

C. Arumugam Vs. A.V. Sampath Giri Rao and N. Raghavan

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Court : Chennai

Decided On : Mar-17-1986

Reported in : (1986)1MLJ368

Appellant : C. Arumugam

Respondent : A.V. Sampath Giri Rao and N. Raghavan

Judgement :

ORDER

K. Shanmukham, J.

1. The tenant is the petitioner. A decree for possession was obtained by the petitioner's landlord on 30.6.1972 in O.S. No. 108 of 1971, District Munsif's Court, Cheyyar. The respondents filed O.E.P. No. of 1981 for executing the said decree and on 13.7.1984 the Executing Court ordered delivery. The petitioner came forward with O.E. No. 42 of 1983, purporting to be under Sections 47 and 151, C.P.C. to declare the decree in O.S. No. 108 of 1971 as not executable, because, according to him, under G.O. Ms. No. 424, Revenue, dated 24.2.1977, the Madras City Tenants' Protection Act HI of 1922 was extended to the Municipal Town of Thiruvattipuram, Cheyyar Taluk, South Arcot District, with effect from 31.3.1971.

2. What is the effect of the above G.O. is the point to be considered. The Government order read thus:

In exercise of the powers conferred by Sub-section (2) of Section 1 of the Madras City Tenant's Protection Act, 1921 (Tamil Nadu Act II of 1922), the Governor of Tamil Nadu hereby extends the said Act to the Municipal Town of Thiruvattipuram in Cheyyar Taluk of North Arcot District, with effect from the date of publication of this notification in the Tamil Nadu Government Gazette.

It is thus clear that this Act was simply extended to the Municipal Town of Thiruvattipuram, Cheyyar Taluk. But as the petitioner is running a rice-mill (which is not for residential purpose), the petitioner cannot claim protection under the said Act. For unless the tenant is entitled to be paid a compensation for the value of his building, he cannot claim the rights adumbrated under Section 4 or Section 9 of the Act. It is here it is relevant to notice the definition of the word 'building' in the Act. Section 2(1) defines:

Building means any building, but or other structure, whether masonry, bricks, wood, mud or metal or any other material whatsoever used

(i) For residential or non-residential purpose, in the City of Madras, in the Municipal Towns of Coimbatore, Madurai, Salem and Tiruchirappalli, in the township of Kodaikanal, Avadi, Kathivakkam, Ambattur, Madhavanry Bhavanisagar, Courtallam and Mettur or such other Municipal Town or Township as the Government may, by modification, specify, and in any village within eight kilometres of the city of Madras or of the Municipal towns or town or township aforesaid.

(ii) For residential purposes only, in any other area, and includes the appurtenance thereto '(rest is omitted).

3. Cheyyar Taluk falls under Sub-section (ii) of Section 2(1). Thus, the benefit envisaged under the said Act is extended to buildings for residential purpose only. I have already pointed out that the petitioner's building is not for residential purpose. Thus, he cannot claim any protection under the Act. Indeed, in Mohammed Abu Pucker v. Hindustan Petroleum Corporation Ltd. (1979) 92 L.W.497, Ismail, J. (as he then was) has held:

The Act contemplates the Government issuing two different types of notifications. One notification is under Section 2(3) of the Act extending the Act itself to tenancies in a particular area. The second notification is in relation to the definition of the term 'building' occurring in Section 2(1) of the Act. Section 2(1) defines the expression 'building' and Clause (i) relates to the user of the premises' for residential or non-residential purposes' and Clause (ii) to the user for residential purposes only.

Only notification issued is under Sub-section (ii) of Section 1 of the Madras City Tenants' Protection Act. Then, as already pointed out, without the other notification, the petitioner cannot claim that he is entitled to the rights adumbrated under the Act.

4. Consequently, the revision fails and is dismissed but without costs, in the circumstances of the case.

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