



C.R.P(MD)No.3347 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.3347 of 2023

Velu

... Petitioner / Appellant

Vs

1.Masana Thangam

2.Maheswari

3.Malliga

4.Amutha

5.Alaguradhi

6.Thangadurai

7.Anandaraj

... Respondents / Respondents

Prayer : This Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the fair and decreetal order passed by the learned Rent Control Appellate Authority / Subordinate Judge, Thoothukudi, in R.C.A.No.1 of 2021 dated 07.06.2023, confirming the fair and decreetal order of the learned Rent Controller / Principal District Munsif, Thoothukudi in RCOP No.18 of 2004 dated 28.10.2020.

For Petitioner : Mr.D.Srinivasa Raghavan

For Respondents : Mr. N.Dilip Kumar



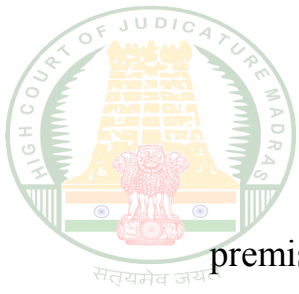
C.R.P(MD)No.3347 of 2023

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ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order passed by the learned Rent Control Appellate Authority / Subordinate Judge, Thoothukudi, in R.C.A.No.1 of 2021 dated 07.06.2023, confirming the fair and decreetal order of the learned Rent Controller / Principal District Munsif, Thoothukudi in RCOP No.18 of 2004 dated 28.10.2020.

2. R.C.O.P.No.18 of 2004 was filed by this revision petitioner against the respondent herein under Section 10(2), 10(2)(vii) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, seeking an order of eviction stating that the property belongs to him which is a residential building. The respondent would induct as a tenant under his father in the year 1980. It was an oral lease agreement. The original monthly rent was Rs.20/- at the time of inception. Rent was agreed to payable on or before 5th of every month. It was gradually raised to Rs.250/- and same as on the date of petition. The father of the revision petitioner died. But the respondent continued as a tenant under the petitioner. Upto, June, 2000, rent was paid by him later defaulted. Promised to vacate the



C.R.P(MD)No.3347 of 2023

premises within a week. But again failed. Knowing that a petition for eviction will be filed, the respondent filed a suit for injunction in O.S.No. 91 of 2001, wherein he denied the title of the petitioner. The suit ended in favour of the petitioner before the Subordinate Court, Tuticorin. Since the respondent denied the title of the petitioner and failed to pay the rent from July, 2000, the petition for eviction was filed.

3. Counter was filed by the respondent stating that there is no landlord and tenant relationship between them. The description of property is not correct since only one building is available. The measurements are not correct. The property belongs to him and his wife Annakili. The petitioner and one Balamurugan attempted to interfere into their peaceful possession in the property. So a suit in O.S.No.91 of 2001 was filed. The suit was decreed in favour of the respondent and his wife granting the relief of permanent injunction by the trial Court on 26.06.2002. The petitioner filed an appeal in A.S.No.5 of 2003 on the file of the Sub Court, Tuticorin and it was allowed by the Subordinate Judge, Tuticorin by the judgment and decree dated 12.12.2003 and Second Appeal is filed before the High Court. Since the petitioner has



C.R.P(MD)No.3347 of 2023

no title over the property, there is no question of default in payment of rent.

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4. The Rent Controller / Principal District Munsif, Tuticorin, after full enquiry dismissed the same without any cost. Against which, RCA No.1 of 2021 was filed before the appellate authority namely the Subordinate Judge, Tuticorin. Concurring with the order passed by the Rent Controller, the appeal was dismissed. Against which, this revision is preferred.

