



CRP (MD) No.1116 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved on	25.07.2023
Pronounced on	17 .11.2023

CORAM

THE HON'BLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P.(MD) No.1116 of 2021
and
C.M.P.(MD) No.6522 of 2021

A.Palani Mudaliar (died)

1.P.Murugesan

2.P.Sethuammal

...Petitioners/
Tenants

Versus

Tuticorin Nagarathar Viduthi Trust,
Through its Hereditary Trustee,
P.R.Ramanathan,
S/o.Periya Karuppan Chettiar,
No.24/12, T.K.R.Street,
Kanadukathan,
Sivagangai District.

... Respondent/
Landlord

Prayer: The Civil Revision Petition is filed under Section 25 of the Tamil

1/13



CRP (MD) No.1116 of 2021

Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the Fair and Decretal order dated 24.01.2019 passed in R.C.A.No.18 of 2014 on the file of the Subordinate Judge (Rent Control Appellate Authority), Thoothukudi, confirming the Fair and Decretal order dated 12.03.2014 passed in R.C.O.P.No.25 of 2011 on the file of the Principal District Munsif (Rent Controller), Thoothukudi and allow the present Civil Revision Petition.

For Appellants : Mr.K.Gokul
For Respondent : Mr.M.P.Senthil

ORDER

This Civil Revision Petition is preferred against the fair and decretal order dated 24.01.2019 in R.C.A.No.18 of 2014 on the file of the learned Sub Judge (Rent Control Appellate Authority), Thoothukudi.

2. According to the revision petitioners, the respondent herein filed R.C.O.P.No.25 of 2011 before the learned Principal District Munsif (Rent Controller), Thoothukudi, for eviction.

3. The revision petitioners would submit that there is no tenant and landlord relationship between the revision petitioners and the respondent.



Therefore, the maintainability of the above petition has to be decided primarily. It is submitted that there is title dispute between the parties and the respondent himself in his evidence, has admitted that there is dispute with regard to the title of the petition property and therefore, the learned Rent Controller has erroneously proceeded with the eviction proceedings before the title dispute is decided.

4. It is further submitted that the condition of the building was not established by appointing an Advocate Commissioner. It is further submitted that the Courts below failed to take note of the fact that the members of the Trust were not authorised or nominated to verify and file the petition for eviction. Since the Courts below have not properly appreciated the matter in dispute, the fair and decretal order passed by the Courts below are liable to be set aside.

5. The learned counsel appearing for the petitioners would submit that the Court below, in spite of categorical admission made by the revision petitioners with regard to the title dispute, has erroneously proceeded with the



eviction proceedings. Hence, the orders passed by the Courts below are liable to be set aside.

6. The learned counsel appearing for the revision petitioners would submit that the schedule premises absolutely belong to the revision petitioners by ancestrally. It is submitted that originally, the schedule property belonged to the 1st revision petitioner's grand-father and after his demise, his father Arumugam Mudaliar was enjoying the property, without any disturbance. After the death of his father, his mother was enjoying the property by paying property tax, electricity charges to the Government. While so, the mother of the 1st revision petitioner, namely Lakshmi Ammal, executed a registered Will dated 08.06.1992 in favour of the 1st revision petitioner. Thereafter, the 1st revision petitioner is enjoying the schedule mentioned property, as its owner for the past 50 years by paying property tax to the Municipality, Thoothukudi by getting patta in his name from Taluk Office, Thoothukudi.

7. It is further submitted that the petition mentioned property is in good condition and well maintained by the revision petitioners as they are the



CRP (MD) No.1116 of 2021

owners of the schedule premises. Hence, there is no such relationship of landlord and tenant between the revision petitioners and the respondent. However, the trial Court, without taking into consideration the above facts, erroneously passed the order of eviction against the revision petitioners, which is liable to be set aside.

8. On the other hand, the learned counsel appearing for the respondent would contend that the petition mentioned property is a residential building and the same belong to the respondent, which is a private Trust. The said building is very old and has upstairs wherein the respondent has placed the pictures of Hindu deities. The 1st revision petitioner's mother Lakshmi Ammal was the tenant in the said premises from the year 1980 by paying rent of Rs.7/- per month and she was asked to perform pooja for the deities placed in the upstairs of the schedule premises. After her death, her son, the 1st revision petitioner, continued the tenancy and is performing the pooja for the deities.

9. The learned counsel appearing for the respondent would further



contend that the revisional Court is not entitled to re-appreciate the evidence and substitute its own conclusion in the place of conclusion of the appellate authority. He would further contend that the Hon'ble Supreme Court in ***Rukmini Amma Saradamma Vs. Kallyani Sulochana [(1993) 1 SCC 499]*** and in ***Ram Dass Vs. Ishwar Chander [1988 (3) SCC 131]***, had emphasised that in dealing with the findings of fact, the examination of findings of fact by the High Court is limited to satisfy itself that the decision is according to law. Therefore, the revisional Court cannot re-appreciate the evidence to come to a different conclusion. But, its consideration of evidence is confined to find out the legality, regularity and propriety of the order impugned before it.

10. In the present case, there is no illegality or irregularity in the order passed by the Courts below for re-appreciating the evidence. He would further contend that the age and condition of building is not *sine quo non* to order eviction or grant of demolition and reconstruction. The intention of the landlord to utilise the property for optimum purpose to earn more income is relevant factor for bonafide requirement. Therefore, the contention of the revision petitioners that the respondent failed to prove the condition of the



building is unsustainable.

