



CRP.Nos.1773 & 1775 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD).Nos.1773 & 1775 of 2024
and C.M.P.Nos.9363 & 9370 of 2024

A.Mohandoss

.. Petitioner in both CRPs

Versus

1.Manju Bai

2.P.Vikash Kumar

.. Respondents in both CRPs

Common Prayer:- Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 07.02.2024 passed in RCA.Nos.11 and 12 of 2022 on the file of learned IX Judge, Small Causes Court, Chennai and the fair and decretal order dated 30.11.2021 passed in RCOP.Nos.1317 & 1318 of 2015 by the learned Rent Controller, XIII Judge, Small Causes Court, Chennai and dismiss the petition in RCOP.Nos.1317 & 1318 of 2015.

In both CRPs

For Petitioner : Mr.G.S.Mani

For Respondent : Mr.H.Kushal Kumar Sancheti



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COMMON ORDER

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Challenging the concurrent finding of the learned Rent Control Appellate Authority as well as the original order of the Rent Controller ordering eviction on the ground of wilful default and owners occupation, these Revisions are filed.

2. Brief facts leading to filing of these revisions are follows:

2.a. RCOP Nos.1317 of 2015 and 1318 of 2015 were filed against the petitioner herein under Sections 10 (3) (a) (iii) and 10 (2) (iii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 with respect to the first floor; second floor and ground floor portion of the property respectively at Choolaimedu, Chennai.

2.b.The revision petitioner is an advocate by profession was inducted as tenant by one Parsanchand who is the husband of the first respondent and father of the 2nd respondent in respect of ground and second floor on 15.11.2006 for monthly rent of Rs.6050/- and Rs.50,000/- as security deposit. Subsequently, first floor was let out to him for a rent of Rs.5,500/- and Rs.45,000/- as security deposit, totalling rent of sum of Rs.11,500/- of all the floors. The said Parsanchand died on 07.04.2009. On 08.01.2014,



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the legal heirs of the deceased Parsanchand executed a release deed dated 08.01.2014 relinquishing their share of the petition property in favour of the 2nd respondent. After his death, the second respondent was receiving the rent for premises from the respondent till January 2015. The second respondent by letter dated 19.02.2015 requested the revision petitioner to pay the rents from February 2015 onwards to him and also requested to handover the vacant possession of the scheduled property to him since the same is required for his own use and occupation as 2nd respondent intends to shift his residence and business to Chennai from Tiruttani. However, by letter dated 03.03.2015, the revision petitioner had denied the allegations and has not paid the rents from February 2015 and committed wilful default.

2.c.Further, it is the case of the second respondent that the petitioner has committed acts of waste in the first and second floor portion by doing changes without written permission or consent of the second respondent. It is also stated that the the second respondent do not own any other immovable property in Chennai other than the premises let out to revision petitioner. Therefore, the above RCOPs were filed on the ground of wilful



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default, own occupation and the tenant has committed acts of waste.

2.d. It was the contention of the revision petitioner in the counter that the landlord and tenant relationship does not exist between the petitioner and the respondent. The revision petitioner was inducted as a tenant by one Parsanchand in respect of all the floors in the subject property. Further, the death of the landlord was not brought to the notice of the petitioner until 19.02.2015, the material particulars of change to the building portions occupied by the revision petitioner have not been given by the respondents. There are other legal heirs of late Parsanchand besides the respondents. There is a bonafide dispute and doubt as to who should receive the rent. The petitioner has sent rent by cheque drawn only in the name of Parsanchand and the same has been stated at the back of every single cheque presented every month as rental payments. Now, the respondents have altered the names found in the cheque by inserting the names of the 1st respondent and wife of the second respondent. The revision petitioner is not aware of the release deed dated 08.01.2024, the respondents have not chosen to explain how the landlord's wife can collect the rent from the tenants after the execution of the release deed.



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2.e. The second respondent is running a well established business in Tiruttani for the last 25 years, besides, owns several house properties and shops at Tiruttani and Chennai. No reason is given for shifting the residence and business from Tiruttani to Chennai particularly when the proposed shifting will adversely affect his business interest carried on Tiruttani and his customers at Tiruttani.

2.f. Further, the revision petitioner with great difficulty is successfully carrying on his profession as an advocate for the past 15 years, in the event of his eviction, he will be ruined since the interest of his client will suffer. Alternative accommodation is also not available in Chennai. There will be fall in his income and balance of convenience is in his favour. The respondents have no bonafide need to occupy the building and premises let out to the revision petitioner, the respondents intend to convert the said building into number of shops and let it out to numerous tenants to collect huge pagadi and rent from them. The second respondent is carrying on his personal capacity and as partner in number of trade as jewellers, pawn broker, goldsmith, financier and money lender in Chennai and Tiruttani



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and also owns several properties in his name and through his benami at Chennai, Kancheepuram and Tiruttani. It is the further contention that the landlord in his lifetime had entered into a sale agreement dated 05.09.2007 with the revision petitioner agreeing to sell the property. The respondents wantonly suppressed the said agreement and had misled the Court by filing RCOPs.

