.

06.07.2023
(1/2)

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

1. The Principal Subordinate Judge, Nagapattinam.
2. The District Munsif, Nagapattinam.



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V.LAKSHMINARAYANAN,J.

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