WEB COPY

11. To support his contention, he has relied upon the decisions of the following judgments:-

- 1. Venugopal, S. Vs. A.Karruppusami [2006 (2) CTC 615]***
- 2. Mariammal Vs. Narayanan reported in [2015 (4) CTC 403]***
- 3. Hindustan Petroleum Corporation Limited Vs. Dilbahar Singh reported in [(2014) 9 SCC 78]***

12. It is further submitted that the building was used as Chatiram for the Nattukottai Nagarathar community people, who come from various places in and out of Tamil Nadu. It is further submitted that the schedule building is more than 100 years old and it is built of coral stone and lime mortar, with old Madras terrace roofing partly and tiled roofing partly. There are heavy cracks in the building. The community people made a representation to the Hereditary Trustee to remodel the premises for their convenient usage. Hence, it is decided by the respondent Trust to remodel the premises as per the plan and a letter was also forwarded to the revision petitioners on 31.12.2010 to vacate the premises before the end of January 2011 to facilitate them to renovate the schedule premises. The



revision petitioners, after receiving the letter, sent a reply on 24.01.2011, in which, they have taken a stand that the schedule premises belong to them on the basis of the Will alleged to have been executed by late Lakshmi Ammal in favour of 1st revision petitioner and they are not tenant under the respondent. Hence, the respondent was constrained to file the above petition for eviction, since the building is required for demolition and reconstruction.

13. It is further submitted that the respondent is having sufficient fund to carry out the construction work and would complete the work within a period of three months from the date it recovers possession of the entire building from the revision petitioners.

14. Heard learned counsel on both sides and perused the materials on record.

15. The respondent, as landlord, filed the above petition in R.C.O.P.No.25 of 2011 before the learned Principal District Munsif, Rent Controller, Thoothukudi to direct the revision petitioners to vacate the



petition schedule premises and handover the same for demolition and reconstruction.

16. According to the respondent, the revision petitioners' mother, namely Lakshmi Ammal was inducted as a tenant in the said premises in the year 1980, on a monthly rent at the rate of Rs.7/- and was requested to perform pooja for the deities placed in the upstairs of the schedule properties. After her death, the 1st revision petitioner continued the tenancy and performing the pooja for the dietes. Since the building was 100 years old and the Nattukottai Nagarathar community people were using the premises as Chatiram while visiting Tuticorin and Tiruchendur, gave representation to the hereditary trustee to remodel the premises for their convenient usage. Hence, the respondent Trust decided to demolish and reconstruct the building and sent a letter to the revision petitioners to vacate the premises for the requirements of the respondent.

17. However, the revision petitioners sent a reply notice to the respondent stating that the petition premises belong to them ancestrally and



there is no tenant and landlord relationship between the petitioners and the respondent. Hence, the respondent Trust was constrained to file the above petition for eviction.

18. Now, it is to be considered whether the 1st revision petitioner's mother Lakshmi Ammal, occupied the petition premises as a tenant. To support the contention of the respondent Ex.P15 was produced. The [Ex.P15](#), the rent receipt issued to the said Lakshmi Ammal is produced as evidence, in which the name of the Lakshmi Ammal is mentioned as tenant. Moreover, the documents marked on their side as Ex.P2 to Ex.P4 and Ex.P11 to Ex.P14, which are the revenue documents in the name of the respondent Trust, would establish the title and right over the schedule property in favour of the respondent Trust. Above all, a reply notice sent by Lakshmi Ammal marked as Ex.P10, would reveal that the revision petitioners mother was inducted as tenant in the petition premises in the year 1980 onwards. In view of the categorical admission of Lakshmi Ammal that she and her husband came to suit property on the basis of rental agreement and agreed to pay sum of Rs.7 per month. The denial of the title by the revision petitioners cannot be



CRP (MD) No.1116 of 2021

accepted. The trial Court has rightly held that the respondent claimed the property for demolition and reconstruction and the same cannot be restricted by the tenants. The appellate authority considered the oral documentary evidence and rightly found that the respondent Trust is entitled for the relief claimed in the petition. The respondent had established his case for eviction and the authorities below are correct in ordering the eviction, which does not require any interference.

19. The learned counsel appearing for the respondent rightly pointed out that this Court, as revisional Court, is not entitled to re-appreciate the evidence unless order passed by the Court below suffers any illegality. No such illegality or irregularity is found in the orders passed by the Courts below. The revenue records on the side of the revision petitioners can only establish their possession in their suit property and they cannot claim any right to ownership over the petition schedule property.

20. Accordingly, this Civil Revision Petition is dismissed. Since the revision petitioners as tenants had been in the premises for several years, this



CRP (MD) No.1116 of 2021

Court is inclined to grant three months time, to vacate the premises, from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

17. 11.2023

mac

Index:Yes/No

Speaking Order : Yes/No

To

1. The Rent Control Appellate Authority, Thoothukudi.
2. The Principal District Munsif (Rent Controller), Thoothukudi.



WEB COPY



CRP (MD) No.1116 of 2021

K.GOVINDARAJAN THILAKAVADI,J.

mac

Order MADE IN

C.R.P.(MD) No.1116 of 2021
and
C.M.P.(MD) No.6522 of 2021

17.11.2023