2.g. In the additional counter, the revision petitioner had stated that in September 2003, the petitioner has become the tenant to the entire ground floor and entire second floor portions on a monthly rent of Rs.5,500/- and tenancy agreement was entered on 15.05.2004 by paying Rs.50,000/- as advance. On 15.05.2004, another tenancy agreement was entered into between Parsanchand and the petitioner in which the first floor was let out on a monthly rent of Rs.6050/- and rental advance of Rs.45000/-. Later the above tenancy agreement were renewed by way of two agreements dated 15.11.2006 and 19.05.2007 and the petitioner was paying monthly rents of Rs.11,550/-. The revision petitioner who is a practising advocate is having his office and is residing with his family in the entire property.

2.h. It is the contention that at the request of the landlord, the



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tenant/revision petitioner has carried out repair and renovation works in the suit property. On 05.09.2007, a sale agreement was entered into between the landlord and the tenant for the sale consideration of Rs.25,21,954/- and an amount of Rs.3,25,000/- by cash was paid towards advance. The landlord valued the works carried out by the petitioner to Rs.8,34,000/- and treated the rental advances and advance amount as advance towards total sale consideration leaving a balance of Rs.12,67,954/- which has to be paid by the petitioner at the time of execution of the sale deed. Though the petitioner was ready to pay the balance sale consideration within one month from the date of the sale agreement, however, the landlord informed the petitioner that he is the absolute owner, he wants to sell with the consent of his family members and make them join in execution of sale deed as his relationship with his family members is already strained. Therefore, no specific time-limit was fixed in the said agreement for execution in favour of the petitioner.

2.i. Later, the revision petitioner received a letter dated 19.02.2015 from the second respondent contending that he is the son of the landlord and other legal heirs had executed a release deed in his favour and the



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second respondent is the absolute owner of the property. Subsequently, the revision petitioner issued legal notice dated 10.03.2017 to the second respondent calling upon him to execute sale deed in favour of the petitioner and thereafter, the revision petitioner has filed a suit in C.S.No.266 of 2017 against the second respondent for relief of specific performance and permanent injunction. Hence, there is no landlord/tenant relationship between the respondents and the revision petitioner. The revision is in the possession of the property under the capacity of the agreement holder under Section 53-A of Transfer of Property Act and sought for dismissal of the RCOPs. Since the petitioner had paid half of the agreed sale consideration he cannot continue to pay rent endlessly owing to failure on the part of the landlord and the first respondent to execute sale deed in favour of the petitioner. The petitioner paid an additional sum of Rs.3,00,000/- to the second respondent, pursuant to the order of this Court in O.S.A.Nos.127 to 129 of 2017 which has to be adjusted towards balance sale consideration. It is also denied there is act of waste. The property at the very next door to the petition property is owned by the second respondent herein. The second respondent is running jewellery business under the name of Jain jewellery. Hence, prayed for dismissal of RCOPs.



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2.j. On the basis of the above pleadings in both RCOPs, following points were framed by the learned Rent Controller:

- i). Whether jural relationship of landlord and tenant exists between the parties?
- ii). Whether this petition filed for eviction against the respondent under the grounds of wilful default is to be allowed?
- iii). Whether this petition filed for eviction against the respondent under the grounds of acts of waste is to be allowed?
- iv). Whether this petition filed for eviction against the respondent under the grounds of own use and occupation is to be allowed?

2.k. Before the learned Rent Controller, on the side of the revision petitioner, no oral and documentary evidence adduced. On the side of the respondents, the second respondent was examined as PW1 and Ex.P1 to Ex. P11 were marked. Ex.P1 & Ex.P2 were rejected vide order dated 10.10.2018 in MP No.363/2018.

2.l. The learned rent controller upon consideration of the oral and



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documentary evidences placed on record allowed the petition by order dated 30.11.2021 on the ground of wilful default and own occupation, however, dismissed the petition on the grounds of acts of waste. Aggrieved by the order, the revision petitioner has preferred RCA Nos.11 and 12 of 2022 as against the eviction on the ground of wilful default and own occupation. The respondents have preferred RCA No.25 and 26/2022 as against the dismissal on the ground of act of waste. The first appellate authority dismissed the appeals filed by both the petitioner and the respondents and confirmed the order passed in RCOP.Nos.1317 and 1318 of 2015. Challenging the orders, these civil revision petitions.

3. As the facts narrated above though two RCOPs filed based on two different agreements in respect of first floor; second and ground floor, this Court is of the view that both the CRPs can be disposed of by way of common order.

4. The main ground of challenge by the revision petitioner as against the impugned orders is that he was not given proper opportunity to put forth his defence to contest the RCOPs on merits by cross-examining PW1



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and adducing evidence. The matter has been decided in favour of the respondents based on the evidences of the PW1. It is the further contention of the revision petitioner that suit is also filed as against the second respondent herein. Though the suit has been rejected by this Court, Special Leave Petitioner has been admitted, therefore, according to him, he is possession in pursuant to the agreement and there is no jural relationship between the parties.

5. It is the further contention that the learned Rent Controller has passed final orders in the above RCOPs hurriedly without waiting for the final results of the legal proceedings which are off-shoots of the RCOPs, including a transfer petition filed on the ground that the learned Rent Controller is biased against the petitioner. The learned Rent Controller has passed final order in RCOP on a day when the RCOP was not posted for order, but, posted to “check miscellaneous petition and call on”. The petitioner had filed petitions in MP.SR.Nos.47077 and 47078 of 2021 in the above RCOPs seeking stay of the proceedings in the above RCOPs, since certain proceedings which are off-shoots of the RCOPs are pending before higher forum. The learned Rent Controller posted the above MPs as



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"check and call on". Simultaneously, the learned Rent Controller posted the above RCOPs as "stay petition filed by the respondent received from the Registry, call on 30.11.2021". However, the learned Rent Controller hurriedly passed final orders in the RCOPs on 30.11.2021, ordering eviction.

