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CRP.Nos.2424 to 2428 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2023

CORAM:

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

CRP.Nos.2424 to 2428 of 2015 and
MP.Nos.1,1,1,1,1,2,2,2,2 & 2 of 2015

CRP.No.2424 of 2015

1.V.M.Mohan
2.V.M.Selvaraj
3.V.M.Lakshmanan
4.V.M.Loganathan

... petitioners

Vs.

1.T.Janakiraman
2.V.Infantraj Lobo
Rep. by power agent, Kaleeswaran

... Respondents

PRAYER:

Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act, 18 of 1960 as amended by Act 23 of 1973 to set aside the judgment and decree dated 20.04.2015 in RCA.No.659 of 2007 on the file of the VIII Court of Small Causes, Chennai confirming the order and decretal order dated 08.10.2007 in RCOP.No.1400 of 2006 on the file of the XIV Judge, Court of Small Causes, Chennai.

For Petitioners : Ms.R.V.Gayatri
for Mr.P.B.Ramanujam



CRP.Nos.2424 to 2428 of 2015

For Respondents : Mrs.T.Hemalatha
for Mr.V.Suthakar

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CRP.No.2425 of 2015

- 1.V.E.Rajendra Achari(died)
- 2.Rukumaniyammal
- 3.R.Karunakaran
- 4.Santhi
- 5.Nirmala
- 6.Selvi
- 7.Karthikeyan
- 8.Kalaivani

(petitioners 2 to 8 brought on record as LR's of the deceased sole petitioner viz.V.E.Rajendra Achari vide court order dated 12.01.2023 made in CMP.Nos.15780, 15782, 15783 of 2022 in CRP.No.2425 of 2015)

... petitioners

Vs.

- 1.T.Janakiraman
 - 2.V.Infantraj Lobo
- Rep. by power agent, Kaleeswaran
- 3.Marutharajan
- (R3 brought on record as LR's of the deceased sole petitioner viz V.E.Rajendra Achari vide court order dated 12.01.2023 made in CMP.No.15780, 15782, 15783 of 2022 in CRP.No.2425 of 2015)

... Respondents

PRAYER:

Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act, 18 of 1960 as amended by Act 23 of 1973 to set aside the judgment and decree dated 20.04.2015 in RCA.No.660 of 2007 on the file of the VIII Court of Small Causes, Chennai confirming the order and decretal



CRP.Nos.2424 to 2428 of 2015

order dated 08.10.2007 in RCOP.No.1399 of 2006 on the file of the XIV Judge,

WEB COURT of Small Causes, Chennai.

For Petitioners : Ms.R.V.Gayatri
for Mr.P.B.Ramanujam

For Respondents : Mrs.T.Hemalatha
for Mr.V.Suthakar

CRP.No.2426 of 2015

T.Duraiswamy

... petitioner

Vs.

1.T.Janakiraman

2.V.Infantraj Lobo

Rep. by power agent, Kaleeswaran

... Respondents

PRAYER:

Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act, 18 of 1960 as amended by Act 23 of 1973 to set aside the judgment and decree dated 20.04.2015 in RCA.No.661 of 2007 on the file of the VIII Court of Small Causes, Chennai confirming the order and decretal order dated 08.10.2007 in RCOP.No.1398 of 2006 on the file of the XIV Judge, Court of Small Causes, Chennai.

For Petitioner : Ms.R.V.Gayatri
for Mr.P.B.Ramanujam

For Respondents : Mrs.T.Hemalatha
for Mr.V.Suthakar



CRP.Nos.2424 to 2428 of 2015

CRP.No.2427 of 2015

WEB COPY

K.Ramadass

... petitioner

Vs.

1.T.Janakiraman

2.V.Infantraj Lobo

Rep. by power agent, Kaleeswaran

... Respondents

PRAYER:

Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act, 18 of 1960 as amended by Act 23 of 1973 to set aside the judgment and decree dated 20.04.2015 in RCA.No.663 of 2007 on the file of the VIII Court of Small Causes, Chennai confirming the order and decretal order dated 08.10.2007 in RCOP.No.1401 of 2006 on the file of the XIV Judge, Court of Small Causes, Chennai.

For Petitioner : Ms.R.V.Gayatri
for Mr.P.B.Ramanujam

For Respondents : Mrs.T.Hemalatha
for Mr.V.Suthakar

CRP.No.2428 of 2015

M.Sekar

... petitioner

Vs.

1.T.Janakiraman

2.V.Infantraj Lobo

Rep. by power agent, Kaleeswaran

... Respondents



CRP.Nos.2424 to 2428 of 2015

WEB COPY

Civil Revision Petition filed under Section 25 of the Tamilnadu Buildings (Lease and Rent Control) Act, 18 of 1960 as amended by Act 23 of 1973 to set aside the judgment and decree dated 20.04.2015 in RCA.No.664 of 2007 on the file of the VIII Court of Small Causes, Chennai confirming the order and decretal order dated 08.10.2007 in RCOP.No.1402 of 2006 on the file of the XIV Judge, Court of Small Causes, Chennai.

