



C.R.P.No.4320 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.4320 of 2023

and

C.M.P.No.26300 of 2023

Willson

... Petitioner

Vs.

1.Vijayalakshmi

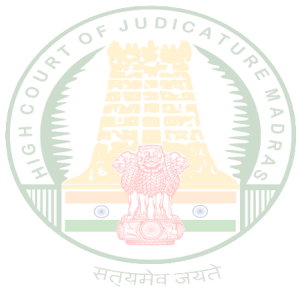
2.G.Bhakiyalakshmi

... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed by the Subordinate Judge, Katpadi, dated 25.08.2022 in R.C.A.No.1 of 2022, confirming the order of the District Munsif, Katpadi, in R.C.O.P.No.23 of 2009 dated 10.11.2020.

For Petitioner : Mr.P.V.Balasubramanian
Senior Counsel
for Mr.S.Ranjith Kumar

For Respondents : Mr.V.Raghavachari
Senior Counsel
for M/s.Srimathi V.



C.R.P.No.4320 of 2023

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ORDER

Challenging the order passed by the learned Subordinate Judge, Katpadi, in R.C.A.No.1 of 2022, dated 25.08.2022, confirming the order of the learned District Munsif, Katpadi, in R.C.O.P.No.23 of 2009, dated 10.11.2020, ordering eviction under Section 10(2)(c) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, the present revision has been filed by the tenant.

2.The respondents filed the application in R.C.O.P.No.23 of 2009 for eviction of the petitioner from the subject premises under Section 10(2)(c) of the Act. It is the case of the respondents that they, along with one Venkatesan, have purchased the subject property from one A.S.Sarkar under registered sale deeds dated 14.12.2001 and took possession of the same. The petitioner was already a tenant under A.S.Sarkar on a monthly rent of Rs.1,000/-. Immediately after the purchase, the respondents intimated about the purchase to the petitioner and called upon him to attorn tenancy in favour of the petitioners and the said Venkatesan, and to pay the future rent from 14.12.2001 to the respondents and Venkatesan. It is the contention of



C.R.P.No.4320 of 2023

WEB COPY

the respondents that the petitioner also accepted the same and paid the rent of Rs.1,000/- for one month to the respondents. Thereafter, the petitioner did not pay the monthly rent to the respondents upto 15.01.2002. Therefore, the respondents issued a notice to the petitioner on 08.03.2002 informing the petitioner to terminate any tenancy agreement, if any, with the previous owner and to attorn tenancy with the respondents and also to pay the rental arrears to the respondents. The said notice was returned with an endorsement "door locked". Thereafter, the respondents once again sent a notice dated 07.04.2007 intimating the petitioner that the tenancy was terminated on and from 31.02.2007 and to deliver vacant possession of the property to the respondents and also to pay the rental arrears. Despite receipt of the said notice on 23.04.2007, the petitioner did not reply to the same nor paid the arrears of rent nor vacated the premises. Therefore, contending that the petitioner has committed willful default in payment of rent, the respondents filed the eviction petition before the Rent Controller.

3.Before the Rent Controller, it is the contention of the petitioner that he is a statutory tenant under one A.S.Sarkar. It is the specific case of the the petitioner that he was not aware of the transaction between his landlord



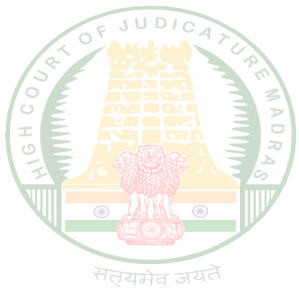
C.R.P.No.4320 of 2023

WEB COPY

A.S.Sarkar and the respondents, nor was he a party to the same. The petitioner has been paying rent only to his original landlord A.S.Sarkar. Admitting the receipt of the notice dated 07.04.2007, it is the contention of the petitioner that, since there is no jural relationship between the petitioner and the respondents, he ignored the same and did not send any reply. It is the further contention of the petitioner that, apart from the respondents, there is yet another purchaser namely Venkatesan, however, after his death, his legal heir, namely V.Mahadevi @ Mahalakshmi, has not been impleaded, and the eviction petition has been filed without her knowledge and consent. Accordingly, the petitioner opposed the eviction petition.