6. The petitioner filed transfer petition in Tr.O.P.No.25 of 2021 and the same was dismissed on 27.04.2021. Hence, CRP was filed before this Court in C.R.P.No.1762 of 2021, the said CRP was also dismissed on 25.08.2021. The petitioner was intending to prefer a SLP before the Hon'ble Apex Court. Therefore, the petitions in MP.SR.Nos.47077 and 47078 of 2021 filed seeking stay of proceedings in the RCOPs. However, the learned Rent Controller had passed the eviction orders. Similarly, the revision petitioner also filed M.P.No.2 of 2020 to re-open the case and M.P.No.3 of 2020 to recall the P.W.1. The two MPs were also dismissed on 02.02.2021. Against which, RCA.Nos.125 and 128 of 2021 were filed and they were also dismissed on 29.11.2021. Immediately, on the next day, i.e., 30.11.2021, the learned Trial Court passed eviction order in the RCOPs. Hence, it is the contention that the learned Rent Controller did not



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allow the petitioner to contest the RCOPs and relied only on the oral and documentary evidences of the respondent. Such evidences did not undergone the test of the cross examination.

7. According to him, the petitioner is the chairman of "Indian Tribes Educational & Charitable Trust". The Trust is running an educational institution by name "All India Allied Health Institute" at first and second floor of the building for welfare of the girls belonging to the Scheduled Caste and Scheduled Tribe communities and is providing them training in health care. Therefore, according to him, the orders have been set aside.

8. Whereas, the learned counsel for the respondents submitted that it is a classic example how the member of the legal profession has misused the process of law, the Court proceedings and driven the landlord from pillar to post. According to him, almost 47 proceedings were initiated against the landlord. He has not even left the lawyers who appeared for the landlord, a criminal complaint also filed against the landlord who appeared for landlord under the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Almost more than 47 cases have been filed. In all the



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cases, this Court as well as the Hon'ble Apex Court dismissed all the proceedings and directed the learned Rent Controller to proceed the matter expeditiously. However, the rent control proceedings have been dragged to the maximum extent even without paying any rent. Further, after 10 years of the death of the landlord, the petitioner has filed a suit for specific performance of the unregistered sale agreement dated 05.09.2007, which has also been created for the purpose of dragging the matter.

9. The suit in C.S.No.266 of 2017 is also rejected by this Court and besides, he has also filed a suit in O.S.No.6129 of 2016 for bare injunction and that suit is also dismissed on 01.10.2018. At that time, a specific endorsement was made by the tenant stating that he is waiving the relief of specific performance as it is beyond limitation, however, still he has not adduced evidence to contest the matter. Therefore, the learned rent controller had taken note of all the facts and decided the issue on merits. It is a clear case of abuse of process of law and prayed this Court to dismiss the revisions and direct eviction without resorting to the execution proceedings by exercising powers under Article 227 of the Constitution of India. According to the learned counsel for the respondents, the petitioner



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has also taken caste as a shield to file various cases, hence, prayed for dismissal of the revisions.

10. In light of the above, this Court has to decide whether the eviction order passed by the learned Rent Control Appellate Authority and learned Rent Controller are proper and eviction is ordered properly?

11. Before going into the merits of the case, this Court is of the view that every *lis* between the parties has to be decided on the basis of the facts and circumstances of the particular case. The Court has to see whether the assertions in the application has been proved properly. The word "Proved" as defined under the Indian Evidence Act, 1872 as well as Bharatiya Sakshya Adhiniyam, 2023 reads as follows:

"Proved"— A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

12. The above makes it clear that a fact is said to be proved when, after considering the matters before it, the Court either believes it to exist,



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or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

13. The word "matters" though not defined under the Indian Evidence Act, 1872 or the Bharatiya Sakshya Adhiniyam, 2023, it has a wide connotation. It includes admission, inference, presumption etc., While deciding any *lis*, the Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case. Therefore, the conduct of the parties to the *lis* is more relevant to presume existence of certain facts. When the party to the *lis* has an opportunity to refute the pleadings and he has not availed that opportunity to put forth his case, his conduct cannot be ignored altogether to decide the *lis* between the parties, particularly, in a civil dispute.

14. The fact that the revision petitioner was inducted as the tenant in the premises is not disputed. The only contention raised in the counter to



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the effect that he did not know the death of the original landlord immediately, therefore, he was not in a position to pay the rent, since, there is a bonafide dispute and doubt as to who should receive the rent. The other contention raised by the revision petitioner is that during the existence of the tenancy, the landlord has executed an agreement for sale on 05.09.2007, therefore, the relationship between the tenant and landlord ceased to exist. It is relevant to note that the existence of the sale agreement dated 05.09.2007 was disclosed only through a notice dated 10.03.2017 to the second respondent. The petitioner has filed a suit in O.S.No.6129 of 2016 for permanent injunction not to interfere with the possession, wherein he has made a specific endorsement stating that he is waiving the relief of specific performance as it is beyond limitation and got the suit numbered and ultimately, the suit was dismissed on 01.10.2018. The appeal filed in A.S.No.128 of 2016 is also dismissed on 25.09.2019. These are all admitted facts. Thereafter, he has filed a suit in C.S.No.266 of 2017 for specific performance before this Court. In the above suit, he has also filed applications seeking interim injunction not to alienate the suit properties and the same were dismissed on 11.04.2017. As against the applications, O.S.A.Nos.127 to 129 of 2017 were filed and the appeals were disposed of



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by consent order on 10.07.2017 to dispose of the suit within three months from 10.07.2017. Challenging the same, SLPs were filed in S.L.P.Nos.19478 to 19750 of 2017 before the Hon'ble Apex Court and the said SLPs were dismissed as withdrawn on 11.08.2017.