For Petitioner : Ms.R.V.Gayatri
for Mr.P.B.Ramanujam

For Respondents : Mrs.T.Hemalatha
for Mr.V.Suthakar

COMMON ORDER

These civil revision petitions have been filed to set aside the judgment and decree dated 20.04.2015 in RCA.Nos.659 to 661, 663 & 664 of 2007 on the file of the VIII Court of Small Causes, Chennai confirming the order and decretal order dated 08.10.2007 in RCOP.Nos.1398 to 1402 of 2006 on the file of the XIV Judge, Court of Small Causes, Chennai

2. In all the civil revision petitions, the petitioners are the tenants and the respondents are the owners of the superstructure. The case of the



CRP.Nos.2424 to 2428 of 2015

respondents herein is that they have purchased the superstructure of the petition premises by the registered sale deed dated 24.04.1996 along with leasehold right over the land from one, Jugal Kishore Chandak. They have become absolute owner of the superstructure and the land belongs to Corporation of Chennai. Thereafter, the petitioners were inducted as tenant for the non residential portion of the petition premises for the monthly rent. The petitioners were permitted to run their respective business. Originally, the property belonged to one, Thulasi Bai and she was the lessee with the Corporation of Chennai. After her demise, the her son Gowri Shankar Chandak as her legal heir became the absolute owner. He collected rents from the petitioners. He had executed Will thereby bequeathing all his properties in favour of his three sons and appointed his first son i.e. Jugal Kishore Chandak as the Executor of the said Will. The petitioners had knowledge about the sale of entire property inclusive of the petition premises. Even then, they failed to tender the monthly rent to the respondents from October 1998 to June 2006. In fact, the petitioners had negotiated with the respondents and agreed to vacate the respective premises if the respondents pay a lumpsum. Therefore, the respondents filed petition for eviction on the ground of wilful default.



CRP.Nos.2424 to 2428 of 2015

3. Resisting the same, the petitioners filed their counter and stated that eviction petitions were filed through their power of attorney and as such, the eviction petitions itself are not maintainable. There is no landlord tenant relationship between them. Already the respondents filed petition for eviction on the ground of wilful default and owner's occupation and the eviction petitions were dismissed for default. The petitioners were tenant under one, Gowri Shankar Chandak in respect of the petition premises both for residential and non residential purpose. They also disputed the monthly rent as stated in the eviction petition. They denied the purchase of the superstructure of the petition premises by the respondents. The lease granted in favour of Gowri Shankar Chandak had expired even in the year 1992 and thereafter, there was no renewal of lease. Therefore, the respondents cannot claim ownership over the superstructure and cannot claim any rent from the petitioners. The present superstructure has been put up by the petitioners. The Corporation of Chennai had issued notice to the occupants of the shop portions and the occupants of the the tenants were asked to produce their documents to prove their possession. On notice, they produced all the documents to the Corporation of Chennai and thereafter they are paying rents to the Corporation of Chennai. They also paid property tax for the superstructure put up by them. Therefore, the purchase of the schedule mentioned premises by the respondents is not valid. Hence, the



CRP.Nos.2424 to 2428 of 2015

eviction petition itself is not maintainable on the ground of wilful default and denial of title.

4. In respect of RCOP.No.1400 of 2006, the landlords had examined PW1 and marked Ex.P1 to Ex.P10. On the side of the tenants, they examined RW1 in eviction petition and marked EX.R1 to Ex.R9. In respect of RCOP.No.1399 of 2006, the landlords had examined PW1 and marked Ex.P1 to Ex.P12. On the side of the tenants, they examined RW1 in eviction petition and marked EX.R1 to Ex.R9. In respect of RCOP.No.1398 of 2006, the landlords had examined PW1 and marked Ex.P1 to Ex.P13. On the side of the tenants, they examined RW1 in eviction petition and marked EX.R1 to Ex.R9. In respect of RCOP.No.1401 of 2006, the landlords had examined PW1 and marked Ex.P1 to Ex.P10. On the side of the tenants, they examined RW1 in eviction petition and marked EX.R1 to Ex.R23. In respect of RCOP.No.1402 of 2006, the landlords had examined PW1 and marked Ex.P1 to Ex.P10. On the side of the tenants, they examined RW1 in eviction petition and marked EX.R1 to Ex.R11.

5. On perusal of oral and documentary evidence, the learned Rent Controller ordered eviction on the ground of wilful default and denial of title.



