



C.R.P.Nos.267 & 357 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.Nos.267 and 357 of 2023
and C.M.P.Nos.2228 & 2976 of 2023

R.Valli ... Petitioner in both CRPs

-Vs-

1.G.Sridhar
2.R.Gowtham ... Respondents in CRP 267/2023

T.Murugan ... Respondent in CRP 357/2023

Prayer in CRP 267 of 2023: Civil Revision Petition under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 to set aside the judgment and decree dated 27.07.2022 passed in RCA No.2 of 2022 on the file of the Subordinate Court, Thiruvottiyur confirming the judgment and decree dated 06.10.2018 in M.P.No.122 of 2014 in RCOP No.22/2013 on the file of the learned Rent Controller / District Munsif Court, Thiruvottiyur and allow this CRP.

Prayer in CRP 357 of 2023: Civil Revision Petition under Section 25 of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 to set aside the judgment and decree dated 27.07.2022 passed in RCA No.1 of 2022 on the file of the Subordinate Court, Thiruvottiyur confirming the judgment and decree dated 06.10.2018 in M.P.No.121 of 2014 in RCOP No.21/2013 on the file of the learned Rent Controller / District Munsif Court, Thiruvottiyur and allow this CRP.



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In Both C.R.Ps

For Petitioner : Mr.S.Nagarajan
For Respondents : Mr.R.Krishnasamy
-for sole respondent in CRP 357/2023 &
for R2 in CRP 267 of 2023
R1 in 267 of 2023 - Served, no appearance

COMMON ORDER

These two revisions arise out of a proceedings initiated under Section 11(4) of the Tamil Nadu Buildings (Lease and Rent) Control Act, 1960 (hereinafter referred to as 'the Act'). RCOP Nos.21 and 22 of 2013 were initiated by the civil revision petitioner on several grounds including willful default.

2. According to the petitioner, she succeeded to the property by virtue of a settlement deed executed by her husband one K.Ramu and she had inducted the tenants in the property and, as the tenants did not pay the rents month on month, she had initiated rent control proceedings. According to her, since the tenants continued their default, pending the proceedings she invoked the provisions of Section 11(3) of the Act and filed M.P.Nos.121 and 122 of 2014 respectively for the purpose of a direction to the tenants to deposit the rents pending disposal of the proceedings.

3. On service of summons in the rent control proceedings, the tenants filed a



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detailed counter.

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4. According to them, they were inducted in the property by the brother-in-law of the petitioner namely one Elumalai with whom they had entered into a rental agreement. They would plead that Elumalai and his son Naresh are their landlords and the petitioner Valli is a stranger to them. They would also bring it to the notice of the Court that between Elumalai and Valli proceedings are pending in O.S.No.155 of 2013 on the file of the learned District Munsif at Thiruvottiyur, which is currently pending before the learned District Munsif Court at Madhavaram. They would deny the title of the landlord and that there does not exist a relationship of landlord and tenant between Valli and themselves and therefore sought for dismissal of the petition filed under Section 11(3).

5. Neither the petitioner nor the respondents entered the witness box, but several documents were filed by either side. On the side of the petitioner, she had filed Exs.P1 to P8 and on the side of the respondents, Exs.R1 to R10 were filed.

6. Taking into consideration the documentary evidence that has been let in by both the parties, the learned Rent Controller-cum-District Munsif came to a conclusion that there is a bonafide dispute as regards title and that the landlord has not proved for the purpose of Section 11(3) the relationship between landlord and tenant and therefore dismissed the petition.



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7. Aggrieved by the same, the landlord preferred two rent control appeals in R.C.A.Nos.1 and 2 of 2022 on the file of the learned Subordinate Judge-cum-Rent Control Appellate Authority at Thiruvottiyur. The learned Judge, in and by way of a judgment dated 27.07.2022 concurred with the Rent Controller and dismissed the appeals. Against the said finding, the present revisions have been preferred before this Court.

8. Mr.Nagarajan, learned counsel appearing for the petitioner would contend that from the documents produced by the landlady, the Court should come to a conclusion that she has title to the property and the documents that have been produced by the tenants are concocted at the instance of Elumalai and themselves and therefore, no evidentiary value should be placed upon them. He would plead that the petitioner having become the owner in 2011 is being made to run from pillar to post in order to collect the rents and even those paltry sums have not been paid by the tenants and therefore, he would plead that the order in the Rent Controller as well as the appellate authority deserve to be set aside.

9. Mr.R.Krishnasamy, learned counsel for the respondents would submit that the petitioners are not tenants of the civil revision petitioner, but of her brother-in-law Elumalai and his son E.Naresh. He would state that the petitioner not having proved the relationship, she is not entitled to the benefit of invoking an order under



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Section 11(3) of the Act.

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10. I have carefully considered the arguments of Mr.Nagarajan and Mr.Krishnasamy and have perused the materials placed on record.

11. At the outset I have to state that a Rent Controller is not concerned with matters of title. The jurisdictional fact that the petitioner would have to prove is that there is a relationship of landlord and tenant. If this jural relationship is not proved, the Rent Controller, which is the Tribunal for a limited jurisdiction, cannot assume jurisdiction over the dispute between the parties. It might be true that the petitioner is the owner of the property. It is not for the Rent Controller to decide that issue. Civil Courts are functioning at Thiruvottiyur and Madhavaram and it falls to their jurisdiction to decide the title to the property. For the purpose of Rent Control proceedings, the Court would only have to see whether there is a relationship of landlord and tenant. If the relationship does not exist, the buck stops there and the petitions would necessarily have to fail.

12. For the purpose of Section 11(3) of the Act, the Tribunal and the appellate authority should *prima facie* be satisfied about the existence of this relationship. The documents which are being relied upon by Mr.Nagarajan do not point out such a relationship in existence. Therefore, I cannot take any exception to the finding that has been given by the Rent Controller as well as the appellate



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authority that the petitioner has failed to prove the existence of relationship.

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13. Section 11(3) is an application which is dealt with by the Court at interlocutory stage. It would always be open to the petitioner to prove, by tendering oral and documentary that there in fact exists a relationship of landlord and tenant and that she is entitled to an order of eviction. However, on the evidences that have been placed before Court as on today, I am not convinced that the said jurisdictional fact has been proved and the petitioner is entitled to an order of deposit in terms of Section 11(3) read with Section 11(4) of the Act. As I do not find any perversity of irregularity in the orders of the Court below, I am constrained to confirm their order. The Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

14. I have to note that the proceedings have been initiated in the year 2013 and have been languishing at the stage of interlocutory proceedings for over a decade. The learned District Munsif-cum-Rent Controller at Madhavaram is requested to take note of the long pendency of the matter and give priority to it and dispose of the same within a period of nine(9) months from the date of receipt of a copy of this order.

04.06.2024

Index : Yes/No

Neutral Citation : Yes/No



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To

1. The Rent Controller / District Munsif
Thiruvottiyur.
2. The Rent Controller / District Munsif
Madhavaram.



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V. LAKSHMINARAYANAN, J.

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