

1.Saroja Devi Vs. 1.Murugesan

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Court : Chennai

Decided On : Dec-04-2014

Judge : M.Duraiswamy

Appellant : 1.Saroja Devi

Respondent : 1.Murugesan

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:04.12.2014 CORAM THE HONOURABLE MR.JUSTICE
M.DURAISWAMY C.R.P.(MD)Nos.1149 of 2009 to 1151 of 2009 &
M.P.(MD).Nos.1,1 and 1 of 2009 C.R.P.(MD).No.1149 of 2009 1.Saroja Devi
..Petitioner -vs- 1.Murugesan 2.Jeyakumar 3.Nakesh 4.Pushpalatha
5.Kaliamoorthy ..Respondents C.R.P.(MD).No.1150 of 2009 1.Murugesan
2.Kailasam .. Petitioners -vs- 1.Murugesan 2.Jeyakumar 3.Nakesh 4.Pushpalatha
5.Muthu 6.Velu .. Respondents C.R.P.(MD).No.1151 of 2009 Elanchiyam ..
Petitioner -vs- 1.Murugesan 2.Jeyakumar 3.Nakesh 4.Pushpalatha .. Respondents
PRAYER: Civil Revision Petitions filed under Section 25 of the Tamil Nadu
Buildings (Lease and Rent Control) Act, against the fair and decreetal orders
passed in R.C.A.Nos.57, 58 and 97 of 1999, on the file of the learned Rent Control
Appellate Authority, Trichirapalli, dated 20.04.2009, confirming the fair and
decreetal order passed in RCOP Nos.296, 302 and 297 of 1989, respectively on
the file learned Rent Controller (2nd Additional District Munsif Court), Trichirapalli,
dated 22.12.1998. !For Petitioners :Mr.M.P.Senthil ^For Respondents

:Mr.G.R.Swaminathan for R1 to R3 in all the petitions :COMMON

ORDER

C.R.P.(MD).No.1149 of 2009 arises against the fair and decreetal order passed in R.C.A.No.57 of 1999 on the file of Rent Control Appellate Authority, Trichirapalli confirming the order of eviction granted by the Rent Controller, Trichirapalli in RCOP No.296 of 1989. The tenant is the revision petitioner and the respondents are the landlords. The landlords filed RCOP No.296 of 1989 for eviction on the ground of wilful default and demolition and re-construction.

2. C.R.P.(MD).No.1150 of 2009 arises against the fair and decreetal order passed in R.C.A.No.58 of 1999 on the file of Rent Control Appellate Authority, Trichirapalli, confirming the order of eviction granted in RCOP No.302 of 1989 on the file of Rent Controller, Trichirapalli. The tenants are the revision petitioners and the respondents were the landlords. The landlords filed RCOP for eviction on the ground of wilful default, demolition and reconstruction and sub letting.

3. C.R.P.(MD).No.1151 of 2009 arises against the fair and decreetal order passed in R.C.A.No.97 of 1999 on the file of Rent Control Appellate Authority, Trichirapalli confirming the order of eviction granted in RCOP No.297 of 1989 on the file of Rent Controller, Trichirapalli. The respondents/landlords filed RCOP on the ground of wilful default and demolition and reconstruction.

4. So far as the eviction on the ground of wilful default is concerned, both the Courts below ordered eviction. Insofar as the other grounds are concerned, the same are set aside by the Rent Control Appellate Authority. As against the order of eviction granted by the Courts below on the ground of wilful default, the tenants have filed the above civil revision petitions.

5. The main contention raised in the civil revision petitions was that the landlords leased out only the vacant site and that no building was leased out to the tenants/revision petitioners. So far as the monthly rent is concerned, there is no dispute between the parties.

6. Mr.M.P.Senthil, learned counsel appearing for the revision petitioners submitted that landlords failed to prove that the building was leased out to the tenants and in the absence of any acceptable evidence to that effect, the Courts below should not have ordered eviction, since the Tamil Nadu Buildings (Lease and Rent Control) Act has no application in respect of the vacant land.

7. According to the revision petitioners/tenants, the landlords leased out the vacant site and that they have put up construction in the vacant site and residing in the said building. When it is the case of the landlords that the building was leased out to the tenants and when the tenants contradicted the stand of the landlords stating that they only put up construction, they could have produced documents and evidence to establish their case that they constructed the building in the vacant site leased out to them.

8. In the case on hand, the tenants have not produced any documents to show that they put up construction in the vacant site leased out to them. The contention of the tenants that the landlords have not produced planning permission in respect of the property and therefore, the landlords have failed to establish their case that they leased out the building to the tenants, cannot stand. Even unauthorised building can be leased out to tenant and it is not necessary only an authorised building having planning permission can be leased out to tenant. Merely because the landlords failed to produce the planning permission and other documents would not prove the case of the tenants that the construction was put by them. When tenants were taking such a stand that they constructed the building, they could have produced evidence to establish their case with regard to the construction of the house in the vacant site. But, the tenants also failed to establish the said contention by any acceptable evidence. Taking note of the all these aspects, the Courts below rightly came to the conclusion that the landlords leased out the building to the tenants.

9. With regard to the ground of wilful default is concerned, the landlords categorically established that the tenants had committed wilful default in paying monthly rent. The tenants were not in a position to establish that they were regular in paying the rent to the landlords. In the absence of any evidence to that effect

and when the landlords have clearly established their case through documents and evidence, the Courts below have passed concurrent findings against the tenants and ordered eviction. In these circumstances, I have no reason to interfere with the concurrent findings of the Courts below. The civil revision petitions are liable to be dismissed. Accordingly, the same are dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

10. Mr.M.P.Senthil, learned counsel appearing for the petitioners submitted that the tenants may be granted 8 months time M.DURAI SWAMY,J.

ji kr to vacate and hand over the vacant possession of the property to the landlords. Mr.G.R.Swaminathan, learned counsel appearing for the landlords has no objection for granting 8 months time.

11. Having regard to the submission made by the learned counsel on either side, I grant 8 months time to the revision petitioners to vacate and hand over vacant possession of the property to the respondents/landlords without driving them to initiate execution proceedings. The revision petitioners shall file an affidavit of undertaking to that effect before this Court on or before 08.12.2014. 04.12.2014
Index : Yes/No Internet :Yes/No ji kr To The Rent Control Appellate Authority, Tiruchirapalli. The Rent Controller, II Additional District Munsif Court, Tiruchirapalli. C.R.P.(MD)Nos.1149 to 1151 of 2009 & M.P.(MD).Nos.1,1 and 1 of 2009

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