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CRP.No.5027 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.5027 of 2011
and MP.No.1 of 2011

1.M.Anthony
2.A.Kumar
3.A.Murugesan

... petitioners

Vs.

1.K.G.Gopalakrishnan
2.Sakku Bhai
3.Saroja
4.Lakshmi Bhai
5.Ram Bhai
6.Rathika
7.Jayaprakash
8.Sampathkumar
9.Ravikumar @ Ramesh Kumar
10.Dhanalakshmi
11.Latha
12.R.Suresh Babu
13.R.Vijayalakshmi

... Respondents

PRAYER: Civil Revision Petition filed under Section 25 of Tamilnadu Buildings (Lease & Rent Control) Act to set aside the judgment and decree dated 22.08.2011 made in RCA.No.17 of 2006 on the file of the Principal Subordinate Court, Salem confirming the order and decretal order dated 03.02.2006 made in RCOP.No.32 of 2000 on the file of the II Additional District Munsif Court, Salem.

For Petitioners : Mr.K.Kannan



For Respondents

For R1,4 to 13 : Mr.B.Balavijayan

for M/s.C.S.Associates

ORDER

This civil revision petition has been filed to set aside the judgment and decree dated 22.08.2011 made in RCA.No.17 of 2006 on the file of the Principal Subordinate Court, Salem confirming the order and decretal order dated 03.02.2006 made in RCOP.No.32 of 2000 on the file of the II Additional District Munsif Court, Salem, thereby ordered for eviction on the ground of wilful default.

2. The petitioners are the tenants under the respondents in respect of the petition premises. The case of the respondents is that they own the petition premises and it was originally leased out in favour of one, Muthu, who is the father of the first petitioner herein twenty years before. Originally, rent was fixed at Rs.15/- per month and subsequently, it was enhanced into Rs.75/- p.m. However, after the demise of the said Muthu, no rent was paid regularly by the petitioners. From the month of April 1998, they have not paid any rent and hence, petition was filed for eviction on the ground of wilful default.

3. Resisting the same, the petitioners filed counter stating that they denied the title of the respondents. Further stated that there is no landlord tenant



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relationship since the petition premises is a Government poramboke and belongs to Government. They also filed suit in OS.No.122 of 2000 for permanent injunction and the same was decreed in their favour in respect of the very same property.

4. On the side of the respondents, they had examined PW1 and marked Ex.A1 to Ex.A10. On the side of the petitioners herein, they examined RW1 and marked Ex.B1 to Ex.B10. On perusal of oral and documentary evidence, the learned Rent Controller allowed the eviction petition and ordered for eviction. Aggrieved by the same, the petitioners preferred Rent Control Appeal and the Rent Control Appellate Authority also confirmed the order passed by the learned Rent Controller and dismissed the appeal. Aggrieved by the same, the present civil revision petition has been filed.

5. The petitioners raised ground that the Rent Control Original Petition itself is not maintainable since there is no landlord tenant relationship between the parties. The petitioners have produced house tax receipt and electricity charge payment receipt pertaining to the petition premises, which were marked as Ex.B4 to Ex.B8. It shows that they are the owners of the property and the RCOP itself is not maintainable. The petitioners also obtained decree of permanent injunction in



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OS.No.122 of 2000 in respect of the petition premises and as such, they proved their title over the property and they need not to pay any rent for the petition premises to the respondents herein.

6. Per contra, the learned counsel for respondents 1, 4 to 13 would submit that the petitioners themselves admitted that they are tenants under the respondents in the writ petition in WP.No.29574 of 2007 before this Court while challenging the order passed by the Tahsildar under Section 133 of Cr.P.C. Though the petitioner obtained decree in OS.No.122 of 2000, it was decreed that without due process of law, their possession and enjoyment of the suit property cannot be disturbed. Therefore, the respondents filed eviction petition on the ground of wilful default in RCOP.No.32 of 2000. Both the courts below rightly ordered for eviction and they do not warrant interference by this Court.

7. Heard, the learned counsel for the petitioners and the learned counsel for respondents 1, 4 to 13.

8. The petitioners denied the title over the petition premises. In order to prove the same, they produced decree passed in OS.No.122 of 2000 dated 20.09.2002 on the file of the I Additional District Munsif Court, Salem. They also



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marked Ex.B4 to Ex.B6 and Ex.B8 which had shown that they paid house tax and electricity consumption charges. Admittedly, the suit filed by the petitioners was for permanent injunction. It does not mean that they have title over the property. That apart, admittedly the petitioners did not pay any rent to the respondents so far after demise of the father of the first petitioner herein.

9. On perusal of the order passed by this Court in WP.No.29574 of 2007 dated 25.08.2008, one of the petitioners herein along with two others challenged the order passed by the Tahsildar, Yercard, Salem District dated 17.08.2007, thereby ordered to demolish the building for the reason that it is likely to cause danger to the people who uses the main road which is situated adjoining the building. In the said writ petition, the petitioners categorically stated that they are the tenants under the first respondent herein and they also filed suit in OS.No.122 of 2000 for permanent injunction to restrain the first respondent herein from dispossessing them without due process of law. The eviction proceedings was also initiated and the same was also allowed. Aggrieved by the same, they filed appeal and it is pending. Therefore, this Court set aside the proceedings initiated by the Tahsildar, Yercaud, Salem District on the ground that he had no jurisdiction.



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10. Therefore, the petitioners cannot raise the ground that there is no landlord tenant relationship. They themselves categorically admitted that the petition premises is owned by the respondents and admitted their landlord tenant relationship. In fact, this Court while allowing the writ petition by order dated 25.08.2008, further observed that the first respondent has adopted an ingenious way to approach the Tahsildar, thereby offering to demolish the building in the event of the petitioners herein being evicted from the properties by an order passed under Section 133 of Cr.P.C. Therefore, the respondents proved that they are the owners of the petition premises and admittedly, the petitioners failed to pay any rent to the respondents so far for the petition premises. Hence, both the courts below rightly ordered eviction on the ground of wilful default and this Court finds no infirmity or illegality in the orders passed by the courts below.

11. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Speaking/non-speaking
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G.K.ILANTHIRAIYAN, J.
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To

- 1.The Principal Subordinate Court,
Salem
- 2.The II Additional District Munsif Court,
Salem.

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