4.Before the Rent Court, the 2nd respondent examined herself as P.W.1 and marked Exs.P1 to P11. On the other side, the petitioner examined himself as D.W.1 and marked Exs.D1 to D13.

5.Considering the oral and documentary evidence on record, the Rent Controller ordered eviction under Section 10(2)(c) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960.



C.R.P.No.4320 of 2023

WEB COPY

6.Challenging the order of eviction, the tenant preferred an appeal in R.C.A.No.1 of 2022 before the Subordinate Court, Katpadi. The Rent Appellate Court confirmed the findings of the Rent Court by order dated 25.08.2022.

7.Challenging the concurrent findings of the Courts below, the tenant has filed the present revision.

8.Mr.P.V.Balasubramanian, learned Senior Counsel appearing for the revision petitioner/tenant, would submit that the eviction petition has been filed by the respondents as if they are the absolute owners of the subject property. However, the subject property is said to be purchased by the respondents along with one Venkatesan. The learned Senior Counsel pointed out that P.W.1 has admitted in her evidence that the said Venkatesan died leaving behind his wife namely Mahadevi @ Mahalakshmi. However, the eviction petition has been filed only by the respondents claiming themselves as legal heirs of Venkatesan, without impleading the original legal heir of the said Venkatesan and even without her consent. Therefore,



C.R.P.No.4320 of 2023

WEB COPY

it is his contention that the eviction application itself is without *bona fides* and the same is not maintainable, as the other co-owner has not been impleaded. It is his further contention that the petitioner is a tenant under A.S.Sarkar and the petitioner has been paying rent only to the son of his original owner A.S.Sarkar. Therefore, it is his contention that there is no landlord-tenant relationship between the petitioner and the respondents. It is his further contention that the dispute regarding the title of the subject property is pending between the respondents and one A.N.Sarkar Foundation Trust in A.S.No.504 of 2013. Therefore, the eviction petition filed by the respondents claiming themselves as absolute owners is not maintainable.

9. Whereas, Mr.V.Raghavachari, learned Senior Counsel appearing for the respondents/landlords would submit that a co-owner is entitled to maintain a petition for eviction even without the consent of the other co-owners. In fact, it is a matter between the co-owners, not the concern of the tenant. It is his contention that the tenant has never paid the rent and has committed wilful default. Therefore, the contention now raised by the tenant as to the maintainability of the rent control proceedings has no legs

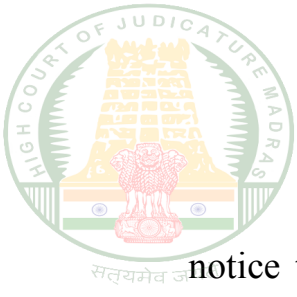


C.R.P.No.4320 of 2023

to stand. The petitioner has taken a stand that he is a tenant only under one A.S.Sarkar. It is his further contention that the tenant has also denied the title, which itself is a ground for eviction. According to the learned Senior Counsel, the Rent Controller has rightly found that the petitioner has committed willful default and merely because one of the co-owners has not joined in the petition for eviction, the same will not be a ground to non-suit the landlord. The Appellate Authority has also confirmed the judgment of the Rent Controller. Therefore, the learned Senior Counsel prays for dismissal of the revision.

10.Heard the learned counsel on either side and perused the entire materials available on record.

