

(2013) 09 MAD CK 0170

In the Madras High Court

Case No : C.R.P. (PD) No. 2340 of 2013 and M.P. No. 1 of 2013

Banumathi and T. Mohan

APPELLANT

Vs

K.R.G. Paul Family and Others

RESPONDENT

Date of Decision : 13-09-2013

Acts Referred:

Citation : (2013) 8 MLJ 155 : (2014) 1 RCR(Rent) 56

Hon'ble Judges : B. Rajendran, J

Bench : Single Bench

Advocate : G. Narayana Gopalan, for the Appellant; K.A. Ravindran for RR2, 3, 5 and 6, for the Respondent

Final Decision : Dismissed

Judgement

B. Rajendran, J.—The petitioners have come forward with this Civil Revision Petition questioning the correctness of the order dated 07.12.2013 passed in R.C.A. No. 6 of 2012 by the learned Rent Control Appellate Authority cum Subordinate Judge, Mannargudi confirming the order dated 22.01.2011 passed in I.A. No. 86 of 2010 in R.C.O.P. No. 8 of 2009 on the file of the Rent Controller cum District Munsif of Mannargudi. The revision petitioners are the tenants in respect of the property, which is the subject matter of R.C.O.P. No. 8 of 2009 on the file of the learned Rent Controller cum District Munsif of Mannargudi. According to the respondents herein, the building in question was originally let out to one Mr. Devadoss for running a tea shop and after his demise, the petitioners herein, who are wife and brother of the original tenant Devadoss, are continuing the tenancy. It is further stated that the petitioners herein have committed wilful default in payment of rent which resulted in the filing of RCOP No. 8 of 2009 against the petitioners herein for eviction. It is pertinent to mention that the Rent Control Original Petition No. 8 of 2009 was instituted by "K.R.G. Paul Family represented by Mahatma". The said Mahatma, who instituted R.C.O.P. No. 8 of 2009 died. Therefore, I.A. No. 86 of 2010 was filed before the Rent Controller to bring on record the legal heirs of the said Mahatma. The said

I.A. No. 86 of 2010 was allowed by the learned Rent Controller on 22.01.2011. Aggrieved by this order, the revision petitioners/tenants have filed R.C.A. No. 6 of 2012 and the same was also dismissed on 07.02.2013.

2. The learned counsel appearing for the petitioners would contend that the said Mahatma was a representative of K.R.G. Paul Family and in such representative capacity, he instituted the Rent Control Original Petition. Therefore, on the death of the said Mahatma, it is only the family members of K.R.G. Paul Family who are entitled to prosecute the Rent Control Original Petition and the legal heirs of the deceased Mahatma ought not to have been impleaded in the Rent Control Original Petition. In fact, the said Mahatma instituted the Rent Control Original Petition as a Pangali (Relative) to K.R.G. Paul Family and therefore also, on the death of Mahatma, his legal heirs cannot prosecute the Rent Control Original Petition, if at all, the successor or other competent person of K.R.G. Paul Family alone are entitled to prosecute the Rent Control Original Petition. Both the courts below failed to appreciate that the legal heirs of KRG Paul Family have not been brought on record and instead impleading the legal heirs of the said Mahatma, who represented K.R.G. Paul Family, to prosecute the Rent Control Original Petition is unsustainable in law and therefore he prayed for allowing this Civil Revision Petition.

3. On the other hand, the learned counsel appearing for the respondents 2, 3, 5 & 6 would support the orders passed by the courts below by contending that no prejudice will be caused to the tenant/revision petitioner herein by impleading the legal heirs of Mahatma. Further, the Rent Control Original Petition itself was instituted by the petitioner titled "K.R.G. Paul Family represented by Mahatma" and he alone was prosecuting the Rent Control Original Petition for quite some time and therefore the orders passed by both the courts below are legally sustainable. On the death of Mr. Mahatma, his legal heirs have been brought on record to prosecute the Rent Control Original Petition which cannot be said to be incorrect. Further, the tenants/revision petitioners have admittedly paid rent only to the said Mahatma for some time and thereafter they have committed wilful default in payment of rent. It is further contended that the definition "landlord" defined in the Tamil Nadu Buildings (Lease and Rent Control) Act would indicate that a person who is entitled to receive the rent can be construed as a landlord. In this case, it is the said Mahatma who received the rent from the tenants/revision petitioners herein since the tenancy was attorned in his favour by the landlord of the premises in question. In any event, the revision petitioners, who are sub-tenants and have no legal right to remain in possession of the premises, which is the subject matter of the Rent Control Original Petition, have filed the present Civil Revision Petition only to drag on the proceedings and to gain time. Therefore, the learned counsel for the respondents 2, 3, 5 and 6 prayed for dismissal of the Civil Revision Petition.

4. I heard the learned counsel for both sides and perused the materials placed on record. The only apprehension raised on behalf of the petitioners is that in the

Rent Control Original Petition, the landlord was not properly represented to prosecute the Rent Control Original Petition. It is to be noted that the Rent Control Original Petition itself was filed by the petitioner in the name of "K.R.G. Paul Family represented by Mahatma". It is stated that the said Mahatma is the Pangali (relative) of K.R.G. Paul Family and in whose favour the tenancy was duly attorned by the landlord. It is also evident from the records that the tenants/revision petitioners have paid rent for some time only to Mahatma who received the rent and thereafter, the tenants/revision petitioners failed to pay the rent. It is now brought to the notice of this Court that the tenants/revision petitioners have also paid rent for some months to the legal heirs of Mahatma, who were brought on record in the Rent Control Original Petition. At best, the petitioner can raise the plea as regards improper representation or non-impleadment of the family members of K.R.G. Paul Family only at the time of trial.

5. Section 2(6) of the Tamil Nadu Buildings (Lease and Rent Control) Act defines the term "landlord". As per Section 2(6) of the said Act, a landlord includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian who would so receive the rent or be entitled to receive the rent if the building were let to a tenant. Therefore, even as per the definition provided to the landlord, the said Mahatma is entitled to receive rent for and on behalf of the landlord, being KRG Paul Family and on his death, his legal heirs can definitely be entitled to prosecute the Rent Control Original Petition filed by their father. Therefore, I am of the view that the courts below are justified in permitting the legal heirs of Mahatma to prosecute the Rent Control Original Petition and I do not find any reasons to interfere with the same.

6. At this stage, counsel for both sides requested this Court to fix a time frame for disposal of the Rent Control Original Petition at the earliest. Taking note of the fact that the Rent Control Original Petition is pending since 2009, the learned Rent Controller cum District Munsif of Mannargudi is directed to dispose of RCOP No. 8 of 2009 on its file within a period of six months from the date of receipt of a copy of this order. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, MP No. 1 of 2013 is closed.