15. Once again, review applications was filed before this Court in Rev.Sr.Nos.67110, 6705 and 67143 of 2017 to review the order passed in O.S.A.Nos.127 to 129 of 2017. The said review applications were dismissed vide order dated 01.08.2018. While dismissing the review applications, this Court has held that the present review petition is nothing but, another attempt by the review petitioner from protracting the pending litigation to subserve his interest.

16. As against the review applications, SLPs in S.L.P.Nos.28696 to 28698 of 2018 were filed before the Hon'ble Apex Court. The SLPs were disposed of by the Hon'ble Apex Court vide Order dated 31.10.2018 which reads as follows:

" In the common judgment dated 10.07.2017, in OSA Nos.127 to 129/2017, the High Court has made an arrangement for disposal of both, the Civil Suit No.266/2017 and RCOP Nos.1317 and 1318 of 2015. We are informed



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that there has been no progress as scheduled by the High Court in the Civil Suit. At the same time some progress has been made in the Rent Control Petitions.

Learned senior counsel appearing for the petitioner apprehends that in case the Rent Control Petitions are decided and the decision goes against them they would only get four weeks in view of the stipulation made by the High Court in Clause 1(vii) of the common judgment dated 10.07.2017.

We do not find any basis for such an apprehension. The Rent Control Petitions are yet to be decided. In the event of the order going against the petitioner, it will be certainly open to him to pursue the grievance in appropriate proceedings. Four weeks' time which was granted by the High Court is only to enable the petitioner to pursue the grievance in appropriate proceedings. In case no progress is made in the Civil Suit it will be open to the petitioner to take appropriate steps for expediting the suit.

We make it clear that the civil suit and the rent control petitions will be decided on their own merits.

The special leave petitions are, accordingly, disposed of. Pending application(s), if any, shall stand disposed of. "

17. The above order makes it clear that civil suit and the rent control petitions will be decided on their own merits. Thereafter, the civil suit in C.S.No.266 of 2017 was transferred to the XVIII Additional City Civil Court, Chennai and renumbered as O.S.No.2169 of 2019, wherein, application was filed in I.A.No.10 of 2023 to reject the plaint filed by the tenant and the said application was dismissed on 28.06.2023. As against the dismissal, CRP was filed in C.R.P.No.2630 of 2023 was filed before



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this Court. This Court, vide order dated 12.02.2024 allowed the petition and rejected the suit. Now, it appears that as against the said rejection order, SLP has been filed, however, no details of the proceedings have been placed before this Court.

18. It is also to be noted that the petitioner had filed a suit in O.S.No.6129 of 016 before the XI Assistant Judge, City Civil Court for bare injunction not to evict the petitioner except by due process of law. The said suit was dismissed on 01.10.2018. As against the dismissal, first appeal was filed in A.S.No.128 of 2019 before the XVI Additional Judge, XVI Additional City Civil Court, Chennai and the same was dismissed vide judgment dated 25.09.2019. Challenging the dismissal, second appeal was filed before this Court in S.A.No.507 of 2021. This Court, by judgment dated 12.07.2021 disposed of the appeal granting a decree of permanent injunction restraining the defendants from dispossessing the plaintiff/tenant possession except by due process of law. While disposing the appeal, this Court has held that the Rent Controller or Civil Judge will proceed with the matters on their own merits and in accordance with law subject only to the directives issued in civil revision petitions and OSAs completely



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uninfluenced or untrammelled by anything that has been set in this judgment.

19. These are one set of Civil Suits filed by the tenant as against the landlord. Now, it is relevant to record the number of applications filed in the rent control proceedings. While the rent control proceedings are pending, the following are the cases filed by the tenant against the landlord.

S. No	Case No.	Against	Court	Result
1.	RCASR No.8521/2016	MP No.31/2016 to decide point of Maintainability	VII Court of Small Causes, Chennai	Dismissed as not maintainable.
2.	RCASR No.8516/2016	MP No.32/2016 to decide point of Maintainability	VII Court of Small Causes, Chennai	Dismissed as not maintainable.
3. 4.	CRP.Nos.708/2017 & 709 of 2017	Against S.No.1 & 2	High Court, Madras	Disposed off by an order dated 07.03.2017 with a observation to dispose off RCOP within 3 months.
5.	RCA No.371/2019	Against MPSR No.16011/2019 to decide jural relationship	VII Court of Small Causes, Chennai	Dismissed on 09.11.2020