11.An application has been filed by the respondents under Section 10(2)(c) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960, for eviction of the petitioner from the subject premises for willful default in payment of rent. The respondents and one Venkatesan have purchased the property from one A.S.Sarkar by registered sale deeds dated 14.12.2001, marked as Exs.A1 to A4. After the purchase, they have also sent a legal



C.R.P.No.4320 of 2023

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notice to the petitioner on 08.03.2022, intimating about the purchase and also for attornment of tenancy. That notice was returned unclaimed. Thereafter, the petitioner stopped paying rent. Again, a legal notice has been sent on 07.04.2007 intimating the purchase and also for attornment of tenancy and for payment of rental arrears. The said notice has been received by the petitioner on 23.04.2007 which is evident from Ex.P10. However, the said notice has not been replied. When the property has been purchased by the respondents in the year 2001 and immediately thereafter, the same has been intimated to the tenant and the notice for attornment of tenancy was also given, the receipt of which is also acknowledged, now, it is hard to believe that the tenant still continues to pay rent to his erstwhile landlord namely A.S.Sarkar. Further, the Rent Controller has also found that there is no evidence available on record to show that rents have been continuously paid by the tenant. Even payment of rent to the earlier owner also not been established by the tenant.

12.Amongst various other grounds, the learned Senior Counsel appearing for the petitioner/tenant before this Court mainly emphasised on the ground that the very eviction proceedings is not maintainable since all



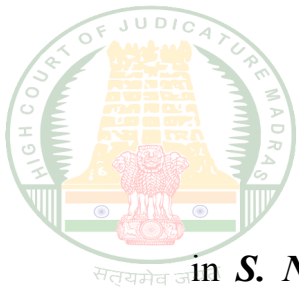
C.R.P.No.4320 of 2023

WEB COPY

the co-owners have not been impleaded. This Court is of the view that, merely because one of the co-owners has not been made as a party, that cannot be an advantage to the tenant to save his possession. Ultimately what is required is only the eviction of the tenant from the premises. Even if any of the co-owners is omitted, still, the omitted co-owners can seek right over the property. Such issue is only between the co-owners and has nothing to do with the proceedings to evict a tenant from the property. When the possession of one co-owner is deemed to be the possession of all co-owners in law, it cannot be said that, merely because one of the co-owners has not joined in the eviction proceedings, the very eviction petition itself is not maintainable.

13.The Hon'ble Supreme Court, in *Sri Ram Pasricha v. Jagannath* reported in *(1976) 4 SCC 184*, has held that a co-owner is as much as owner of the entire property as any sole owner of a property is. Similar view has been taken by the Hon'ble Supreme Court in *Kanta Goel v. B.P. Pathak* reported in *(1977) 2 SCC 814*.

14.Following the decision of the Hon'ble Supreme Court, this Court,



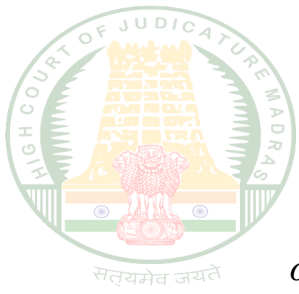
C.R.P.No.4320 of 2023

in **S. Namagiri Lakshmi v. Pravin Harilal Mehta** reported in (1998) 1

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CTC 595, has held that a co-owner is as much owner of the entire property as any sole owner and as such entitled to file petition for eviction without impleading other co-owners. The relevant paragraph of the judgment reads as follows :

“4.This plea was not at all raised neither in the counter nor before the authorities below. Moreover as a co-owner, the landlady is as much as a owner of the entire properties as any sole owner of the properties in question. The legislature has not provided any restriction on the co-owner to file an application under Section 14(1)(b) of the Act. The only restriction that has been imposed under the Act is under Section 10(8) of the Act, and, that too only against the agent of the landlord/landlady. In the absence of any such restriction, it will be foreign to hold that the co-owner cannot maintain the petition for demolition and reconstruction, especially when no evidence is available before the authorities below to show that the other sharers are not willing to demolish and reconstruct the premises in question. Support is also gained for this view in Shanmugha Appa v. Abdul Hameed, 1973 (I) M.L.J. 241 wherein P.S. Kalisam, J., as he then was, has held that petition for eviction by one co-owner even for demolition and reconstruction is maintainable. Hence the contention raised



C.R.P.No.4320 of 2023

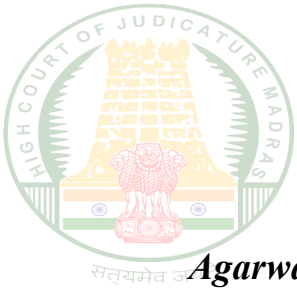
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on behalf of the tenants by the learned Senior Counsel cannot be countenanced.”

