



CRP (PD) No.1637 of 2016

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	20.06.2023
Pronounced on	28.07.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

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P.Krishnasamy

... Petitioner/Respondent/
Petitioner-Landlord

Vs.

1. Lakshmanan (died)

... 1st Respondent/ Petitioner/
Respondent-Tenant

2.Gunapushanam

3.D.Jealatcheumy

4.Ramatchandirane

5.Ambigua

6.Velayoudame

7.Vinayagaselvy

... Respondents 2 to 7

(Respondents 2 to 7 brought on records as LR's of the deceased first respondent Viz., Lakshmanan vide Court order dated 30.06.2022 made in CMP.No.6670 of 2020)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of



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India seeking to set aside the fair and decreetal order dated 25.11.2015 passed in I.A.No.01 of 2015 in P.C.T.P.A.No.01 of 2005, on the file of the Revenue Court (South) at Villianur, Puducherry.

For Petitioner : Mr.P.Raja

For R2, R4
and R6 : Mr.V.V.Sathya
for Mr.M.V.Venkateseshan

For R3, R5 & R7 : No appearance

ORDER

This civil revision is preferred against the fair and decreetal order dated 25.11.2015 passed in I.A.No.01 of 2015 in P.C.T.P.A.No.01 of 2005 on the file of the Revenue Court (South), at Villianur, Puducherry.

2. The petitioner herein filed a petition in P.C.T.P.A.No.01 of 2005 on the file of the Revenue Court (South), at Villianur, Puducherry, for vacating the respondents from the leased lands and hand over vacant possession to the petitioner.



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3. According to the petitioner, the respondent is a tenant in respect of the landed property described in the petition, on contractual lease of 45 bags Samba Paddy per year. As the first respondent committed wilful default in payment of lease paddy for the year from 1983-84, the petitioner had filed a petition P.C.T.P.A.No. 02 of 1991, on the file of the Revenue Court (South), Pondicherry, against him for eviction from the leasehold lands. It is submitted that prior to 1983-84, the first respondent was paying the lease amount in cash, a sum of Rs.5,000/- representing the then value of 45 bags of Samba Paddy. During the pendency of the proceeding before the Revenue Court, Pondicherry, as a portion of his claim for recovery of his lease amount was barred by limitation and as the proceedings were likely to be protracted by the dilatory tactics adopted by the respondent, he had agreed to receive the lease amount at the rate of Rs.5,000/- per annum for the period covered by the said eviction proceedings. Under such circumstances, the revenue Court passed an order dated 07.04.1999 eventually directing the payment of arrears of lease amount from 1988 to 1998. The petitioner further submitted that, one Jayaram Gounder, who is the elder brother



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of the respondent, had taken on lease the leasehold lands from the petitioner's father by executing a lease deed dated 14.08.1963, whereby, he agreed to pay the lease amount in kind, 120 bags Samba Paddy for an extent of 13 kanies 40 kuzhies 8 veesams.

4. The petitioner further submits that in the family partition taken place between him and his elder brother, the extent of 3H 27A being the subject matter of PCTPA No.2 of 1991 on the file of the Revenue Court, Pondicherry was allotted to his share which continued to be cultivated by the said Jayarama Gounder, under the terms and conditions of the original lease, deed 14.08.1963, which the first respondent continues to cultivate on the same terms. The petitioner further submits that he has every right to demand the respondent to pay the lease in kind in terms of 45 bags of samba paddy as mutually agreed upon in the contract of lease. However, the respondent had paid only a sum of Rs.5,000/- by way of a Banker's cheque bearing No.595627 dated 07.01.2000 towards a part of the lease amount for the year 1999. The value of Samba Paddy was Rs.723.57/- per bag in January 2000 and the respondent is still liable to pay a sum



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of Rs.27, 560.65 towards payment of the lease amount for the year 1999. The first respondent sent a letter dated 17.01.2001 along with a Banker's cheque bearing No.34714, dated 17.01.2001, claiming that the said sum was sought to be tendered as lease amount for the year 2000. The petitioner returned the said Banker's cheque under cover of a lawyer's notice dated 21.02.2001. The respondent received the said notice.

5. The petitioner further submits that the respondent did not comply with his demands but instead issued a reply notice dated 06.03.2001 making false claims. The petitioner reiterates that he is entitled to claim payment of lease rent in kind at the rate of 45 bags of Samba paddy per year. Without prejudice to claim fair rent. The respondent wilfully failed to pay the rent due for the years 2000 to 2003 also, besides the arrears set out above. The petitioner therefore issued a lawyer's notice to the respondent dated 06.10.2004 calling upon him to pay the sum of Rs.27,560.65 representing the balance due towards payment of the lease for the year 1999 and also 180 bags of Samba Paddy being the lease arrears for the years 2000 to 2003 and also calling upon him to vacate and hand over



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vacant possession of the leased lands. The respondent received the said notice and issued a reply notice through counsel dated 18.10.2004 with false allegations. The respondent has willfully failed to pay the rent due for the years 2000 to 2004, besides the arrears in respect of the year 1999 as set out above. The petitioner submits that in the said circumstances, he was constrained to file a petition in P.C.T.P.A.No.01 of 2005 to vacate the first respondent and hand over vacant possession of the leased lands.

