
(2008) 01 MAD CK 0081

In the Madras High Court

Case No : C.R.P. (NPD) No. 3697 of 2007 and M.P. No. 1 of 2007

T.T.G. Industries Limited

APPELLANT

Vs

S.P. Padmavathy, A.R.N. Suppiah and S.P. Arulappa

RESPONDENT

Date of Decision : 03-01-2008

Acts Referred:

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 10(2)

Citation : (2008) 01 MAD CK 0081

Hon'ble Judges : A.C. Arumugaperumal Adityan, J

Bench : Single Bench

Advocate : B. Kumar for M. Aravind Subramanian, for the Appellant; R. Thiagarajan for B. Kaalathinathan, for R1 to R3, for the Respondent

Final Decision : Dismissed

Judgement

A.C. Arumugaperumal Adityan, J.—This revision has been preferred against the judgment in RCA.No.487 of 2005 on the file of the Rent

Control Appellate Authority (VIII Judge, Small Causes Court, Chennai), which had arisen out of the order in RCOP.No.1517 of 2002 on the file

of the XIII Judge, Small Causes Court, Chennai. The tenant/R1 is the revision petitioner herein.

2. RCOP.No.1517 of 2002 was filed u/s 10(2)(ii)(a) of the Tamil Nadu Building (Lease and Rent Control) Act on the ground that the tenant/R1

had sublet a portion of the petition schedule premisses bearing Door No.34, College Road, Nungambakkam, Chennai, to the 2nd respondent.

Both the respondents have filed their counter before the Rent Controller denying the subtenancy.

3. Before the Rent Controller the 2nd petitioner has examined himself as P.W.1 and Ex.P.1 to Ex.P.16 were marked on the side of the petitioners.

On the side of the respondent R.W.1-Manokaran, one of the Directors of R1 and one Mr. Ramesh-R.W.2 were examined and Ex.R.1 to Ex.R.6

were marked. Besides the above said witnesses one Selvam was examined as C.W.1 and Ex.C.1 to Ex.C.4 were marked.

4. After going through the oral and documentary evidence, the learned Rent Controller has come to a conclusion that the petitioners/landlords have proved the subletting of the petition scheduled premisses and accordingly allowed the petition and gave two months time to the tenant to vacate

and handover vacant possession to the landlord. Aggrieved by the findings of the learned Rent Controller, the tenant preferred an appeal in

RCA.No.487 of 2005 before the VIII Judge, Small Causes Court, Chennai, (Rent Control Appellate Authority). After giving due deliberation to

the submissions made by the learned Counsel for the appellant as well as the learned Counsel for the respondents, and finding no material to

interfere with the conclusion arrived at by the learned Rent Controller, the learned Rent Control Appellate Authority has dismissed RCA.No.487

of 2005 thereby confirming the findings of the learned Rent Controller giving a months time to the tenant to vacate and handover vacant possession

to the landlords. Aggrieved by the findings of the learned Rent Control Appellate Authority in RCA.No.487 of 2005 the present revision has been

preferred by the tenant.

5. Before admission notice was ordered to the respondents, for whom the learned Senior Counsel Mr. R. Thiagarajan has appeared. Heard the

learned Senior Counsel Mr. B. Kumar appearing for the revision petitioner, who would contend that on the ground that R.W.2 Ramesh was found

in one of the portions of the petition scheduled building, the landlords have preferred the RCOP on the ground that R1 had sublet a portion of the

petition schedule building without their permission. The learned Senior Counsel would focus the attention of this Court to the deposition of R.W.2-

Ramesh before the Rent Controller as to the effect that he is a director of TTG Consolidated Private Limited, which is a sister concern of R1, the

tenant, and the office management was managed by one Lyla, his assistant. He would go to the extent of denying that R2 the alleged subtenant is in

occupation of a portion of the petition scheduled building. To prove that R.W.2 Ramesh was in occupation of a portion of the petition scheduled

building, the petitioners/landlords (Respondents herein) have filed Ex.P.6 & Ex.P.7 Photos along with negatives to show that R.W.2 Ramesh was in occupation of a portion of the petition scheduled building.