5. Heard both sides.

6. On two grounds, the main petition was filed by the revision petitioner. The first ground is, non payment of rent from July, 2000. We will take up the first issue. The rent controller who is the original authority on that aspect recorded a finding that the title of the petitioner was bonafidely disputed by the respondent. He would rely upon the judgment and decree passed by the Civil Courts in O.S.No.91 of 2001 and A.S.No.5 of 2003, the order passed in the Second Appeal in S.A. (MD)No.21 of 2004 wherein the respondent was granted permanent



C.R.P(MD)No.3347 of 2023

injunction till the disposal of E.P.No.1 of 2006 or till the disposal of R.C.O.P.No.18 of 2004. The revision petitioner has not produced any document or title to show that it is belonged to his father and after the death of the father, right devolved upon him. On the contrary, the respondent has produced the document in the form of revenue records, assessment of tax, electricity service connection charges, electricity service connection records etc. Apart from that he relied upon Ex.A26, a sale deed, alleged to have been executed by the father of the revision petitioner in favour of the first respondent. On that account, it recorded a finding that denial of title is bonafide.

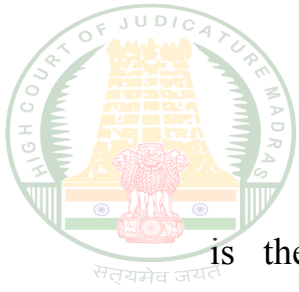
7. Now we will go to the appellate authorities finding. On the basis of the records produced by the respondent it was concluded that denial of title of the respondent is a bonafide one. Now in the light of the above said concurrent finding we will go to the judgment of this Court in S.A.(MD)No.21 of 2004 which was filed against the judgment and decree in A.S.No.5 of 2003 which was filed against the judgment and decree in O.S.No.91 of 2001. The main contention on the part of the respondent in the suit is that the property originally belongs to one



C.R.P(MD)No.3347 of 2023

Rathnasamy Nadar. He executed a sale deed on 07.06.1981. The first plaintiff paid the entire sale consideration and possession was taken. In the written statement filed by this revision petitioner it is stated that the suit property originally belongs to Rathnasamy Nadar; denied the execution of the sale deed dated 07.06.1981. There is a finding by the Second appellate Court that no doubt that the deed was executed by the Rathnasamy Nadar in favour of the first plaintiff on 07.06.1981, but no subsequent sale deed was produced. Since title is not created in favour of the respondent, he cannot be construed as title holder of the property. That is why, permanent injunction was granted subject to the result of the RCOP No.18 of 2004.

8. Now we will see whether the sale deed was produced by the respondent before the Tribunal. As mentioned above, Ex.R26 which is stated to be the sale deed executed by the Rathnasamy Nadar in favour of the respondent, is an unregistered sale deed. The property was sold for Rs.3600/-. So naturally, without any registration it has no validity. But the question which arises for consideration is, whether because of the non registration of the sale deed executed by the Rathnasamy Nadar, who



C.R.P(MD)No.3347 of 2023

is the father of the revision petitioner, the landlord and tenant relationship must be presumed or assumed. Even in the unregistered sale deed, there is no reference to the effect that Pounraj who is dead now, was in possession as a tenant on the date of deed. It appears that taking advantage of the non registration of the sale deed, the revision petitioner wants to setup the case as if the respondents are tenants namely the father of the respondent are tenants. Such a dubious claim cannot be accepted to be made. Therefore, the petition itself is a clear abuse of process of Court. So it was rightly dismissed by the rent controller confirmed by the appellate authority. There was no perversity in the order, warranting interference of this Court.

9. Accordingly, this Civil Revision Petition is dismissed by confirming the order of the learned Rent Control Appellate Authority / Subordinate Judge, Thoothukudi, made in R.C.A.No.1 of 2021 dated 07.06.2023. No costs. Consequently, connected miscellaneous petition stands closed.

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

23.01.2025



C.R.P(MD)No.3347 of 2023

G.ILANGOVAN, J.

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To

- 1.The Rent Control Appellate Authority / Subordinate Judge,
Thoothukudi.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN

C.R.P(MD)No.3347 of 2023

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