
(1987) 01 MAD CK 0005
In the Madras High Court
Case No : C.R.P. 2331 to 2333 of 1983

Ganapathy and Others

APPELLANT

Vs

A. Kandaswaini Chettiar and Others

RESPONDENT

Date of Decision : 30-01-1987

Acts Referred:

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 10(3)(a), 10(3)(c), 14(1)(a), 8(5), 9(3)

Citation : (1987) 01 MAD CK 0005

Hon'ble Judges : M.N. Chandurkar, C.J

Bench : Single Bench

Advocate : S. Ramalingam, for the Appellant; G. Subramanian, for the Respondent

Judgement

M.N. Chandurkar, C.J.—All these revision petitions have to be dismissed in view of the subsequent events which have taken place as a

result of a suit for partition which was filed by Anganna Pandaram against two revision petitioners, who are co-owners of the suit property as well

as against the tenant. Facts are not in dispute. The suit premises which are business premises are admittedly owned by three persons Alagu Ramiah

and his brother Mailswami and Alaganna Pandaram. Alaganna Pandaram filed the original suit O.S. 900 of 1972 on the file of the Court of the

District Munsif, Palani, for partition and separate possession of his one third share. The suit was already pending when Alagu Ramiah and

Ganapathi had filed separate proceedings for eviction of the tenant in respect of their one-third share each making the claim under Ss. 10(3)(a),

10(3)(c) and 14(1)(a) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. It is not necessary to refer to the merits of the decision of

the Rent Controller and the appellate authority with regard to these petitions; but it is sufficient to mention that these petitions have been dismissed.

2. During the pendency of these petitions, the tenant filed a petition under S. 8(5) and S. 9(3) of the Rent Control Act for permission to deposit the

rent in view of the pendency of the civil suit filed by Anganna Pandaram. Though that petition was dismissed by the Rent Controller, the appellate

authority allowed that petition against the landlords. These three revision petitions thus arise out of the orders passed against the landlords.

3. Now it is common ground that the dispute with regard to the partition and separate possession of the property has been settled as between the

three co-owners of the property by the decree in the suit in as much as each of them has been held to be entitled to one-third share of the suit

property. An appeal, being S.A. 877 of 1981, has been filed by the tenant challenging the decree in so far as it affects him because he has been

directed to be evicted. The subject matter of the appeal is, therefore, only that part of the decree which ordered eviction of the tenant.

4. Now it is obvious that having regard to the decree of the Civil Court the two landlords who approached the Rent Controller for an order of

eviction, cannot now claim to be owners of the entire property. They are now owners of the definite portion which will fall to their shares. This will

depend upon how the final decree is given effect to. Since they are not the owners of the entire property, the two landlords could not in their own

right claim to evict the tenant from the entire premises. Even today an order of eviction against the tenant cannot be granted at the instance of the

two landlords because unless the partition decree is executed, none of them can be said to be the owner of the entire property. The property may

in execution of the decree be either divided or it may be allotted to the share of one or two co-owners, or the whole property may be sold and the

money might be distributed between the three co-owners. The rights of the two landlords, therefore, depend on the nature of the interest in the suit

property which will be finally determined only after the execution of the final decree. Today therefore, they cannot claim any right to evict the tenant

as owners of the entire property. Accordingly, these revision petitions will have to be rejected. The two landlords will be entitled to exercise their

right for eviction of the tenant only in respect of such part of the premises as will fall to their share in accordance with the final decree. These

revision petitions are, therefore, dismissed. However, there will be no order as to costs. The dismissal of these petitions will not stand in the way of

the landlords making an application in respect of separate premises which may fall to their share for eviction of the tenant.