



C.M.A.(MD).No.1180 of 2006 and C.R.P.NPD.(MD).No.712 of 2006

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.01.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.(MD).No.1180 of 2006 and C.R.P.NPD.(MD).No.712 of 2006
and
C.M.P.(MD).No.8597 of 2019

C.M.A.(MD).No.1180 of 2006

A.Natarajan

.. Appellant/Respondent/Plaintiff

Vs.

1.N.Soundaravalli

2.Gnanavalli

3.C.Kannan (Died)

..Respondents/Appellants 2 to 4/Nil

PRAYER: Civil Miscellaneous Appeal filed under Order 43 Rule 1(u) of Civil Procedure Code, praying to set aside the judgment and decree dated 17.11.2005 passed in A.S.No.147 of 2002 on the file of Principal Sub Judge, Madurai, reversing the judgment and decree dated 05.03.2002 passed in O.S.No.30 of 1981 on the file of Taluk Munsif Court, Madurai and allow this Civil Miscellaneous Appeal.



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For Appellant : Mr.V.Sasikumar

For Respondents : Mr.J.Barathan for R-1 & R-2
R-3 - died

C.R.P.NPD.(MD).No.712 of 2006

A.Natarajan .. Petitioner/Respondent/Respondent

Vs.

1.N.Soundaravalli

2.Ganavalli

3.C.Kannan (Died) ..Respondents 1 to 3/Appellants 2 to 4/Nil

4.K.Muthuselvi

5.K.Mokana Ilavarasi

6.K.Sastihagini

7.K.Dharani

8.K.Sudharson ..Respondents 4 to 8/LRs of 3rd Respondent

(R-4 to R-8 are brought on record as LRs of deceased R-3 vide Court order dated 14.10.2019 made in C.M.P.(MD).Nos.8592, 8594 and 8595 of 2019 in C.R.P.NPD.(MD).No.712 of 2006)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the judgment and decree dated 17.11.2005 passed in C.M.A.No.36 of 2002 on the file of Principal Sub Judge, Madurai, reversing the judgment and decree dated 05.03.2002 passed



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in O.P.No.10 of 1981 on the file of Taluk Munsif Court, Madurai and allow this Civil Revision Petition.

For Petitioner : Mr.V.Sasikumar

For Respondents : Mr.J.Barathan for R-1 & R-2
R-3 - died

COMMON JUDGMENT

The present Civil Miscellaneous Appeal and the Civil Revision Petition has a checkered history, which requires a short introduction.

2. Natarajan is the owner of the property, which is morefully described in the ejectment suit in O.S.No.30 of 1981. A portion of the land was let out to one P.N.Chockalingam to run a rice mill. In the year 1981, there was a default in payment of rent. On that ground, a suit was filed for delivery of vacant possession. Soon thereafter, on receipt of the suit summons, the tenant invoking Section 9 of City Tenants Protection Act filed O.P.No.10 of 1981 opting to purchase the land leased to him.

3. Both the suit and application were heard and a common judgment was passed on 24.06.1983 allowing the suit for possession and dismissing the application filed under Section 9 of City Tenants Protection Act.



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4. Being aggrieved, the tenant preferred an Appeal Suit against the decree passed in O.S.No.30 of 1981 and a Civil Miscellaneous Appeal against the dismissal of the application filed under Section 9. The Appellate Court on 27.09.1985 dismissed both the Appeal Suit and the Civil Miscellaneous Appeal.

5. Meanwhile, the Government issued G.O.Ms.No.1656, Revenue Department dated 17.12.1985, including the suit Village under the City Tenants Protection Act. This gave a handle to the tenant to raise the plea before the High Court in his Civil Revision Petition in C.R.P.No.235 of 1986 and Second Appeal in S.A.No.96 of 1986. This Court found that the matter has to be remanded back for considering the applicability of Section 9 of the City Tenants Protection Act to the suit property. At the same time, the Government Order including Viraganoor Village under the City Tenants Protection Act has also been challenged by the landlord and he succeeded in it.



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6. In the said circumstances, on remand, the Trial Court again allowed the ejectment suit and dismissed the application filed under Section 9 of the City Tenants Protection Act. Aggrieved by the same, the tenant preferred A.S.No.147 of 2002 and C.M.A.No.36 of 2002 before the First Appellate Court. By a common judgment dated 17.11.2005, the First Appellate Court remanded the matter back taking into consideration the interlocutory applications filed by the tenant disclosing the fact that the family members of the plaintiff/landlord had divided the property through a partition deed and those documents were sought to be introduced as additional evidence. So, for receiving and examining those documents, the matter was remanded back to the Trial Court.

7. Being aggrieved by the order of remand, the present Civil Revision Petition in C.R.P.NPD.(MD).No.712 of 2006 and the Civil Miscellaneous Appeal in C.M.A.(MD).No.1180 of 2006 are filed by the landlord Natarajan. Pending revision and appeal, some of the defendants died and their legal representatives were sought to be brought on record. In these applications, few were served with notice and others are yet to be served. In such circumstances, it is also now brought to the notice of this Court that on



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28.08.2006, the Government has passed a fresh order including the suit Village under the City Tenants Protection Act and the same has been published in the Government gazette dated 05.12.2006.

8. It is submitted by the learned counsel appearing for the appellant that there is no purpose in remanding the matter back since the issue is already well settled. The alleged superstructure put on the land is not in use and it is in dilapidated condition. For the past 30 years, the respondents are not using the building by running the rice mill, for which it was let out.

9. However, the learned counsel for the respondents submitted that the fact of applicability of Section 9 of City Tenants Protection Act has again cropped up in view of the subsequent Government Order and some of the legal representatives of the deceased third respondent are yet to be served. He further submitted that for complete adjudication, the order of remand has to be sustained to ascertain whether the present owner of the land entitle for vacant possession or whether the respondents are still interested in exercising their right under Section 9 of the City Tenants Protection Act.



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10. Taking into consideration all the above facts, it is appropriate to uphold the order passed by the Court below remanding the matter back to consider the facts, which have developed pending litigation regarding the division of the property among the legal heirs and the subsequent G.O.

11. Hence, the Civil Miscellaneous Appeal and the Civil Revision Petition are disposed of with a direction to the Trial Court to dispose of the matter within a period of 45 days from the date of receipt of a copy of this order. Liberty is granted to both the parties to place their respective submissions before the Trial Court. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

18.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Principal Sub Court,
Madurai.
- 2.The Taluk Munsif Court,
Madurai.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN,J.

Lm

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