
(2006) 01 MAD CK 0039

In the Madras High Court

Case No : C.R.P. (PD) No. 250 of 2005 and CMP. No. 2465 of 2005

Kasthuri

APPELLANT

Vs

Arulmighu Uthookattu Amman Koil

RESPONDENT

Date of Decision : 30-01-2006

Acts Referred:

City Tenants Protection Act, 1996 — Section 2, 3, 9
Madras City Tenants Protection Act, 1922 — Section 1

Citation : (2006) 01 MAD CK 0039

Hon'ble Judges : C. Nagappan, J

Bench : Single Bench

Advocate : R. Sunil Kumar, for Usha Raman, for the Appellant; No appearance, for the Respondent

Final Decision : Dismissed

Judgement

C. Nagappan, J.—The petitioner has sought for setting aside the judgment and decree, dated 8.10.2004, passed in C.M.A. No. 13 of 2004

on the file of V Additional City Civil Court, Chennai, preferred against the order dated 14.11.2003 made in I.A. No. 2092 of 2003 in O.S. No.

2360 of 2002 on the file of XI Assistant City Civil Court, Chennai. The petitioner herein is the third defendant in the suit.

2. The respondent-Temple filed a suit in O.S. No. 2360 of 2002 seeking for a decree of recovery of possession of the Temple property from the

petitioner and two others and pending the suit, the petitioner herein/third defendant filed application u/s 9 of the City Tenants Protection Act

seeking for a direction to sell the property held in possession to her and the Trial Court dismissed the application as not maintainable in view of Act

2/1996 and the petitioner herein preferred appeal in C.M.A. No. 13/2004 and that was also dismissed and challenging the said orders, the present

revision has been filed.

3. The learned counsel for the respondent is absent.

4. The learned counsel for the petitioner contends that the respondent-Temple is a private Temple and it is not a religious institution as stipulated in

Act No. 2/1996 and hence the rejection of the application filed by the petitioner claiming the benefit of Section 9 of City Tenants Protection Act is

bad in law.

5. By virtue of Section 2 of Act 2/1996, Section 1 of the Madras City Tenants' Protection Act, 1921 was amended and in the sub-Section

providing for exemptions from the operation of the Act, clause (f) was added and in that process exempting tenancies of land owned by religious

institutions or religious charities belonging to Hindu, Muslim, Christian or other religions. It is relevant to note that the Supreme Court in the recent

decision in Mylapore Club Vs. State of Tamil Nadu and Another, has upheld the constitutional validity of Sections 2 and 3 of Amending Act, viz.,

Act 2/1996. As per the amending Act, "religious institution" means any temple which is dedicated to, or for the benefit of, or used as of right by,

any community or section thereof as a place of public religious worship.

6. It is not in dispute that the respondent-Temple is used as a place of public religious worship. In such circumstances, the provisions of the City

Tenants' Protection Act shall not apply to the tenancies of land owned by the respondent-Temple and both the Courts below have rightly

dismissed the application of the petitioner as not maintainable.

7. The Civil Revision Petition is dismissed. No costs. Connected CMP. No. 2465 of 2005 is also dismissed.