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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2025

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

S.A.No.80 of 2025
& CMP.No.2150 of 2025
and
CRP.No.2116 of 2025
& CMP.No.12343 of 2025

S.A.No.80 of 2025

Selvam @ Selvaraj (Died)

1.Iyappan

2.Ravi

3.Murugan

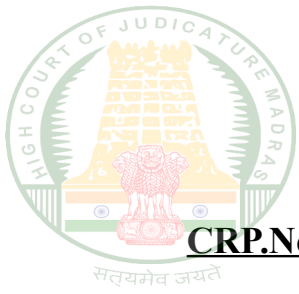
... Appellants

Vs.

S.P.D.R.Duraisamy

... Respondent

PRAYER in S.A.No.80 of 2025: Second Appeal is filed under Section 100 of the Code of Civil Procedure, prayed to set aside the Judgment and Decree dated 13.06.2024 made in A.S.No.15 of 2016, on the file of Subordinate Court, Panruti, in confirming the judgement and decree dated 28.07.2016 made in O.S.No.178 of 2006, on the file of District Munsif Court, Panruti.



CRP.No.2116 of 2025

WEB C Selvam @ Selvaraj (Died)

1.Iyappan

2.Ravi

3.Murugan

... Petitioners

Vs.

S.P.D.R.Duraisamy

... Respondent

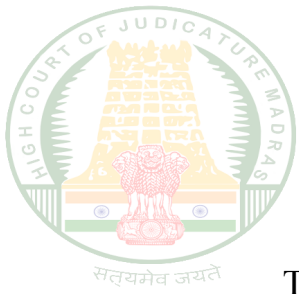
PRAYER in CRP.No.2116 of 2025 : Civil Revision Petition filed Under Section 25 of the Buildings (Lease and Rent) Control Act, 1960, praying to call for the records of the impugned order and decree dated 13.06.2025 made in RCA.No.1 of 2017 by the learned Rent Controller Appellate Authority-cum-Subordinate Judge, Panruti in confirming the order and decree dated 06.07.2016 made in RCOP No.6 of 2006, on the file of learned Rent Controller - cum - District Munsif, Panruti and to set aside and reverse the same.

For Appellants in both S.A & CRP : Mr.D.Ravichander

For Respondent in both S.A & CRP : Mr.M.Sivavarthan

COMMON J U D G M E N T

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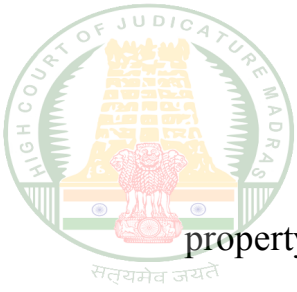
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The appellants have filed this Second Appeal against the Judgment and Decree dated 13.06.2024 made in A.S.No.15 of 2016, on the file of Subordinate Court, Panruti, which confirming the judgement and decree dated 28.07.2016 made in O.S.No.178 of 2006, on the file of District Munsif Court, Panruti.

2. The petitioners have filed this petition to set aside the impugned order and decree dated 13.06.2025 made in RCA.No.1 of 2017 passed by the learned Rent Controller Appellate Authority-cum-Subordinate Judge, Panruti in confirming the order and decree dated 06.07.2016 made in RCOP No.6 of 2006, on the file of learned Rent Controller - cum - District Munsif, Panruti.

3. For the sake of convenience, the parties herein are referred to as they were ranked in the suit.

4. When the matter was taken up, the learned counsel for the appellants submitted that the appellants have been occupying the suit property based on an irrevocable licence. The appellants are in possession and enjoying the



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property, and the said licence was allegedly granted by the plaintiffs' father as far back as 1977. Therefore, the appellants denied the existence of a landlord-tenant relationship.

5. The RCOP.No.6 of 2006 filed by the respondent was decreed in favour of the landlord. The appeal RCA.No.1 of 2017 filed by the tenants/appellants was also dismissed. As on date, the said order is in force.

6. The objection raised by the respondent, that the licence granted by the respondent is irrevocable, is not acceptable. Moreover, the Courts below have rightly concluded the matter, and their findings require no interference by this Court.

7. Accordingly, the Second appeal is dismissed as being devoid of merit.

8. However, the appellants / petitioners are directed to vacate the premises within a period of three months from the date of receipt of a copy of



this order.