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S. No	Case No.	Against	Court	Result
6.	RCA No.372/2019	Against MPSR No.16012/2019 to decide jural relationship	VII Court of Small Causes, Chennai	Dismissed on 11.11.2020
7. 8.	CRP.Nos.708/2017 & 709 of 2017	Against MP No.484/2019 & 485/2019 to stay RCA Nos.371/2019 & 372/2019	High Court, Madras	Dismissed on 06.02.2020
9.	Unnumbered RCASR No.1739/2020	Against MPSR No.78515/2019 to recall order dated 08.11.2019	VII Court of Small Causes, Chennai	Dismissed on 18.11.2020
10.	Unnumbered RCASR No.1740/2020	Against MPSR No.78514/2019 to recall order dated 08.11.2019	VII Court of Small Causes, Chennai	Dismissed on 18.11.2020
11. 12.	CRP Nos.716 & 717/2021	Against RCASR Nos.1739/2020 & 1740/2020 challenging stage of RCOP as respondent side arguments	High Court, Madras	Dismissed on 20.04.2021
13.	TROP No.25/2021	RCOP Nos.1317/2015 & 1318/2015 allegation against presiding rent controller on the ground of bias	Chief Judge, Court of Small Causes, Chennai	Dismissed on 27.04.2021
14.	RCASR No.2071/2021 RCA	Against MP No.3/2020 in RCOP	IX Court of Small Causes, Chennai	Appeal Numbered now. Appeal filed



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S. No	Case No.	Against	Court	Result
	No.127/2021	No.1318/2015		though orders in RCASR Nos.1739/2020 & 1740/2020 is binding. (Serial Number 9 & 10 above) and confirmed till Supreme Court as per serial 18 & 19.
15.	RCASR No.2070/2021 RCA No.125/2021	Against No.2/2020 RCOP No.1317/2015	MP in IX Court of Small Causes, Chennai	Appeal Numbered now. Appeal filed though orders in RCASR Nos.1739/2020 & 1740/2020 is binding. (Serial Number 9 & 10 above) and confirmed till Supreme Court as per serial 18.
16.	RCASR No.2073/2021 RCA No.128/2021	Against No.3/2020 RCOP No.1317/2015	MP in IX Court of Small Causes, Chennai	Appeal Numbered now. Appeal filed though orders in RCASR Nos.1739/2020 & 1740/2020 is binding. (Serial Number 14 & 15 above) and confirmed till



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S. No	Case No.	Against	Court	Result
				Supreme Court as per serial 18.
17.	RCASR No.2072/2021 RCA No.126/2021	Against MP No.2/2020 in RCOP No.13182015	IX Court of Small Causes, Chennai	Appeal Numbered now. Appeal filed though orders in RCASR Nos.1739/2020 & 1740/2020 is binding. (Serial Number 14 & 15 above) and confirmed till Supreme Court as per serial 18 & 19.
18.	SLP Nos.9680	Against Serial	Supreme Court	Dismissed on 20.07.2021.
19.	& 9681/2021	Number 11 & 12		
20.	CRP No.1762/2021	Against Serial No.13	High Court, Madras	Dismissed on 25.08.2021.
21.	CRP.Nos.4867	Against MP.No.2 of 2023 in RCA	High Court, Madras	Dismissed on 21.12.2023.
22.	and 4910 of 2023	Nos.11 & 12 of 2022		
23.	SLP.Nos.13888-	Against serial 7 and 8	Supreme Court	Posted before Lok Adalat-but has become infructuous
24.	13889 of 2020			
25.	RCA.Nos.11	Against RCOP.Nos.1317 & 1318 of 2015	Small Causes Court, Chennai	Dismissed on 07.02.2024.
26.	and 12 of 2022			



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S. No	Case No.	Against	Court	Result
1.	OS.No.6129 of 2016	For perpetual Injunction not to interfere with possession.	XI Asst. City Civil Court, Chennai	Suit dismissed on 01.10.2018.
2.	AS.No.128 of 2016	Against S.No.1	XVI Additional City Civil Court, Chennai	Appeal dismissed on 25.09.2019
3.	CS No.266/2017	Suit for specific performance.	High Court Madras	Renumbered as OS No.2169/2019 and transferred to XVIII Addl. City Civil Court, Chennai due to pecuniary jurisdiction
4. 5. 6.	OSA No.127/2017 OSA No.128/2017 OSA No.129/2017	Against applications dismissed in CS No.266/2017	High Court Madras.	Disposed of by consent order on 10.07.2017 to dispose of suit within 3 months from 10.07.2017. Still the stage of suit is same.
7. 8. 9.	SLP No.19748/2017 SLP No.19749/2017 SLP No.19750/2017	Against serial No.4, 5, 6	Supreme Court	Dismissed on 11.08.2017.



