



WEB COPY



C.R.P.No.3204 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3204 of 2019
and C.M.P.No.20877 of 2019

1.Prem Devi
2.Bharath Singh

.. Petitioners

vs

1.K.C.S.C.Balakrishnan(died)
2.B.Nagamani
3.B.Jayakumar
4.Meena Kumari

(R2 – R4 brought on record
vide order dated 20.07.2023)

.. Respondents

Petition filed under Article 227 of the Constitution of India to set aside the impugned fair and decreetal order dated 30.08.2019 passed in IA No.1/2019 in OS No.2600 of 2016 on the file of XV Additional Judge, City Civil Court at Chennai.

For Petitioners : Mr.K.Mukund Rao

For Respondents : Mr.R.Krishnaswamy

ORDER

I.A.No 1 of 2019 in O.S.No.2600 of 2016 has been filed for rejection of plaint.



C.R.P.No.3204 of 2019

2. O.S.No.2600 of 2016 is a suit for recovery of money for a sum of Rs.10,86,156/-. The claim is based on the rent control decree. It is the admitted case that the father of the civil revision petitioner was a tenant under the respondent.

3. Since the agreed rent paid to the land lord is not a fair rent, R.C.O.P.No. 1861 of 2012 was filed before the X Small Causes Court at Chennai. The fair rent was fixed at Rs.52965/- per month. On 05.10.2014, the father of the civil revision petitioner vacated and handed over the possession. Therefore, from the period of filing the RCOP till the date of vacating the premises, according to the plaintiffs, the defendant is liable to pay the fair rent.

4. Pending proceedings, the sole defendant died and his legal representatives were brought on record. They took out an application under Order VII Rule 11 of CPC. According to them, Section 6 of the Hindu Succession Act, had undergone amendment in the year 2005, removing the concept of "pious obligation" and hence the legal representatives of the deceased defendant are not liable to pay the amount. The petition was dismissed, against which, the present petition has been presented.



C.R.P.No.3204 of 2019

WEB COPY

5. The concept of pious obligation arises when the son pays the money on behalf of the father from and out of his earnings. That is, the son is answerable to the debts incurred by his father as the pious obligation from his own funds and it applies only to ancestral properties. Here is a case where the father is the judgment debtor. Having failed to pay the difference between the agreed rent and fair rent, the suit has been presented. The legal representatives of the deceased defendant are answerable to the debt to the extent to which the property of the deceased had come into their hands.

6. The judgment cited by learned counsel for the petitioner in the case of *Keshav Nandan Sahay and Ors v The Bank of Behar* (AIR 1977 Pat 185) in fact goes against the civil revision petitioner because in that case the Court had held that sons are liable for the debts incurred by the father.

7. The other judgment cited by learned counsel for the petitioner in the case of *Solairaj v Vijayarani and others* CRP (PD) (MD) No. 575 of 2018 arose in the context of a joint family liability, which does not arise here. It is not the case of the plaintiffs that



C.R.P.No.3204 of 2019

the deceased defendant and the sons were living in joint family.

WEB COPY

8. This is a simple suit for recovery of money for difference between the fair rent and agreed rent. Under such circumstances, the question of importing the principle of amended Section 6 of the Hindu Succession Act does not arise at all. A reading of the plaint does not show that the plaint is barred. Therefore, civil revision petition is dismissed. No costs. Connected miscellaneous petition is closed.

20.07.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

The XV Additional Judge, City Civil Court at Chennai.



WEB COPY



C.R.P.No.3204 of 2019

V. LAKSHMINARAYANAN,J.

ssm

C.R.P.No.3204 of 2019

20.07.2023