6. In the counter affidavit, the claim of the petitioner was resisted on the ground that the first respondent never committed wilful default in payment of the lease from the year 1983-84. In P.C.T.P.A.No.2 of 1991, the petitioner himself admitted to receive Rs.5,000 per year as rent. Accordingly, an order was passed in the said application on 07.04.1999 which has become final and conclusive. It is further submitted that as per the order passed by this Court in P.C.T.P.A.No. 2 of 1991, the first respondent had paid the arrears of rent of Rs.55,000/- through Bankers cheque for the period 1988 to 1999 in two instalments of Rs.27,500/-, dated 06.05.1999 and 01.07.1999 respectively. The Petitioner has also



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acknowledged the same. The first respondent had paid the rent amount of Rs.5,000/- for the year 1999 through Banker's payment Order dated 07.01.2000 drawn on Indian Bank, Pondicherry and the same was also acknowledged by the petitioner as full and final payment for the year 1999.

7. It is further submitted that the first respondent has sent Rs.5,000/- rent for the year 2000 through Banker's Cheque dated 17.01.2001 drawn on State Bank of India, Pondicherry and the same was sent through letter dated 17.01.2001. The petitioner received the letter dated 17.01.2001 and returned the same through his counsel by a Notice dated 21.02.2001 contrary to the order dated 07.04.1999 passed in P.C.T.P.A.No.02 of 1991. The petitioner having accepted the order passed in P.C.T.P.A.No.02 of 1991 cannot impose a new terms of lease claiming 45 bags of Samba Paddy per year. It is further submitted that the first respondent has sent arrears of rent at the rate of Rs.5,000/- per year for the period 2000 to 2008 through Demand Draft drawn on Indian Overseas Bank, D.D.No.277748357, dated 13.04.2009, for Rs.45,000/- through a letter dated 15.04.2009 to the petitioner. since the petitioner has refused to receive the letter



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dated 15.04.2009, in which demand draft for arrears of rent was sent to the petitioner, the same was wrongly returned by the postman to the Thirubuvanai Commune Panchayat. Neither the acknowledgement card nor the registered postal cover was returned a requisition dated 21.06.2009 was sent to the Head Post Office, Pondicherry and the Branch Manager, Indian Overseas Bank, Thirubhuvanai Ind. Estate, Pondicherry and P.Krishnasamy, the petitioner herein, whether the Registered Post was delivered to the petitioner and whether the Demand Draft was encashed by the petitioner.

8.It is further submitted that the Postman has given a reply on 03.07.2009 stating that the Registered Post was refused by the addressee and the same was wrongly returned to the Thirubuvanai Commune Panchayat. It is further submitted that the first respondent is cultivating the suit property and his sons are assisting him in cultivating. The first respondent is ever ready and willing to pay the arrears of rent and he sent a demand draft dated 23.09.2014 for Rs.70,000/- bearing No.952858660 drawn on Indian Overseas Bank, Thirubhuvanai Ind. Estate Branch and sent him through a letter dated 27.09.2014. It is further



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submitted that the first respondent is ever ready and willing to pay the arrears of rent at the rate of Rs.5,000/- per year as accepted by the petitioner in P.C.T.P.A.No.02 of 1991. The petitioner wants to evict this respondent from the petition mentioned property without any valid reasons.

9. The Revenue Court, after considering the averments made in the petition and counter affidavit and the arguments advanced on both sides, allowed the petition and directed the first respondent to pay a sum of Rs.5,000/- per year and total amount of Rs.75,000/- for the period fifteen years from 2000 to 2014 within a period of one month from the date of receipt of the order without prejudice to the question about the fixation of fair rent and fixation of date from which the fair rent is payable and further the landlord was directed to file an amended petition before this Court for his claim, if any. Aggrieved by this, the petitioner/landlord had preferred this revision petition for setting aside the order passed in I.A.No.01 of 2015 in P.C.T.P.A.No.01 of 2005, dated 25.11.2015, on the file of the Revenue Court (South), at Villianur, Puducherry.



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10. The learned counsel appearing for the revision petitioner would submit that the Presiding Officer had committed an act of illegality in entertaining the application, filed by the first respondent/tenant herein for the deposit of rents, at the rate of Rs.5,000/- per years, without reserving the right of the petitioner to question the *bona fide* or otherwise of the deposit of rent into Court, as any non deposit of rent should be construed as a default in the payment of rent, to enable the landlord, to seek for eviction of his tenant under Section 3(2) of the Puducherry Cultivating Tenants Protection Act No.9 of 1971. According to the learned counsel for the petitioner there is no such provisions under the Act, to enable the tenant to deposit the rents into Court, even before the adjudication of the matter on merits. He would further submit that Section 3(b)(i) of the said Act cannot be invoked, in as much as, Section 3(3)(a) of the Act, has no application to the present, as the arrears are not either prior to or after the date when the said Act came into force. A mere concession of a party or by consent of both the parties no power can be created or granted to a Special Court, namely, the Revenue Court herein, which is to exercise its powers and jurisdiction, within the four corners of the said Act and it cannot extend beyond any such powers, as may be granted to



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it, under the said Act.