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S. No	Case No.	Against	Court	Result
10. 11. 12.	Review SR Nos.67110/2 017, 67105/2017, 67143/2017	Against serial No.4, 5, 6	High Court, Madras	Dismissed on 01.08.2018.
13. 14. 15.	SLP No.28696/2018 SLP No.28697/2018 SLP No.28698/2018	Against serial No.10, 11, 12	Supreme Court	Dismissed on 31.10.2018.
16.	SA No.507/2021	Against serial 2	High Court, Madras	Allowed on 09.07.2021

20. It is relevant to record certain observations made by this Court vide order dated 11.04.2017 made in O.A.No.367 of 2017 in A.Nos. 2179 & 2180 of 2017 in C.S.No.266 of 2017, wherein, this Court, in paragraph 8 has held as follows:

"8. Indisputably the present suit is instituted after lapse of 10 years of the alleged agreement and also after the demise of the original owner, with whom the applicant claims to have entered into the agreement. Further had the applicant paid Rs.12,54,000/- in pursuance of the agreement, he could not have paid rents as alleged by him till January 2015. Admittedly, trial in the RCOP is already commenced, so this Court issued directions to complete trial in time holding that the question raised by the applicant would be decided after trial. The respondent has categorically taken the stand that agreement of sale is a forged one. Keeping in mind the date of agreement of sale, the stand taken by the respondent that



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the agreement of sale and the direction issued by this Court in C.R.P.(PD).Nos.708 and 709 of 2017, I am of the considered opinion that the applicant is not entitled for any orders in the applications. I do not find any merit in the applications. In fine, all the applications are dismissed."

21. The Division Bench of this Court in Rev.App.SR.Nos.67110, 67105 & 67143 of 2017 vide judgment dated 01.08.2018 has held as follows:

"15. Therefore, this Court even otherwise does not see any merit in the grounds raised in the review petition as the order passed by the Division Bench is comprehensive and take care of the interest of the parties. In any event, in the guise of filing the review petition, the petitioner is only attempting to wriggle out the instructions presumed to be given to his Advocate at the time when original side appeals were disposed of. Moreover the grounds as raised in the review petition do not satisfy the parameters laid down in Order 47 Rule 1 CPC and also various rulings of the Court on the subject matter. Therefore, this Court is of the considered view that the present review petition is nothing but, another attempt by the review petitioner from protracting the pending litigation to subserve his interest."

22. This Court, in CRP (PD).Nos.716 & 717 of 2021 vide common order dated 20.04.2021 has held as follows:

"3.It is very unfortunate that by taking advantage of his position as an advocate, the petitioner appears to be bullying both the Courts below. Now, claiming himself as innocent and ignorant, he has again come before this Court seeking indulgence.

8.The Revision Petitioner is obviously squatting on the



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property without giving any respect to the very legal process, the sanctity of which, he had taken an oath to uphold at the time of his enrolment.

12.It is to be stated that P.W.1 was examined in chief on 14.11.2016 and from 28.11.2016 onwards till this date, the witness has not been cross examined.

14.I sincerely wish that both the Authorities before whom the petitions were filed and who rejected the case of the petitioner, seeking time for cross examination from the year 2016, had closed the matter years before, rather than permitting the petitioner to grow in confidence and over confidence that he can get any order which he seeks from the Courts of law. It must be kept in mind that he has no rights to dictate how the Court proceedings should be conducted. As an advocate, an additional duty is cast on the petitioner to be a responsible litigant and also be an example to other litigants. The attitude of the revision petitioner in bullying the Court proceedings would only lead other litigants to believe that by such bullying tactics, adjournments can be obtained. That was the conduct which the petitioner had been exhibiting for the past nearly 5 years from the date when cross examination was originally posted on 28.11.2016.

18.Once again, on 06.08.2018, the learned Rent Controller again granted opportunity to the present petitioner to lead the evidence. At that stage, the petitioner herein had filed MP.Nos.324 & 326 of 2018 to reopen the evidence and recall P.W.1. Both the applications were allowed on 27.08.2018 and the evidence was reopened for cross examination of P.W.1. As is the practice of the present revision petitioner, he again did not cross examine P.W.1. This Court is really ashamed of the conduct of the present revision petitioner who claims to be a honourable member of the Bar. As a matter of fact, this is an attitude for which



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the entire judiciary has to be ashamed of. He did not cross examine P.W.1. On 30.11.2018, he was again set exparte.

28.I fervently hope that Mr.B.K.Sreenivasan, learned counsel will advise the petitioner regarding his responsibility as a litigant and as an Advocate. I hope that sense and sensibility would prevail."

23. It is to be noted that this Court in the above CRP, while dismissing the CRP has imposed a costs of Rs.50,000/- each payable to the respondents by 30.05.2021.

24. Challenging the said findings, the revision petitioner has filed SLP before the Hon'ble Supreme Court in SLP.Nos.9680 & 9681 of 2021. The Hon'ble Supreme Court dismissed the said special leave petitions, however, the costs of Rs.50,000/- each, was modified to Rs.25,000/- each and held that no further indulgence can be shown in the petition. If the respondents/landlord has any objection to the indulgence shown to the petitioner/tenant, is free to take out a formal application, which can be considered on its own merits. The costs shall be paid within four weeks from today, i.e., 20.07.2021.

25. It is also relevant to note that prior to the filing of the SLP,



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revision petitioner has sought permission from this Court to extend time for payment of costs of Rs.50,000/- each to the respondents in C.M.P.Nos.8863 & 8864 of 2021 in CRP.Nos.716 & 717 of 2021. This Court, by order dated 03.06.2021, extended time to pay the costs till 03.07.2021 and held that if the costs are not paid by then, the defence of the petitioner in the Rent Control Petitions will be automatically struck off. It was made clear that no further extension would be granted. The tenant having obtained such extension order before this Court for payment of costs of Rs.50,000/- each to the landlord, the revision petitioner had suppressed such extension order granted by this Court before the Hon'ble Supreme Court and got the modification order on 20.07.2021. The conduct of suppressing the order of this Court and obtaining the order itself cannot be brushed aside altogether.