15.This Court, in ***K.Nanjappan v. V.K.Janaki*** reported in **1999 (II) MLJ 68**, after referring to the decisions of the Hon'ble Supreme Court in *Sri Ram Pasricha's case (supra)* and *Kanta Goel's case (supra)*, has held that one co-owner can maintain a petition for eviction; presence of all co-owners is unnecessary. This Court, in ***K. Shanmugha Appah v. S.S. Abdul Hameed*** reported in **1972 SCC OnLine Mad 151**, has held as follows :

“3. ... In the case of persons who are receiving rent on behalf of themselves or on behalf of any others or on behalf of themselves and others and who are mentioned in the definition of ‘landlord’ the court is not required to insist on the previous written consent of the landlord. It will be open to the court to satisfy itself that the person making the application is making it on behalf of others receiving rent from other materials placed before it. In this view, so far as the present petition is concerned, is the landlord does not fall within the category covered by S. 10(8), previous written consent of persons is not mandatory.”

16.Further, this Court, in ***India Umbrella Mfg. Co. v. Bhagabandei***



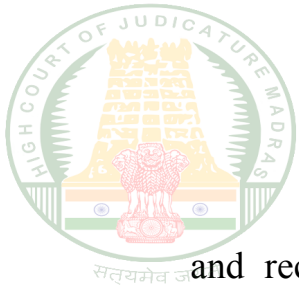
C.R.P.No.4320 of 2023

WEB COPY

Agarwalla reported in (2004) 3 SCC 178, has held that one co-owner can file eviction petition to evict tenant in respect of property generally owned by co-owners. Consent of other co-owners is assumed unless contrary is shown.

17. Therefore, time and again, the Hon'ble Supreme Court as well as this Court have held that a co-owner is entitled to maintain an eviction petition even without impleading the other co-owners as party to the eviction petition. Even if any of the other co-owners has any grievance, such issue is only between the co-owners and the tenant is not entitled to challenge the very eviction petition itself on the ground of non-joinder of other co-owners.

18. Further, the tenant has denied the title of the respondents. The very denial of title made by the tenant itself is a ground for eviction under Section 10(2)(vii) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960. The petitioner has all along denied the title of the respondents, despite the fact that transfer has been effected in favour of the respondents and the same having been intimated to the petitioner by way of legal notice



C.R.P.No.4320 of 2023

and receipt of the same also being acknowledged. Therefore, on this
WEB COPY ground also, the landlord is entitled for eviction.

19. Therefore, I do not find any merit in this revision. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2025

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

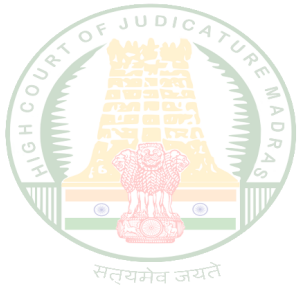
Neutral Citation : Yes / No

To

1. The Subordinate Judge,
Katpadi.

2. The District Munsif,
Katpadi.

3. The Section Officer,
VR Section,
High Court, Madras.



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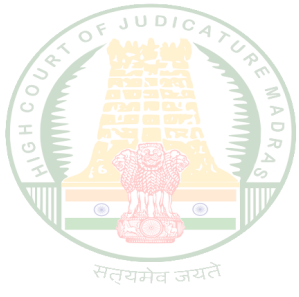


C.R.P.No.4320 of 2023

N. SATHISH KUMAR, J.

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C.R.P.No.4320 of 2023



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C.R.P.No.4320 of 2023

24.07.2025