CRP.Nos.2424 to 2428 of 2015

Aggrieved by the same, the petitioners preferred appeals and the same were also dismissed by the learned Rent Control Appellate Authority, against which the present civil revision petitions have been filed by the tenants.

6. The learned counsel for the petitioners would submit that even till today, the petitioners are paying rent to the Corporation of Chennai. The petitioners never attorned tenancy in favour of the respondents. The respondents also failed to prove the landlord tenant relationship. The superstructure put up by the petitioners is recognised by the Corporation of Chennai and they are continuously paying rent for the petition premises to the Corporation of Chennai. Admittedly, the land belongs to Corporation of Chennai and the respondents never owned any superstructure. In fact, originally lease was granted in favour of one, Gowri Shankar Chandak who expired even in the year 1992 itself. Therefore, she prayed to set aside the order of eviction.

7. Heard, the learned counsel appearing on either side.

8. On perusal of records revealed that the property belongs to Corporation of Chennai which was leased out to one, Thulasi Bai who had put up superstructure and continued to pay land tax to the Corporation of Chennai



CRP.Nos.2424 to 2428 of 2015

and paid property tax for the superstructure. She inducted the petitioners as tenants for the monthly rent. Thereafter, Gowri Shankar Chandak became the lessee of the land and he continued to pay land tax and Corporation tax after collecting rents from the petitioners in respect of the petition premises. He executed Will in favour of his three sons and appointed one, Jugal Kishore Chandak as Executor. The said Will also got probated and he had sold out the property in favour of the respondents by the sale deed dated 24.04.1996. The superstrucutre as well as the leasehold right were purchased through the said sale deed. However, admittedly the petitioners did not pay any rent from October 1998 in spite of repeated demand and notices issued by the respondents herein. Therefore, the respondents filed eviction petitions on the ground of wilful default and denial of title. In fact, the petitioners had paid their respective rents till September 1998. The respondents requested the petitioners to pay rent by attorning tenancy in their favour through a letter. The petitioners issued a reply disputing the title and had taken new plea that the present superstructure was put up by them. The petitioners also admitted that the superstructure was owned by Gowri Shankar Chandak. Though the petitioners paid tax on behalf of Gowri Shankar Chandak in favour of Corporation of Chennai, the lease has not been transferred in their favour. Further, they also failed to prove that the present superstructure was put up by them. Further, they



CRP.Nos.2424 to 2428 of 2015

admitted that they did not pay any rent from October 1998 to the respondents.

If a tenant was inducted in a property with superstructure and if they had put up superstructure on their own without consent of the landlord, they would not be permitted to take the defence that the Rent Control Court has no jurisdiction. Even though the superstructure got collapsed, the relationship of landlord tenant do not cease away. The tenant has to exercise his option not to continue with the tenancy. Admittedly, the petitioners did not choose such option and failed to pay rent. Now they are disputing the ownership of the superstructure. Probate order was passed in favour of the said Jugal Kishore Chandak. Therefore, he had right over the superstructure and sold out in favour of the respondents. Therefore the petitioners cannot dispute the Will executed in favour of the said Jugal Kishore Chandak.

9. The learned counsel for the petitioners vehemently contended that there is no landlord tenant relationship since they are paying rent to the Corporation of Chennai. Though the petitioners are paying rent to the Corporation of Chennai, it would not confer any title or right over the petition premises by the petitioners in the absence of any order from Corporation of Chennai. The petitioners failed to prove the same by documentary evidence. Further the definition of the landlord in the Act includes a person who is entitled



CRP.Nos.2424 to 2428 of 2015

to receive rent and he need not have valid title over the property. The petition premises has been purchased by the respondents by the registered sale deed dated 24.04.1996. It was also duly informed to the petitioners through legal notice and thereby called upon to attorn the tenancy in their favour and to pay monthly rent to them. Even then, the petitioners did not pay any rent from the date of sale deed. When the denial of title is found to be not sustainable, the petitioners ought to have paid the monthly rent for the petition premises. However, they are squatting over the petition premises without paying any rent. Therefore, the petitioners have committed default in payment of monthly rents from the month of October 1998 for the petitions premises. Therefore, the courts below rightly ordered for eviction on the ground of wilful default and denial of title. Hence, this Court finds no infirmity or illegality in the orders passed by the courts below.

10. Accordingly, all the civil revision petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

09.02.2023

Speaking/non-speaking
Index : Yes/No



Internet : Yes

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CRP.Nos.2424 to 2428 of 2015

G.K.ILANTHIRAIYAN, J.

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To

- 1.The VIII Court of Small Causes,
Chennai
- 2.The XIV Judge,
Court of Small Causes, Chennai.



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CRP.Nos.2424 to 2428 of 2015

CRP.Nos.2424 to 2428 of 2015

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