**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**

**S. Mohammed Vs. the State of Tamil Nadu Reptd. by Secy. to Govt. Home Department and anr.**

**S. Mohammed Vs. the State of Tamil Nadu Reptd. by Secy. to Govt. Home Department and anr.**

**SooperKanoon Citation** : sooperkanoon.com/802560

**Court** : Chennai

**Decided On :** Jun-29-1984

**Reported in** : (1984)2MLJ326

**Appellant** : S. Mohammed

**Respondent** : The State of Tamil Nadu Reptd. by Secy. to Govt. Home Department and anr.

**Judgement** :
ORDER

**S. Natarajan, J.**

1. In a desperate attempt to resist the execution levied against him by the 3rd respondent (landlord) to evict him, the tenant/petitioner has come forward with this writ petition praying for the issue of a writ of declaration in order to nullify Section 18(2) of the Tamil Nadu Buildings (Lease and Rent Control) Act. 18 of 1960 (hereinafter referred to as the Act) Section 18(2) lays down that an order passed in execution under sub-Section (1) shall not be subject to any appeal or revision. According to the petitioner, sub-Section (1) of Section 18 constitutes the Rent Controller a Civil Court and therefore, sub-Section (2) is ultra vires as it disentitles an affected party to file an appeal or revision against an order in execution made

under sub-Section (1).

2. Mohan, J., has already upheld the validity of sub-Section (2) of Section 18 of the Act in Purushothama Chettiar v. State of Tamil Nadu and Ors. in W.P. No. 5819 of 1979, judgment dated 6th February, 1980, wherein the learned Judge has held as follows:

Under Section 18(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, an order of eviction is deemed as an order of Civil Court only for the limited purpose of execution. That does not mean that the further remedy available under the Code of Civil Procedure, namely, appeal and revision should be provided for. There is no discrimination whatever, when the provisions of a special statute, namely, the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, applied.

Following this order, this writ petition deserves to be dismissed in limine, without further discussion. Nevertheless, it is appropriate to refer to certain other factors, as they would show how patently untenable the contention of the petitioner is.

3. Section 18 of the Act, reads as follows:

18. Execution of orders:

(1) Every order made under Sections 10, 14, 15, 16 and 17 and every order passed on appeal under Section 23 or on revision under Section 25, shall be executed by the Controller, as if such order is an order of a Civil Court and for this purpose, the Controller shall have all the powers of a Civil Court.

(2) An order passed in execution under sub-Section (1) shall not be subject to any appeal or revision.

From a reading of sub-Section (1), it may be seen that the Rent Controller has not been constituted a Civil Court for levying execution of orders passed under Sections 10, 14, 15, 16 and 17 of the Act or any order passed in appeal under Section 23 or any order passed in revision under Section 25 of the Act. On the other hand, sub-Section (1) merely states that every such order, referred to above should be executed as if it is an order of a civil court. The section then says that

'for this purpose the Controller shall have all the powers of a civil court.' Therefore, for the limited purpose of executing an order, the Controller has been conferred by statute the powers exercisable by a civil court. Such being the case, it is not open to the petitioner to contend that the Rent Controller has been conferred the status of a civil court under Section 18(1) and therefore, an order passed by the Rent Controller in execution should be subject to further scrutiny by the appellate and revisional courts in the same manner as an order passed by a civil court in the execution proceedings is subject to scrutiny.

4. It has then to be pointed out that sub-Section (1) of Section 18 refers to orders passed under various sections, viz., 10, 14, 15 and 17. While the orders passed under Sections 10 and 14 will be orders of eviction passed in favour of the landlords the orders passed under Sections 15, 16 and 17 will be orders passed in favour of tenants. Section 15 provides for a tenant to reoccupy after repairs and Section 16 provides for a tenant to reoccupy the building released under Section 14(l)(b) if the landlord fails to demolish the building as per the undertaking given by him. More worthy of notice is Section 17, which safeguards the rights of tenants by interdicting landlords from disrupting the amenities enjoyed by the tenants. If we are to accept the contention of the petitioner that an affected party is entitled to an appeal or revision against every order passed by the Rent Controller in execution, then it would lead to a chaotic situation, because the tenants, for whose protection the Act has Been framed, will stand deprived of immediate benefits under Sections 15, 16 and 17. A landlord, who is called upon under Section 15 or 16 to restore possession of the building to the tenant or to restore amenities to a tenant under Section 17 can contumaciously drag on the proceedings by challenging the order of the Rent Controller in appeal or revision and harass the tenant. Similarly, a landlord who is urgently in need of his building for his own occupation or by way of additional accommodation can also be kept at bay by an unreasonable tenant preferring an appeal or revision against the order of execution and dragging on matters endlessly. It is an order to prevent such a calamitous situation, the Legislature has advisedly and designedly enacted sub-Section (2) and specifically provided that an order passed in execution under sub-Section (1) shall not be subject to any appeal or revision.

5. Thus, it has to be pointed out that legally as will as factually, the petitioner's contention is totally benefit of substance and the writ petition does not lie and accordingly it will stand dismissed.

**SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com**