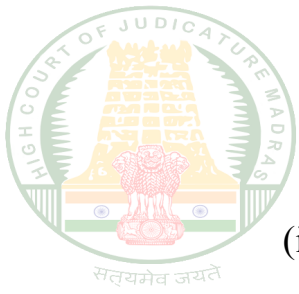
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9. Moreover, against the findings in RCOP No. 6/06, the tenants preferred RCA Nos. 1/2017, which were also dismissed, confirming the findings of the Rent Controller. Aggrieved by the same, the tenants preferred above Civil Revision Petition.

10. Challenging the said findings, the petitioners raised the following grounds:

"(i) The impugned order and decree of the learned Rent Control Appellate Authority in dismissing the appeal is materially irregular, erroneous, against law and facts, probabilities of evidence and therefore the same warrants interference by this Court and deserves to be set aside.

(ii) The learned Appellate authority had miserably failed to appreciate that it is not a case of lease but it is a case of irrevocable license and therefore the present petition for eviction maintained by the respondent under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the petitioners herein is not maintainable in the eyes of law.

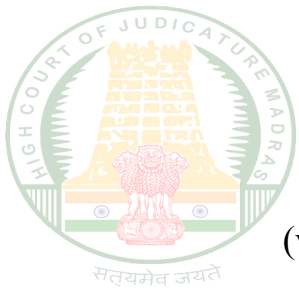


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(iii) The learned rent control appellate authority ought to have allowed the appeal holding that it is a case of irrevocable license as it is the petitioners' father Subramaniam, who based upon the license granted by the respondent's father, had entered into the property and had put up the permanent structure in the schedule mentioned property and therefore is entitled for the benefit under Section 60(b) of Indian Easement Act, and therefore the present eviction petition by the respondent is not maintainable.

(iv) The learned appellate authority had erred in upholding the order of eviction made by the learned rent authority by relying upon Ex.P17 to P26 filed by the respondent to conclude that there is a valid tenancy between the respondent and petitioners herein, whereas the aforesaid documents are the income tax assessments, which are purely self-declaratory and self-serving and the same cannot be put against the petitioners herein as the same are not admissible in so far as the petitioners herein are concerned.

(v) The learned appellate authority had failed to see that the aforesaid documents marked as Ex.P17 to P26 is not admissible in the eye of law, as the same are not proved in the manner known to the law.



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(vi) The learned appellate authority had miserably failed to appreciate the fact that the electricity connection for the scheduled mention property stands in the name of the petitioner's father and the same would go to blatantly establish that the permanent structure was put up by the petitioner's father and therefore he is entitled for the benefit under Section 60b of the Indian Easement Act and therefore the present eviction petition maintained by the respondent is not maintainable in the eyes of law."

11. In the CRP, the counsel for the respondent stated that, during the trial, the evidence of RW.1 showed that he was not aware whether any licence had been granted to his father. This was also observed by the learned Rent Control Judge, which clearly revealed that RW.1 had no valid knowledge about the terms of the alleged licence.

12. On the other hand, the respondent/landlord proved the existence of a landlord and tenant relationship and established that the tenants had committed willful default. From the year 1996 onwards, the tenants had not paid any rent for the property. Therefore, the alleged defence raised by the



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petitioners regarding the licence was not substantiated. Hence, the findings rendered by the Rent Controller required no interference, and accordingly, the CRP was also dismissed.

13. The tenants / appellants / petitioners are directed to vacate the premises within three months from the date of receipt of a copy of this order. If the appellants complies with the terms of eviction within the said period, the respondent/landlord has agreed to waive the arrears of rent. However, if the appellants fails to comply, the respondent is entitled to proceed with execution proceedings.

14. Accordingly, the second appeal and the Civil Revision Petitions are dismissed. Consequently, the connected miscellaneous petitions are closed. There shall be no order as to costs.

04.03.2025

Index : Yes/No
Speaking Order: Yes/No
Neutral citation: Yes/No
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To

1. The Subordinate Court, Panruti.
2. The District Munsif Court, Panruti.
3. The Rent Controller-cum-District Munsif, Panruti.
4. The Rent control Appellate Authority - cum - Subordinate Judge, Panruti.
3. The Section Officer, VR Section,
High Court of Madras.



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T.V.THAMILSELVI, J.

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