26. Thereafter, not stopping with that the revision petitioner has filed CRP.(PD).No.1762 of 2021 as against the order of the learned Chief Judge, Small Causes Court, Chennai dated 27.04.2021 passed in Tr.O.P.No.25 of 2021, wherein, this Court, by Order dated 25.08.2021 has held as follows:

" 5. It is also brought to the notice of this Court by the learned counsel for the respondents that there are at least 24 proceedings which have been initiated by the petitioner against the respondents. He submitted that the petitioner, by



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suppressing the petition for extension of time for paying costs which was ordered in C.M.P. No.8863 & 8864 of 2021, filed SLP. Nos.9680 & 9681 of 2021, before the Hon'ble Supreme Court. Learned counsel for the respondents submitted that these previous proceedings clearly show that the intention of the petitioner is just to protract the proceedings by not allowing the present RCOP's to reach its logical conclusion.

6. The narration of sequence of events shows that the present litigation has been continuing from the year 2015. Prima facie, it shows that the petitioner is not cooperating with the Court for proceeding with the enquiry. He has taken all steps to protract the proceedings. In fact, some scathing and adverse remarks have been passed against the petitioner in C.R.P. No.716 & 717 of 2021. This Court is not inclined to repeat that again. Suffice it is to say that the petitioner is taking advantage of his position as an advocate and has been protracting the proceedings. It is not as though the learned Rent Controller has some personal interest in these R.C.O.P's. These R.C.O.P's. are of the year 2015 and comes under category of 'More than five year old cases. The Courts are expected to give priority in disposal of the old cases, especially the cases which are pending for more than five years. There is a specific direction given to the learned Rent Controller in C.R.P. Nos.708 & 709 of 2017, for disposing the case within three months from the date of receipt of a copy of that order. The order was passed on 07.03.2017. Till now, the R.C.O.P's. are not yet disposed. It was mainly due to the attitude of the petitioner in protracting the proceedings.

7. This transfer petition, in the view of this Court, is yet another attempt on the part of the petitioner to further protract the proceedings by filing petitions against the learned Rent Controller.

27. The above proceedings itself shows that how the judicial process



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has been used by the member of the Honourable profession to stall the proceedings from the year 2016 onwards despite the various directions given by various benches of this Court. Still he has not changed his attitude and adopting dilatory tactics in filing the applications before the rent controller in once again for reopening the evidence on the side of plaintiff. Despite several chances were given in various proceedings, the tenant has not submitted himself to the judicial process rather he has bent upon to protract the proceedings in maximum level.

28. The very proceedings recorded above clearly indicate that the alleged sale agreement appears to be a concocted one for the simple reason that during the exchange of the notice, the existence of the sale agreement has not been disclosed. The suit came to be filed after a lapse of 10 years after the alleged agreement after death of the original landlord. His own counter indicate that tenancy agreements were renewed by way of two agreements dated 15.11.2006 and 19.05.2007. When the tenancy agreements were renewed on 15.11.2006 and 19.05.2007, it is highly impossible to believe that landlord has executed an agreement for sale on 05.09.2007. That itself creates some doubt. Be that as it may, mere



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agreement for sale will not create any right or charge over the property. In Ex.P9, reply notice dated 06.04.2015 sent by the revision petitioner to the second respondent, wherein, he has never whispered about the existence of the sale agreement. The alleged sale agreement was introduced only in the legal notice dated 10.03.2017. In exchange of correspondences during the year 2015, the alleged agreement has not been disclosed.

29. It is the specific case of the revision petitioner that he has been inducted to the possession by way of lease agreement and thereafter, the petitioner has entered into sale agreement dated 05.09.007, therefore, once the sale agreement has come into existence, the status of the petitioner got transformed from tenant into agreement holder and his possession gets transferred to one in pursuance of part performance under the sale agreement and the relationship of landlord and tenant had ceased to exist.

30. Though the alleged agreement for sale has not been exhibited, when the said agreement filed in the typed-set looked up, Term Nos. 5 and 8 of the sale agreement reads as follows:

"5. The parties herein covenant to complete the sale transaction and to execute the Absolute Sale Deed on the



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condition that the VENDOR obtains the CONSENT DEED of his family members in selling the property, until which the PURCHASER herein agrees to pay the rent as per the TENANCY AGREEMENT dated 18-05-2007.

8. The VENDOR agrees to put the purchaser in absolute and vacant possession of the schedule property after executing the sale deed and registering the same in the Jurisdictional Sub-Registrar's Office"

31. The very terms in the so-called alleged agreement itself indicate that the vacant possession of the schedule property will be handed over after executing the sale deed. Therefore, the liability to pay rent will not cease to exist. Thus, now, it cannot be contended by the revision petitioner that there is no jural relationship.

32. As far as the wilful default is concerned, even in the counter it is not specifically denied by the revision petitioner that he has not paid rents from 2015. When he was inducted as a tenant and failed to pay the rents from 2015 onwards, considering the nature of defence taken by the petitioner, it has to be inferred from the entire complex set of circumstances. Wilful default has to be judged upon the index or basis of a conscious failure of the tenant to pay rent without any justification. When the false explanation is offered and rents have been withheld purposively



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and landlord has put to task for many years by filing several litigation, this Court is of the view that the tenant was recalcitrant and supinely indifferent on his part to pay the rent.

