



C.R.P.(MD).Nos.1787 to 1792 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on :17.11.2023

Delivered on: 01.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P.(MD)Nos.1787 to 1792 of 2019

and

C.M.P.(MD)Nos.9218 to 9221 of 2019, 9223, 9225, 9227 to 9232 of 2019

C.R.P.(MD)No.1787 of 2019

A.P.I.Badusha

... Petitioner /Respondent /
Petitioner - Landlord

Vs.

Gurusamy

... Respondent / Appellant /
Respondent - Tenant

Prayer:-Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, as amended Act XXIII of 1973 and Act 1 of 1980, against the fair and decretal order of the Rent Control Appellate Authority – Principal Sub Judge, Tenkasi, in R.C.A.No. 9 of 2017, dated 06.08.2019, reversing the fair and decretal order of the Rent Controller – Principal District Munsif, Tenkasi, in R.C.O.P.No.17 of 2015, dated 06.07.2017.

For Petitioner : Mr.D.Srinivasaragavan

For Respondent : Mr.H.Arumugam



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COMMON ORDER

The revision petitioner is the unsuccessful landlord, who approached the Rent Controller for evicting the tenants / respondents in these Civil Revision Petitions, claiming that he was the owner of the petition mentioned premises and based on the settlement made by his father and that when he called upon the tenants to pay rents to him, the tenants denied his title and therefore, the revision petitioner filed R.C.O.Ps, against the tenants on the ground of denial of title as well as own use and occupation.

2. The tenants resisted the said eviction action on the ground that there was no landlord and tenant relationship between them and they have been paying rents promptly to the brother of the revision petitioner, who was their own landlord. It is also further stated that there is a dispute between the brothers with regard to the ownership of the petition premises and in such circumstances, the petitioner cannot choose to evict the respondents / tenants unilaterally and arbitrarily.



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3. Before the Rent Controller, the landlord examined himself as P.W.1 and one Ismail was examined as P.W.2 and 4 documents were marked as Ex.P1 to Ex.P4, on the side of the petitioner / landlord. On the side of the respondent / tenant, the tenant himself examined as R.W.1 and one Mohaideen, examined as R.W.2 and 2 documents were marked as Ex.R1 and Ex.R2 in all the R.C.O.Ps.

4. The Rent Controller relied on the evidence of P.W.2, the father of the revision petitioner and ordered eviction holding that the petitioner was the owner of the property and was consequently, entitled to receive rents. The Rent Controller also rendered a finding that even after the filing of the R.C.O.P, the respondent has not paid the rent or deposited the rent before the Court and a case of default in payment of rents was made out.

5. The said order of eviction was challenged by the tenants, by way of Rent Control Appeals on the ground that the Rent Controller has failed to even address the alleged grounds of wilful default in payment and also own requirement use and for occupation and merely found that the revision petitioner was the owner, having become entitled to the petition



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premises, pursuant to the settlement deed executed by his father.

6. The Rent Control Appellate Authority after discussing the rival contentions and assessing the oral and documentary evidence, found that there was no landlord tenant relationship between the revision petitioner and the respondents and also took note of the evidence of P.W.1 that all the tenants are paying rents to his brother. The Rent Control Appellate Authority, therefore, reversed the finding of the Rent Controller and dismissed the eviction petitions.

7. Aggrieved by the dismissal of the eviction petition by the Appellate Authority, the revision petitioner has challenged the same and the present Revisions have been filed on the grounds that when Ex.P1 clearly demonstrated that the revision petitioner was the owner of the property, the respondents cannot have any right to remain in the property against the will of the revision petitioner; the Appellate Authority erroneously had non-suited the revision petitioner on the ground that disputes regarding title were at large in O.S.No.163 of 2016 between the petitioner and the petitioner's brother; the findings of the Appellate Authority rejecting the claim of the revision petitioner on the ground of



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owner's occupation was also unjustified. Citing all these grounds, the revision petitioner sought for all the revisions being allowed.

8. I have heard Mr.D.Srinivasaragavan, learned counsel for the revision petitioner / landlord and Mr.H.Arumugam, learned counsel for the respondents / tenants in all the Civil Revision Petitions.

9. The learned counsel for the revision petitioner would submit that the Rent Controller had passed a considered order placing reliance, rightly on the evidence of P.W.2, father of the revision petitioner, who categorically stated that he had executed a settlement deed in favour of the revision petitioner. He would further contend that the respondents /tenants have no right to pay rents to the brother of the petitioner and having denied the petitioner's title in the reply notice, the revision petitioner was wholly justified to approach the Rent Controller, seeking eviction and also succeed.

