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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.R.P(MD)No.462 of 2021
and
C.M.P(MD)No. 2478 of 2021

1. Sasireka

2. K.A.R.Ravichandran

...Petitioners

Vs.

O.C.Rajendran

... Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code to set aside the Fair and Decretal order passed by the Learned District Munsif, Palani, dated 21.08.2017 in I.A.No.559 of 2016 in O.S.No.96 of 1997.

For Petitioners : M/s.S.Madhavan

For Respondent : Mr.S.Anand Chandrasekar, for
M/s.Sarvabhauman Associates

ORDER

This Civil Revision Petition is filed by the defendants 4 & 5 in the suit to set aside the Fair and Decretal order passed dated 21.08.2017 by the District Munsif Court, Palani, in I.A.No.559 of 2016 in O.S.No.96 of 1997.



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2. The defendants 4 & 5 in the suit are the revision petitioners herein and the plaintiff in the suit is the respondent herein. For the sake of convenience, the parties shall be referred to as plaintiff and the defendants.

3. The suit in O.S.No.96 of 1997 was filed by the plaintiff/respondent herein for bare injunction. The brief facts stated in the plaint is that his father namely O.Chinnapillai was tenant in the suit property from 1965 onwards. Then his father had let the plaintiff to carry on business in the suit property from 1978 onwards and the tenancy was renewed periodically. Thereafter, on 23.08.1994 registered tenancy agreement was executed for 99 years between the plaintiff and the original owner Dhandapani Ayya by paying the entire rent of Rs. 77,200/- and advance of Rs.20,000/- for the 99 years lease. The 1st defendant Murugan's father Jayakumar had filed a suit for possession of the suit property and other properties in O.S.No.307 of 1981 on the file of Sub Court, Dindigul, wherein the plaintiff Rajendran was arrayed as 20th defendant and he had filed written statement, then the same was transferred to Sub Court, Palani and



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renumbered as O.S.No.7 / 1996. In O.S.No.839 of 1980 the plaintiff and the father of the said Dhandapani Ayya namely Murugadass Swamy had obtained compromise decree and the same is produced as evidence. The 1st defendant Murugan had claimed that the said Dhandapani Ayya had compromised with the 1st defendant and had let some properties in his possession, thereafter the 1st defendant started demolishing some buildings in the said properties with the help of 100 persons. But the contention of the plaintiff is that the alleged compromise is false and submitted he is in possession of the property based on the 99 years lease and the same is registered. Hence the suit is filed for bare injunction based on 99 years of lease under registered lease deed, dated 23.08.1994.

4. In the said suit notice were issued to the defendants. The 1st defendant had entered appearance through Counsel, but later on the Counsel had reported no instructions, hence the 1st defendant was set exparte. The 2nd and 3rd defendants failed to appear and they were set exparte. The 4th and 5th defendants entered appearance through Counsel, but failed to appear for cross examination of the witness PW1, thereafter they were set exparte. In short, all the defendants



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were set exparte and the said suit was allowed based on the documents and available evidence.

5. Thereafter the defendants 4 and 5 had filed petition to condone the delay of 58 days set aside exparte decree dated 21.08.2017 in I.A.No.559 of 2016 in O.S.No.96 of 1997 and the same was dismissed. Aggrieved over the same the present Civil Revision Petition is filed.

6. The contention of the plaintiff/ respondent herein is that even if the defendants 4 and 5 are allowed to contest the suit in O.S.No.96 of 1997, no purpose will serve to the defendants, since the plaintiff is protected under the lease agreement for 99 years from 23.08.1994.

7. It is seen that the plaintiff is protected under the registered lease agreement for 99 years from 23.08.1994 and the same is valid until 2094. Unless the lease for 99 years is challenged, the defendants cannot have any effective adjudication.



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8. Therefore, considering the facts and circumstances of the case, this Civil Revision Petition stands dismissed. However, liberty is granted to file a fresh suit challenging the 99 years lease as well as any other consequential relief. No Costs. Consequently, connected miscellaneous petition is closed.

23.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA

To

1. The District Munsif Court,
Palani.

2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

Order made in
C.R.P(MD)No. 462 of 2021

23.10.2024