



C.R.P.(NPD)No.3596 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.3596 of 2019
and C.M.P.No.23591 of 2019

1.C.Srinivasan
2.C.Govindarajan
3.C.Murali Mohan

.. Petitioners

Vs.

1.The Commissioner-cum-Estate Officer
Greater Chennai Corporation
Ripon Building, Park Town
Chennai-600 003.

2.The Deputy Commissioner Revenue and
Finance and Estate Officer
Greater Chennai Corporation
Ripon Building, Park Town
Chennai-600 003.

3.Zonal Officer
Zone-V, Greater Chennai Corporation
Chennai-600 003.

.. Respondents

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

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Constitution of India, against the judgment and decree dated 28.02.2019 made in C.M.A.No.61 of 2018 on the file of the Principal Court, City Civil Court, Chennai, confirming the proceedings No.LE4/3887 (A) 2000, dated 09.08.2018 on the file of the 2nd respondent.

For Petitioners : Mr.V.M.Ravishankar

For Respondent : Ms.K.Aswini Devi

ORDER

The civil revision petitioners are the purchasers of the superstructure from one Menta Andalammal. The said Menta Andalammal claimed that the property came to her by way of a WILL that had been executed in her favour. By way of a sale deed dated 12.09.1996, the shop was sold together with the lease hold rights on the land.

2. On coming to know of this fact, the Estate Officer-cum-Commissioner of the Corporation of Greater Chennai, issued a notice under Section 4 of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975 (hereinafter referred to as 'the Act').



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A reply was given by the petitioners stating that they have been in occupation of the property for more than 30 years and they do not have any alternate place to carry on their business and sought for dropping of the proceedings. After considering the reply, an order of eviction was passed in நி.ம.உ.து.ந.க. எண். எல்இ4/3887(எ)/2000, on 07.12.2009.

3. Aggrieved by the said order, an appeal was preferred in C.M.A.No.8 of 2010. In the said appeal, it was pointed out that the procedure that had been followed was improper and therefore, the order dated 07.12.2009 was set aside and the appeal was allowed granting liberty to the Corporation of Chennai to proceed in accordance with law.

4. Subsequently, a fresh proceeding was initiated by the Estate Officer, Corporation of Chennai by its proceedings in நி.ம.உ.து.ந.க. எண். எல்இ4/3887(எ)/2000, dated 09.10.2018. The Officer came to a conclusion that the petitioners are unauthorised occupants and were in default of a sum of Rs.1,33,871/-, therefore, he ordered eviction on 16.08.2018.



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5. Against the said order, C.M.A.No.61 of 2018 was preferred under Section 9(1) read with Section 9(6) of the Act 1 of 1976. The appeal came to be dismissed on 28.02.2019, as against which, the present revision has been preferred.

6. Heard Mr.V.M.Ravishankar, the learned counsel appearing for the petitioners and Ms.K.Asmini Devi, the learned counsel for the Corporation of Chennai. I have carefully gone through the records.

7. The argument of the learned counsel for the petitioners is that the Corporation is only the owner of the land and not that of the building. Therefore, he would rely upon the definition under Section 2(e) of the Public Premises Act to state that it can be applied only in a situation, where the land and building is owned by the Corporation.

8. I invited the learned counsel's attention to clause 2(d) of the definition, which states that “premises” not only includes land &



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building, but also includes land alone. Therefore, this puts a rest to the argument unless and until the land and building are owned by the Corporation, the provision will not apply. Section 2(d) read with Section 2(e) of the Act satisfies me even with respect to unauthorised occupation of the land also, eviction proceedings can ensue. Apart from this, the defence was not taken before the original authority or before the CMA in the first round of litigation. Neither was it taken before the authority in the second round of litigation. Therefore, I am not in a position to permit him to raise a new objection at the time of disposal of the revision. Nonetheless since the point has been raised, I have considered it and I am not in a position to accept the same.

9. The second point that the learned counsel for the petitioners would urge is that the Corporation of Chennai has failed to prove that the lease has come to an end. It is seen from the impugned order that the practice of leasing out the Corporation lands had been given up vide order of the Government in G.O.Ms.No.730, Rural Development and Local Authority, dated 14.04.1976. There is no proof that has been adduced by



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the civil revision petitioners that the lease that was originally granted in the year 1958 had been renewed. A perusal of the record shows that in the year 2001, the petitioners themselves had sought for regularisation of the lease. This implies that there was no lease as early as in 2001 and that is the reason why a request was made for regularisation of the same. In absence of any lease in favour of the petitioners, they become unauthorised occupants within the meaning of Section 2(g) of the Act 1 of 1976. Therefore, the petitioners being unauthorised occupants of the premises of a public authority namely, Greater Chennai Corporation, the order of eviction necessarily has to be upheld.

10. In view of the above, the order in C.M.A.No.61 of 2018 dated 28.02.2019 stands confirmed. The Civil Revision Petition stands dismissed. No costs.

11. After dismissal of the revision, the learned counsel for the petitioners would state that the superstructure belongs to them. It is



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always open to the civil revision petitioners to remove the superstructure and handover the vacant land to the respondents.

12. The learned counsel for the petitioners would further state that the petitioners are running business from 1996 in the area and would request time for eviction. On filing an undertaking affidavit on or before 01.09.2023 that they shall not let in any third party in possession of the property, time is granted till 28.02.2024. The arrears of rent if any, shall also be cleared. In case, affidavit of undertaking is not filed on or before 01.09.2023, the time granted by this Court shall stand vacated and the Corporation is free to take possession of the property following the procedure as per the Act 1 of 1976.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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V.LAKSHMINARAYANAN,J.

Kj

To

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Ripon Building, Park Town
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2.The Deputy Commissioner Revenue and
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4.The Principal Judge
City Civil Court, Chennai.

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