

(2005) 06 MAD CK 0059

In the Madras High Court

Case No : C.R.P. (NPD) No. 1018 of 2005 and C.M.P. No. 7670 of 2005

V. Dhanam, R. Saraswathi and Punidavathy

APPELLANT

Vs

P. Sudhakaran

RESPONDENT

Date of Decision : 18-06-2005

Acts Referred:

Pondicherry Buildings (Lease and Rent Control) Act, 1969 — Section 10, 10(2)

Citation : (2005) 3 CTC 409

Hon'ble Judges : M. Chockalingam, J

Bench : Single Bench

Advocate : Sudha Ramalingam, for the Appellant;

Final Decision : Dismissed

Judgement

M. Chockalingam, J.—This civil revision petition has been brought forth challenging the judgment of the learned Principal District Judge,

Pondicherry, made in R.C.A.No.41 of 2002 wherein the order of the Rent Controller, Pondicherry, in HRCOP No.68 of 2000, was affirmed by

passing an order of eviction of the petitioners herein.

2. The landlord respondent came with an application for eviction of the petitioners herein, the tenants, under Sec. 10(2)(i) and 10(vii) of the

Pondicherry Building (Lease & Rent Control) Act on the grounds of wilful default and denial of title. The case of the landlord before the lower

Court was that the property originally belonged to the petitioners/tenants; that they sold the same by way of a sale deed dated 3.6.1999 for a

consideration of Rs.2,50,000/-; that the said payment was made; but, they could not hand over possession; that they wanted a short

accommodation by 10 days; that even then, they could not vacate the property; that they also executed a lease deed agreeing to be in possession

for a period of 11 months and hand over possession; that despite the expiry of 11 months, they did not hand over possession; that a notice was issued calling upon them to vacate the premises; that they sent a reply containing false allegations as to the title to the property and denying the landlord and tenant relationship, and under the circumstances, the RCOP came to be filed by the respondent on the grounds stated above.

3. The application was contested vehemently by the petitioners/ tenants on the ground that there was no sale at all; that it was only a mortgage; that their signatures were obtained in the stamp papers; that it was not their intention to sell the property; that apart from that, no consideration was paid for the alleged sale transaction; that even the contention of the landlord that Rs.10,000/- was paid by way of advance at the time of execution of the lease deed is thoroughly false; that there was no lease deed between the parties; that neither the landlord had title to the property, nor there was any landlord and tenant relationship between the parties, and under the circumstances, the application was to be dismissed.

4. On consideration of the submissions made and perusal of the materials, the Rent Controller passed an order of eviction, which was challenged by the petitioners/tenants before the appellate forum. The appeal also met the same fate. In such circumstances, they have brought forth this revision before this Court.

5. The Court heard the learned Counsel for the revision petitioners and also made a thorough scrutiny of the entire materials. After hearing the learned Counsel and scrutiny of the materials, this Court is of the considered opinion that the revision does not even require an admission before this Court.

6. The respondent sought eviction of the petitioners from the premises on two grounds, namely wilful default and denial of title. The case of the landlord in short as stated above, was that he purchased the property from the tenants by way of a sale deed on 3.6.1999 under Ex.A-1, pursuant to which possession was not handed over, and the tenants also sought for 10 days time; but, they did not hand over, and there was a lease deed executed by them under Ex.A2, pursuant to which they were put in possession, and they did not hand over possession, despite the period of 11 months under the lease deed was over, and then, a notice was issued, which

resulted in a reply with false allegations. Both sides adduced evidence.

Both the Rent Controller and the appellate forum have perused the evidence. At this juncture, it has to be pointed out that it is true that the

property originally belonged to the petitioners/tenants; but, a sale deed came to be executed by them in favour of the landlord on 3.6.1999. The

sale consideration was found to be Rs.2,50,000/-, and as per the recitals, the same was received by the tenants.

7. So far as the sale deed was concerned, the petitioners/tenants have taken three stands. Firstly, it was not a sale deed; but, it was a mortgage

deed. Secondly, their signatures were obtained in the stamp papers. Thirdly, the consideration was not passed. It remains to be stated that the

recitals are found contra. So far as the documentary evidence is concerned, the Court has to necessarily accept the averments found in the sale

deed and not the oral testimony of the petitioners/tenants before the Court below, which stood contra, unless and until the circumstances warrant

so. Not only the sale deed was relied upon by the Rent Controller and the appellate forum, but also the lease deed executed by the tenants.

Further, it is contended by the petitioners' side that no lease deed was also executed, which is falsified by the existence of Ex.A2 lease deed. This

lease deed executed by the tenants would clearly speak about the property in question, and the lease period was only for 11 months, where they

agreed to pay a monthly rent of Rs.1,000/-. Under the circumstances, the Rent Controller as well as the appellate forum have not only relied on the

oral testimony, but also relied upon the documents which were also registered. Thus, it is suffice to hold that the property originally belonging to the

petitioners, were sold to the respondent landlord by a sale deed under Ex.A1 on 3.6.1999, and subsequently, a lease deed has also been executed

by the tenants under Ex.A2, and they have been in possession. There was a clear denial of title, shown by the landlord, and the same was well

within the knowledge of the petitioners/ tenants. In such circumstances, the Rent Controller and the appellate forum were perfectly correct in

passing an order of eviction of the petitioners herein from the tenancy premises. Hence, the finding of the lower appellate forum does not require

any interference, and accordingly, it is sustained.

8. It is brought to the notice of the Court that the petitioners/ tenants are aged,

and therefore, it has got to be considered. In order to avoid the avoidable delay, this Court is of the considered opinion that it is a fit and proper case where six months time has to be given to the tenants to vacate from the premises. Accordingly, six months time is granted, and if not done, the respondent is always at liberty to take eviction proceedings before the lower forum to get the possession of the property.

9. With the above observations, this civil revision petition is dismissed at the admission stage itself. No costs. Consequently, connected CMP is closed.