6. The learned Senior Counsel Mr. B. Kumar relying on M/s. Delhi Stationers and Printers Vs. Rajendra Kumar, would contend that mere

presence of Ramesh (R.W.2) in a portion of the petition scheduled building will not amount to subletting of the premisses to R2. For this

proposition of law, the learned Senior Counsel Mr. B. Kumar would rely on the following observation found in the above said ratio decidendi:

Sub-letting means transfer of an exclusive right to enjoy the property in favour of the third party and the said right must be in lieu of payment of

some compensation or rent. Parting of the legal possession means possession with the right to include and also a right to exclude others. Mere

occupation is not sufficient to infer either sub-tenancy or parting with possession see Gopal Saran Vs. Satyanarayana,

The facts of the above cited case is that:

the appellant is the tenant of the premisses consisting of three rooms, a kitchen and a toilet. The respondent/landlord filed the suit for eviction of the

appellant on the ground of personal necessity and sub-letting of the premises without his consent. It was in evidence that the tenant was in

possession of the leased out property. But one Mahendra Singh, who was utilising a portion marked as K1 to K4 in the plaint.

But that is not the case herein. Even in the affidavit to the RCOP at paragraphs 5 & 6 the landlords have in clear terms stated that the 1st

respondent - tenant had sublet a portion of the petition scheduled premises to the 2nd respondent and has also received a monthly rent of

Rs.27,000/- from R2 and that the 1st respondent had committed willful default of payment of monthly rent of Rs.27,000/- to the

petitioners/landlords for the period from 1.4.1994 to 28.02.2002. Further there is absolutely no pleading in the counter filed either by the first

respondent or by the second respondent to the effect that R.W.2 Ramesh is one of the partners of R1 or R4, or alleged sister concern viz. TTG

Consolidated Private Limited.

7. The learned Senior counsel Mr. R. Thiagarajan relying on 1958 MLJ 7 (Pir Sidik Mahomed Shah v. Musammat Saran, since deceased, and

Anr.), would contend that no amount of evidence can be let in without a proper pleading. The ratio decidendi in the above said decision runs as

follows:

Held that the lower appellate Court rightly found that no amount of evidence could be looked into upon a plea which was never put forward in the

written statement.

On the basis of evidence the learned Rent Control Appellate Authority in its judgment at para 17 has also dealt with extensively this point and has

come to a definite conclusion that R2-M/s Sterling dynamics Pvt Limited is in occupation of a portion of the petition schedule premisses in the

capacity of unauthorized sub-tenant for monitory consideration under R1. It is settled law that while exercising revisional jurisdiction unless it is

proved that the findings of the Courts below, in concurrent findings, is perverse in nature or unsupported by evidence, this Court cannot interfere

with the findings.

8. The learned Senior Counsel Mr. B. Kumar relied on AIR 2007 SC 1103 (G.L. Vijain v. K. Shankar), and contended that this Court can

exercise its inherent jurisdiction in all appropriate cases particularly while exercising the revision jurisdiction however in effect and substance is an

appellate jurisdiction. I am of the view that in the revision on hand there is absolute no material placed before this Court to show that the findings of

the Courts below are perverse in nature or unsupported by evidence to warrant any interference from this Court. The facts in the other decisions

relied on by the learned Senior Counsel Mr. B. Kumar in 1975 TNLNJ 53 1991 MLJ 156 2001 (3) CTC 618 and 1999(2) LW 505, will not be

applicable to the present facts of the case. Under such circumstances, I do not find any reason to admit this civil revision petition.

9. In fine, the Civil Revision Petition is dismissed before admission. Time for vacating and handing over the vacant possession is one month from

this date. No costs. Connected Miscellaneous Petition is closed.