10. Per contra, Mr.H.Arumugam, learned counsel for the respondents / tenants would submit that the tenants have been promptly paying the rents to the brother of the petitioner, without any default and



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at no point of time, they have paid rent to the revision petitioner. The R.C.O.Ps were not clearly maintainable and the denial of the landlord's right was *bonafide* and therefore, he prayed for revisions to be dismissed.

11. I have gone through the pleadings as well as the oral evidence and documents filed before the Rent Controller. I have also gone through the order of the Rent Controller and judgment of the Appellate Authority.

12. No doubt, the father of the revision petitioner has been examined as P.W.2 and he has stated that the property has been settled on the revision petitioner. It is also not in dispute that prior to the said settlement, the tenants were all paying rents only to the brother of the revision petitioner, who was examined as R.W.2. R.W.2 has confirmed the version of the respondents/tenants that they are paying rents to him without any default. In fact, the revision petitioner himself in cross examination has categorically admitted that all the tenants are pay rents only to his brother, viz., R.W.2 and that at no point of time, the respondents/tenants have paid any rent to the revision petitioner.



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13. The basis requirement for maintaining a Rent Control Original Petition invoking the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, Act 18 of 1960 is the existence of a jural relationship of landlord and tenant. In the absence of such a jural relationship of landlord and tenant, no party can approach the Rent Controller and seek benefit of any of the provisions of the said Act. In the instant case, though the revision petitioner claims to be the owner of the petition mentioned premises, which is also admittedly under cloud and the matter is pending in the civil Court, where the petitioner and his brother were battling out their respective claims to the right and title to the petition mentioned premises, there is absolutely no iota of evidence adduced by the revision petitioner that as a landlord, he is entitled to receive rent. It is not the case of the revision petitioner that the respondents had altered tenancy in his favour and thereafter, denied the title and committed default in payment of rents. It is his specific evidence that the rents were paid to the brother of the revision petitioner and not even once rents were paid to him. In such circumstances, when a notice was issued by the revision petitioner calling upon the respondents to vacate the property, pursuant to the



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settlement in his favour, the tenants have replied saying they have paid rents promptly and without any default to the brother of the revision petitioner, viz. R.W.2.

14. The revision petitioner was not entitled to approach the Rent Controller and seek eviction on the ground of denial of title and own occupation. The burden of establishing the jural relationship between the landlord and the tenant exists only upon the revision petitioner / landlord, especially, in the light of the specific stand taken by the tenants at the earliest point of time, viz., reply notice. Despite such stand, the revision petitioner apart from examining the father, has not been able to satisfy the Court that he is a landlord within the definition of Section 2 (6) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, Act 18 of 1960. When the evidence of P.W.2 is pitted against the brother-R.W.2's evidence, the petitioner cannot take any undue advantage from the mere fact that the father supported him and entered the witness box and spoke about the settlement deed. Ownership of the property is entirely different from the concept of "landlord". In the instant case, the revision petitioner may be the owner of the petition mentioned premises, but in order to claim



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himself to the landlord, he would have to necessarily satisfy the condition stipulated in the definition clause, viz., Section 2(6) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

15. The Appellate Authority has rightly considered all these aspects and come to the conclusion that the revision petitioner has failed to establish the landlord and tenant relationship and consequently, he is not entitled to eviction on the ground of denial of title or on the ground of *bonafide* own use and occupation. The Appellate Authority also found that the landlord has stated that there is no rental agreement between himself and the respondents/ tenants. As already pointed out, the revision petitioner himself admitted in cross examination that he has not collected even one month's rent and the tenants have all been paying the rents only to his brother. The denial of title by the tenants, therefore cannot be said to be *malafide*.

16. I do not see any grounds warranting interference with the findings of the Rent Control Appellate Authority. Hence, all these Civil Revision Petitions are dismissed. There shall be no order as to costs.



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Consequently, connected Miscellaneous Petitions are closed.

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Internet : Yes

01.12.2023

Index:Yes/No

Neutral Citation:Yes/No

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To

1. The Rent Control Appellate Authority

Principal Sub Judge,

Tenkasi.



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P.B.BALAJI,J.

Ls

2. The Rent Controller/Principal District Munsif,
Tenkasi.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

order in
C.R.P.(MD)Nos.1787 to 1792 of 2019

01.12.2023