33. The revision petitioner is not an ordinary litigant but he is member of noble profession and practising advocate, he is supposed to know the responsibility of the tenant to pay the rent regularly. Even assuming that there is a doubt as to who has to receive the rent, he could have taken steps to deposit the rents in the Court, whereas, having inducted as a tenant, now with the plea that there is no jural relationship is also one of the grounds for eviction. Therefore, this Court is of the view that mere agreement of sale will not terminate the landlord-tenant relationship and the liability of the tenant to continue to pay the rent. The tenant must continue to pay rents unless there are specific recitals to the contrary in the agreement of sale. This has been held by this Court in the case of *B.Kuppammal vs. D.Saghunthala* reported in 1987 (1) MLJ 242 and similar view is also taken in *Duraisamy Nadar vs. Nagammal* reported in 1991 (1) MLJ 35.

34. Therefore, the conduct of the tenant in withholding the rents



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purposely would show the tenant was recalcitrant and supinely indifferent to pay the rent. The evidence of PW1 is not assailed in this regard. Despite several opportunities given to the revision petitioner, the revision petitioner failed to avail the opportunity to cross examine PW1, rather, he abused the judicial process only in order to protract the issue all these years.

35. With regard to the owners occupation is concerned, it is the specific case of the revision petitioner that he is carrying pawn broking business at Tiruttani.Exs.P10 and P11 are filed in this regard. In the counter, it submitted that second respondent is doing a jewellery business in the name of Jain Thanga Maligai for 25 years and he owns several house properties and shops in Tiruttani and Chennai. Further, there is no evidence placed to show that other than the subject premises, the respondents are owning other properties to dis-entitle them to claim possession for own use and occupation.

36. Therefore, when several opportunities given to the petitioner and the petitioner has not availed such opportunities and was protracting the matter by filing almost 47 litigations right from the year 2015 onwards, this



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Court is of the view that at this stage the revision petitioner cannot contend that opportunity has not been given. The very conduct of the revision petitioner has been condemned by this Court on several occasions as referred supra. Therefore, mere plea at the fag end of the trial that he was no given opportunity will not be a ground to hold that the orders passed by both Courts are required to be set aside. Hence, I do not find any merits in the revisions.

37. Further, taking note of the fact that the landlord have been taken for task for all these years, rents have not been paid and landlords were subjected to various litigations. The petitioner being a member of noble profession not only spared the landlord but also the lawyers who appeared for the respondents. It is also not disputed before this Court that now proceedings also initiated by the tenant against the landlord and their lawyers for prosecution under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 which has been closed by the investigating agency as against which protest petition is also filed by the tenant which is also dismissed. Challenging the said order, he appears to have filed a revision. These facts have been disclosed before this Court



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during the oral submissions and not disputed by revision petitioner.

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38. Taking note of the above circumstances, this Court cannot shirk its responsibility while exercising powers under Article 227 of the Constitution of India. Even if this revision petition stands just dismissed, no purpose will be served. In India, in our experience, the real litigation starts only when the execution petition is filed. Having dragged the landlord to run from pillar to post and subjected to various litigations all these years in a rent control proceedings, considering the nature of the attitude and conduct of the member of Bar who also used a caste as a weapon not only against the landlord but also against the lawyer who appeared for the landlord, this Court is of the view that if the parties are once against relegated for execution proceedings, there is every likelihood that the revision petitioner will resort all sort of proceedings to thwart delivery of possession. Thus, this Court exercising powers under Article 227 of the Constitution of India direct the revision petitioner to vacate the premises within a period of two months from today. This order has been passed taking note of the conduct of the revision petitioner all these years in various litigations for the ends of justice in the Hari Vishnu Kamath vs. Syed Ahmed Ishaque and others



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reported in (1954) 2 SCC 881, the Hon'ble Supreme Court held that under Article 227 of the Constitution of India, further directions can be issued by High Court.

39. Similarly, a Division Bench of this Court in the case of *Ondimuthu @ N.O.Muthu vs. Arulmigu Meenakshi Sundareswarar Devasthanam, Madurai* reported in 2018 (6) CTC 709 has held that when there is a delay in protracting the execution proceedings, delivery of the property can be ordered by exercising powers under Article 227 of the Constitution of India.

40. Accordingly, these revision petitions stand dismissed with the following directions:

a. that the petitioner shall vacate the premises within a period of two months from today.

b. Failure on the part of revision petitioner in obeying the order of this Court, The Commissioner of Police, Chennai is directed to execute the order of this Court and vacate the revision petitioner from the premises and handover the vacant possession to landlords.



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c.The Commissioner of Police, Chennai shall vacate the revision petitioner or any other person claiming right under revision petitioner from the premises. Further, to above direction, in the event of disobeying the orders of this Court by the revision petitioner, he will be proceeded for contempt of Court.

Consequently, connected miscellaneous petitions are closed. No costs.

08.11.2024

dhk

Index : Yes/No

Internet : Yes/No

To,

1. The IX Judge,
IX Court of Small Causes, Chennai

2. The XIII Judge,
XIII Court of Small Causes, Chennai

3. The Commissioner of Police
Chennai



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dhk



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and C.M.P.Nos.9363 & 9370 of 2024

08.11.2024