



CRP(MD).NO.352 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).Nos.352, 130 and 386 of 2023

and

C.M.P(MD).No.1709 of 2023

C.R.P(MD).No.352 of 2023

Ilangoan

...Petitioner/Petitioner/Landlord

Vs.

Basheer Ahmed (died)

1.Faritha Begum

2.Bala Subramaniyan

3.Poongothai

4.Susila

... Respondents/Respondents/Tenant

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the order in I.A.No.49 of 2022 in R.C.O.P.No.24 of 2004 on the file of the Principal District Court, Dindigul and dated 17.11.2022.

For Petitioner : Mr.S.A.Ajmal Khan

For Respondents : Mr.R.J.Karthick (for R3)

C.R.P(MD).No.130 of 2023

D.Susila

...Petitioner/Petitioner/3rd Respondent

Vs.



CRP(MD).NO.352 of 2023

Basheer Ahmed (died)

1.Faritha Begum

2.Bala Subramaniyan

3.Poongothai

... Nil/1st Respondent/1st Respondent

... Respondents 1 to 3 /Respondents 2
to 4/Respondents 2 to 4

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal orders dated 17.11.2022 made in I.A.No.13 of 2022 in R.C.O.P.No.24 of 2004 on the file of the Principal District Court, Dindigul.

For Petitioner : Mr.V.George Raja
For Respondents : Mr.P.Pethurajaesh (for R2)
Mr.A.Nawazkhan (for R3)
No appearance (for R1)

C.R.P(MD).No.386 of 2023

Bala Subramaniyan

...Petitioner/Petitioner/Landlord

Vs.

Basheer Ahmed (died)

1.Faritha Begum

2.Poongothai

3.Susila

... Respondents/Respondents/Tenant

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the order in I.A.No.14 of 2022 in R.C.O.P.No.24 of 2004 on the file of the Principal District Court, Dindigul and dated 17.11.2022.

For Petitioner : Mr.P.Pethu Rajesh
For Respondents : Mr.R.J.Karthick (for R3)



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COMMON ORDER

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All the three revision petitions have been filed by three competing landlords challenging the orders passed by the Rent Controller, under which, the Rent Controller had dismissed their respective applications for payment out of the rental arrears deposited by the tenant.

2. It is admitted by all the parties one Palaniyappa Nadar is the absolute owner of the disputed property. During his lifetime, one Basheer Ahmed had become the tenant of the property. After the death of Palaniyappa Nadar, one Balasubramanian claimed title to the property on the basis of a registered Will dated 28.06.2000 said to have been executed by the deceased Palaniyappa Nadar. On the basis of the said registered Will, Balasubramanian is said to have executed a registered sale deed in favour of one Ilangovan on 02.08.2016.

3. The sons of Balasubramanian claimed that Palaniyappa Nadar had executed an un-registered Will on 18.06.2001. Some of the sons of Balasubramanian are said to have executed a settlement deed in favour of one Poongothai based upon the said un-registered Will in the year 2002. The said Poongothai is said to have executed two registered



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sale deeds in favour of one Susila dated 14.11.2005 and 18.11.2005.

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4. The tenant/Basheer Ahmed, after the death of Palaniyappa Nadar, found it difficult to identify the landlord and filed RCOP.No.24 of 2004 on the file of the Principal District Munsif Court, Dindigul, under Section 8 of the Tamil Nadu Buildings (Lease and Rent Control) Act for depositing the amount. The Rent Controller had arrived at a finding that there is a dispute with regard to the title of all the respondents and allowed the application of the tenant and permitted him to deposit the rent. This order of the Rent Controller was not challenged by any one of the respondents in the said RCOP. Based upon the RCOP order, the tenant was continuously depositing the rent in the Rent Control Proceedings

5.The said Balasubramanian had filed I.A.No.14 of 2022, Ilangovan has filed I.A.No.49 of 2022 and Susila had filed I.A.No.13 of 2022 seeking the permission of the Court to withdraw the rental amount deposited by the tenant. According to the Balasubramanian, the rental arrears has been deposited from the year 2004 onwards and he is entitled to the rental arrears up to the date of his sale in favour of Ilangovan in



the year 2016. The said Ilangovan had claimed the rental arrears from 02.08.2016 onwards. Susila had claimed entire rental arrears on the basis of un-registered Will dated 18.06.2001. After considering all the three applications, the Rent Controller had arrived at a finding that there is a serious title dispute among the three parties and the same has to be resolved only before the trial Court. On the said findings, all the three applications were dismissed. Challenging the said orders, the above three revision petitions have been filed.

6. The learned counsel for the Balasubramanian had contended that he is having title to the property on the basis of the registered Will dated 28.06.2000 executed by the original owner namely Palaniyappa Nadar.

7. The learned counsel appearing for the Ilangovan had contended that he had purchased the property from the said Balasubramanian by way of a registered sale deed dated 02.08.2016.

8. The learned counsel appearing for Susila had contended that the said Balasubramanian had filed O.S.No.33 of 2016 on the file of the Principal Subordinate Court, Dindigul, as against Poongothai, Susila Ilangovan and three others for the relief of declaration that the



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un-registered Will dated 18.06.2001 is null and void and for a permanent injunction. However, the said Balasubramanian had chosen to not press the said suit on 15.09.2021. Therefore, as on today, there is no dispute with regard to the title of his client namely Susila and hence, he prayed for allowing C.R.P(MD).No.138 of 2023 filed by Susila.

9.I have carefully considered the submissions made on either side and perused the materials available on record.

10.The narration of the aforesaid facts clearly indicates that there are two sets of competing landlords one claiming title under registered Will dated 28.06.2000 and the other claiming under an un-registered Will 18.06.2001. The validity and genuineness of both the Wills have to be decided only by a competent civil Court after letting in proper evidence. Therefore, the Rent Controller was right in dismissing all the applications and relegating the parties to the civil Court.

11. I do not find any illegality or infirmity in the orders passed by the Rent Controller. In case, if any civil suit is filed by the parties, the same shall be decided on merits and in accordance with law without



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being influenced by any one of the observations made by the Rent Controller or by this Court in the present revision petitions.

12. With the above observations, these Civil Revision Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

16.02.2023

NCC : Yes / No
Index : Yes / No
Rmk/msa

To
1. The Principal District Judge, Dindigul.



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R.VIJAYAKUMAR ,J.,

Rmk/msa

Order made in
CRP(MD).Nos.352, 130 and 386 of 2023

Dated:
16.02.2023