11. The learned counsel for the petitioner would further submit that the petition for eviction had been filed by the petitioner, as against the respondent under Section 3(4)(a) of the said Act and the Powers of the Revenue Court are very much defined so as to adjudicate the matter as provided under Section 3(4)(b) of the said Act, whereas, the lower Court by observing that the deposit could be made by the respondent, without prejudice to the question about the fixation of fair rent and fixation of date, from which, the fair rent is payable and such a power is not available to the lower Court. The power to fix a fair rent is available only to the appropriate appointed authority under Section 10(1) of the Puducherry Cultivating Tenants (Payment of Fair Rent) Act No.5 of 1971 and when an application has to be filed separately, in the manner as aforesaid and when the provisions have nothing to do with the eviction under the said Act, the learned Presiding Officer cannot direct the petitioner to file application for the payment of fixation of fair rent and the effective date, thereby, by holding such a view, he has completely committed a act of illegality in making the eviction



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petition as ineffective, as if, it has become infructuous by reason of the deposit of the rents into court. He would further submit that the Revenue Court had failed to see that the Revenue Court has no power to fix any fair rent, in a proceeding, for eviction under the said Act, whereas, both the Revenue Court as well as the respondent had committed an act of illegality as if that, under the order dated 07.04.1999, the Revenue Court fixed the rent at the rate of Rs.5,000/- per annum and made in P.C.T.P.A.No.2 of 1991. Hence, he prayed to set aside the fair and decreetal order dated 25.11.2015 passed in I.A.No.01 of 2015 in P.C.T.P.A.No.01 of 2005 on the file of the Revenue Court (South) at Villianur, Puducherry, by allowing this petition.

12. The landlord – tenant relationship between the petitioner and the respondents is not in dispute. The specific contention of the petitioner is that he filed a petition for eviction against the first respondent under Section 3 (4)(a) of the Puducherry Cultivating Tenants Act No.9 of 1971 and the powers of the revenue Court are very much defined as to adjudicate the matter as provided under Section 3 (4)(b) of the said Act, whereas, the Court below by observing that the deposit could be made by the respondents, without prejudice to the question



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about the fixation of fair rent, and fixation of date, from which, the fair rent is payable, and such a power is not available to the Court below. It is submitted that there is no such provisions under the Act to enable a tenant to deposit the rent into Court, even before the adjudication of the matter, on merits.

13. Section 3(4)(a) of the Pondicherry Cultivating Tenants Protection Act, 1970 reads as follows:-

"3 (4) (a) Every landlord seeking to evict a cultivating tenant falling under subsection (2), shall, whether or not there is an order or decree of a Court for the eviction of such cultivating tenant, make an application to the Revenue Court and such application shall bear a court fee stamp of one rupee."

14. Section 3(4)(b) of the Pondicherry Cultivating Tenants Protection Act, 1970 reads as follows:-

3(4)(b)(i) On receipt of such application, the Revenue Court shall, after giving a reasonable opportunity to the landlord and the cultivating tenant to make their representations, hold a summary inquiry into the matter and pass an order either allowing the application or dismissing it and in a case falling under clause (a) or (b) of sub-section (2) in which the tenant had not availed of the



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provisions contained in sub-section (3), the Revenue Court may allow the cultivating tenant such time as he considers just and reasonable having regard to the relative circumstances of the landlord and the cultivating tenant for depositing the arrears of rent payable under this Act inclusive of such costs as he may direct.

(ii) If the cultivating tenant deposits the sum as directed he shall be deemed to have paid the rent under clause (b) of sub-section (3) and if the cultivating tenant fails to deposit the sum as directed, the Revenue Court shall pass an order for eviction."

15. The scrutiny of the impugned order shows that it does not suffer from any of the infirmities that can be taken as a ground for revising the order passed by the Revenue Court. Though the application was made under Section 3(4)(a) of the Act, the Revenue Court has exercised its jurisdiction by invoking Section 3(4)(b) of the Act by directing the respondents/tenants to deposit a sum of Rs.5,000/- per year and total amount of Rs.75,000/- as arrears from 2000 to 2014 into Court within a month from the receipt of its order. As per provisions under Section 3(4)(b)(ii) of the Act, if the respondents/tenants failed to deposit the sum as directed, the Revenue Court shall pass an order for eviction. Therefore, no prejudice would be caused to the revision petitioner by the order passed by the



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Revenue Court. Hence, no infirmities found in the order passed by the Revenue Court for interference. Accordingly, this Civil Revision Petition is dismissed. No costs.

28.07.2023

Index : Yes/No
Internet : Yes
cp/vsn

To
The Revenue Court (South),
Villianur,
Puducherry.



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K.GOVINDARAJAN THILAKAVADI

cp/vsn

Pre-delivery order made in
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