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C.R.P.(NPD).No.1496 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1496 of 2020

Prema (died)

1.Lalitha (Died)

2.S.Geetha

3.Girija

4.Kennady

... Petitioners

(Sole Petitioner died. Petitioners 2 to 4 are brought on record as LR's of the deceased P-1 viz., Lalitha vide Court order dated 20.12.2023 made in CMP.No.28605/2023 in CRP.No.1496/2020)

VS

J.Sagayam @ Sathiyamurthy

... Respondent

Prayer: Civil Revision Petition is filed under Section 25(1) of Tamil Nadu Buildings (Lease and Rent) Control Act 18 of the 1960 as amended



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subsequently, praying to set aside the degree and judgement in R.C.A.No.3 of 2019 dated 27.02.2020 passed by the learned Rent Control Appellate Authority (Subordinate Court), Vellore by reversing the fair and decreetal order passed by the learned Rent Controller (Principal District Munsif), Vellore, on 10.07.2019 in RCOP.No.43 of 2013 and may be pleased to allow the above C.R.P.

For Petitioners : Mr.R.Rajaramani
for Mr.V.R.Annagandhi

For Respondent : Mr.S.R.Sundar
for M/s.Chandrasekaran

ORDER

The Civil Revision Petition is filed challenging the order passed by the Rent Control Appellate Authority dismissing the eviction petition filed by the deceased petitioner-Prema by reversing the order of eviction passed by the learned Rent Controller.

2. The deceased petitioner-Prema filed a rent control eviction petition against the respondent on the grounds of wilful default, denial of title and on



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various other grounds. The learned Rent Controller passed eviction order against the respondent only under wilful default and denial of title. Aggrieved by the same, the respondent herein preferred an appeal in R.C.A.No.3 of 2019 before the Rent Control Appellate Authority. Pending rent control appeal, said Prema died and her legal representatives 1st petitioner herein was brought on record. The said appeal was allowed by setting aside the order of eviction passed by the learned Rent Controller. Aggrieved by the same, the landlord/deceased 1st petitioner filed present civil revision petition. Pending revision, she died and her legal representatives were brought on record as other petitioners.

3. The learned counsel appearing for the petitioners submitted that deceased petitioner-Prema purchased the demised premises on 07.10.1998 and from that date onwards, the respondent failed to pay rent to the petitioner and ultimately, the eviction petition was filed on 06.11.2013 and hence, the respondent was a chronic defaulter in payment of rent and liable to be evicted on the ground of wilful default. The learned counsel further submitted that when deceased petitioner issued a notice to the respondent claiming rent, the



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respondent sent a reply denying the jural relationship and also the title of the deceased petitioner and hence, the respondent is liable to be evicted on the ground of denial of title also.

4. It is seen from the records that earlier the respondent herein filed a suit for bare injunction against the petitioner in O.S.No.473 of 1999 on the file of the District Munsif Court, Vellore, restraining the deceased petitioner from evicting him except by due process of law. In the said suit, the deceased petitioner had taken up a definite stand that respondent was a trespasser. The said suit was decreed and findings of the Trial Court were confirmed in first appeal. The petitioner, who had taken a definite stand that respondent was a trespasser in the earlier litigation between the very same parties, is not entitled to turnaround and say the respondent is a tenant under her.

5. Though the deceased petitioner claimed that she purchased the property on 07.10.1998, she is unable to show when the respondent attorned tenancy in favour of the deceased petitioner. However, in a suit filed by the respondent in O.S.No.473 of 1999, the deceased petitioner had taken a



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definite stand that respondent was a trespasser. In such circumstances, the Appellate Authority rightly came to the conclusion that deceased petitioner failed to prove any landlady tenant relationship between her and the respondent. Therefore, the Appellate Authority also rightly came to the conclusion that eviction petition filed by the deceased petitioner by invoking provisions of Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 was not maintainable. There is no evidence available on record that deceased petitioner has disclosed her purchase to the respondent in writing immediately after purchase. The rent control eviction petition has been filed nearly after 15 years from the date of purchase. There is no explanation on the part of the deceased petitioner, as to what prompted her to wait for nearly 15 years to file eviction petition, if really the respondent was a tenant and chronic defaulter.

6. The Sale Deed in favour of the petitioner was marked as Ex.P1. A perusal of the same would suggest that deceased petitioner purchased 997 ½ sq.ft., of vacant site from Ganapathy Chettiar brother of Guruswamy Chettiar. Therefore, the deceased petitioner has not purchased any demised portion.



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The brother of petitioner's vendor Guruswamy Chettiar was examined as PW.2 in the earlier litigation between parties and he clearly deposed that respondent herein was a tenant under him. Hence, absolutely no evidence to show respondent was tenant under petitioner's vendor also.

7. In such circumstances, the petitioners miserably failed to establish the jural relationship of landlord and tenant and the First Appellate Authority rightly came to the conclusion that in the absence of jural relationship the eviction petition before the learned Rent Controller was not maintainable. Accordingly, I do not find anything to interfere with the findings of the First Appellate Authority.

8. Hence, the Civil Revision Petition stands dismissed. No costs.

04.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



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To

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- 1.The Rent Control Appellate Authority (Subordinate Court),
Vellore.
- 2.The Rent Controller (Principal District Munsif),
Vellore.



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S.SOUNTHAR, J.

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