

Prasad Naidu and Mohamed Hanif Vs Mrs. Padmini Jayasundar

Court: Madras High Court

Date of Decision: Nov. 15, 2005

Citation: (2005) 5 CTC 660

Hon'ble Judges: A. Kulasekaran, J

Bench: Single Bench

Advocate: R. Parthasarathy, for the Appellant;

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

A. Kulasekaran, J.

This civil revision petition is listed today for admission and I heard the learned counsel for the petitioners.

2. The tenants are the revision petitioners. The respondent herein has filed RCOP No. 166 of 2003 for eviction against the petitioners herein on the

ground of wilful default in payment of rent, unauthorised subletting and also for demolition and reconstruction. It is stated that as against three other

tenants, who were residing in the same premises, RCOP Nos. 1534 to 1536 of 2002 have been filed by the respondent herein more or less on the

same ground and all the four Petitions were allowed by the learned Rent Controller on the only ground of demolition and reconstruction by a

common order dated 18-12-2003 and eviction was ordered.

3. It is stated that out of the four tenants, only three tenants, inclusive of the petitioners herein, have preferred Rent Control Appeals in which RCA

No. 1455 of 2004 was posted before the learned VIII Judge, Court of Small Causes, Chennai and the same was dismissed on 06-06-2005. It is

further stated that the other two rent control appeals, inclusive of the one preferred by the petitioners herein in RCA No. 218 of 2004 were

pending before the learned VII Judge, Court of Small Causes Chennai. It is further stated that the said Presiding Officer, who dismissed the

connected RCA No. 1455 of 2004, while in VIII Small Causes Court, was subsequently transferred and posted as VII Judge, Court of Small

Causes, Chennai, and after transfer, the same Presiding Officer dismissed another appeal filed by another tenant, hence, the petitioner has filed

Tr.O.P. No. 248 of 2005 before the learned Chief Judge, Small Causes Court, Chennai for transfer of RCA No. 218 of 2004 pending on the file

of VII Judge, Court of Small Causes, Chennai to the file of learned VIII Judge, Court of Small Causes, Chennai on the ground that the Presiding

Officer, who dismissed the connected Appeals is going to hear the appeal preferred by the petitioners and there is every possibility of dismissal of

the same. By order dated 18-10-2005, the said Transfer Petition was dismissed, hence, the present civil revision petition.

3. The apprehension of the petitioners is that the Presiding Officer, who dismissed the connected appeal is going to hear the appeal preferred by

the petitioners and hence there is every possibility of dismissal of the same. The said apprehension of the petitioner and the same was the ground

for transfer is untenable and invalid.

4. When eviction is ordered against all the tenants on the ground of demolition and reconstruction, it is always proper to the parties to seek

disposal of the appeals filed by them against the orders of eviction by one Court/one Judge, so that avoid conflict of verdicts. In this case, such

steps were not taken by the petitioners, but petition seeking transfer was filed after disposal of the appeals filed by other tenants, hence, at this

stage, on the alleged ground, the transfer sought for cannot be granted. The court below, rightly dismissed the petition for transfer, hence, the same

is confirmed.

5. With the result, the Civil Revision Petition is dismissed. No costs. It is made clear that the dismissal of this revision petition no way fetters the

hands of the appellate authority namely the VII Judge, Court of Small Causes, Chennai while deciding RCA No. 218 of 2004 on merits.

Consequently, connected CMP is closed.