



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF MAY, 2024

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

CIVIL REVISION PETITION NO. 483 OF 2023 (SC)

BETWEEN:

CHINNASWAMY.K.

...PETITIONER

(BY SRI. M.N.SATHYA RAJ., ADVOCATE)

AND:

THEOSOPHY COMPANY (MYSORE) PVT LTD.,
MYTHRI BHAVAN, No.4
M.N.KRISHNA RAO ROAD,
BASAVANAGUDI, BANGALORE-560 004.

REPRESENTED BY SRI.SRIKANTA PRASANNA,
& SRI.M.L.RAMAPRAKASH.

...RESPONDENT

(BY SRI. AJAY KADKOL.T., ADVOCATE)

THIS CRP IS FILED UNDER SECTION 115 OF CPC.,
AGAINST THE JUDGMENT DATED 08.06.2023 PASSED IN SC
No.1507/2017 ON THE FILE OF THE IX ADDITIONAL SMALL
CAUSES JUDGE AND ACMM, COURT OF SMALL CAUSES,
BENGALURU, DECREERING THE SUIT FOR EJECTMENT.



THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 28.02.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The present revision petition is preferred seeking quashing of the judgment and decree dated 08.06.2023 in S.C. No. 1507/2017 on the file of IX ASCJ, Small Causes an Addl. MACT, Bangalore, allowing the respondent's suit for ejectment with a direction to the petitioner herein to vacate the suit schedule property and hand over possession of the same to the respondent herein.
2. The respondent-Company contends that the petitioner was appointed at their establishment as a watchman and as per the terms of this employment, the petitioner herein was given medical benefits as well as rent-free quarters for the purpose of accommodation in the schedule property that belonged to the Company. The petitioner attained the age of superannuation on 30.11.2016 but refused to vacate the schedule property. It



was further contended that upon receiving no response to the legal notice sent by the respondent-Company, a suit for eviction was filed against the petitioner herein in S.C. No. 1507/2017, which came to be decreed in their favour. Hence the present revision petition.

3. *Per contra*, it is the contention of the petitioner that the defendant herein is a non-existent company and that his family had perfected their title to the suit schedule property by way of adverse possession, and, for this reason, the suit for eviction was not maintainable. The petitioner also averred that he was not employed by the plaintiff-company but was selling vegetables in the neighbourhood along with his father, in addition to engaging in some gardening work in the area. It is further stated that since the suit schedule building was in a dilapidated condition, the petitioner's family restored the same and began living in it.

4. Learned counsel for the petitioner also submitted that the respondent-company is not in existence and that the



defendants therein are not the actual owners of the suit property.

5. The main dispute arising in this petition is regarding the existence of the jural relationship of a 'landlord and tenant' by virtue of the petitioner being given a rent-free accommodation as a condition to his employment and the entitlement of the respondent-company to secure possession by initiation of eviction proceedings.

6. Upon perusal of the records, it is evident that the respondent-Company has produced its Articles of Association as well as the Memorandum of Association to prove that they were an existing Company. They have also produced their Income Tax Returns filed in the name of the respondent-Company, their bank statements, certificate issued by a company secretary, and balance sheets, in addition to a certified copy of the certificate of incorporation for having been registered under the Mysore Company's Act, 1938 to establish that the plaintiff-company was not a defunct company. In light of the



documents produced by the respondent-company, the Trial Court was absolutely justified in recording a finding to that effect.

7. The respondent—Company also produced a registered gift deed (Ex. P-40) and also the Khatha certificates which indicated that the Khata was registered in its name to establish its ownership of the schedule property and on the basis of these records, the Trial Court was right in recording a finding that the suit property did belong to the respondent-plaintiff.

8. The petitioner, however, took up the plea that his father was in adverse possession and, thereafter, he was in adverse possession of the premises and the respondent—Company had no title over the suit property. The petitioner also denied the contention of the respondent—company that the petitioner was its employee and that he was provided the rent-free accommodation. In fact, the petitioner also set up a plea that the property belonged to the BBMP and one Ramaswamy Reddy had



created documents in respect of the suit property and had also created bogus mortgage deeds in favour of various banks, and had ultimately alienated it to Mr. Wadia and thus no title could have been conveyed by said Ramaswamy Reddy.

9. The Trial Court has, as already stated above, recorded a clear finding regarding the title of the respondent—Company over the suit property as there was a registered gift deed executed in its favour by Mr. Wadia in the year 1952, and the Khata certificates produced also indicated that the Khata had been registered in the name of the respondent—Company.

10. As for the contention of the respondent—Company that the petitioner was its employee and was given rent-free accommodation, the Trial Court has noticed that as per Exs.P-4, P-5 and P-6, the appointment of the petitioner as a watchman stood proved. The Trial Court has also noticed that as per the bank statement (Ex. P-13) and the salary register (Ex. P-14), the petitioner had been paid



salary regularly. The Trial Court has also noticed that the respondent-company had taken out a LIC policy in favour of the petitioner and was remitting the premium towards the policy and it has also recorded a finding that it had reimbursed the medical expenses when the petitioner underwent a procedure and it has thereafter clearly recorded a finding that the petitioner was, in fact, an employee of the respondent—Company. In my view, this finding recorded by the Trial Court is on the basis of clear documentary evidence which established, without any doubt, that the petitioner was an employee of the respondent-company cannot be found fault with.

11. In Ex. P-5, the memorandum dated 11.4.2003, it is stated as follows:

“As per decision taken by the Company Sri K.Chinna Swamy was sanctioned an annual increment in his salary by Rs.150 w.e.f. 1.1.2002. When Sri Chinnaswamy was paid the increment in January 2002 he accepted the same under protest that he was entitled to higher salary. Again when he was paid the next annual increment during January 2003



he refused to accept the same saying that employees of the status as himself are paid Rs. 4500 p.m. and more.

The Council of Management of the Company in their meeting held on 2.3.2003 considered in detail the question of payment of salary to Sri. K.Chinna Swamy. The Council noted that at present Sri. K.Chinna Swamy is in receipt of the following emoluments and perquisites:

1. Monthly salary of Rs.2560
2. Monthly recurring deposit in his name (the accumulated amount of which is being further invested as to give him maximum financial benefit) Rs.500 p.m.
3. Payment of premium on his life insurance policy for Rs. One laksh @ Rs.5440 p.a. or an amount of Rs.453 p.m.

Total emoluments Rs.3513-00 p.m

The council further noted that Sri. K.Chinna Swamy has been extended the facility of rent-free residential accommodation with free water supply and free electricity supply.

The Council also noted that as a measure of staff welfare a fixed deposit of Rs.35000 has been made



in his name it is earning compound interest being added to the principal; in fact that fixed deposit is being augmented by adding the formulated Recurring Deposit of Rs. 500 p.m. made in his name; and in fact that whole accumulated amount together with the interest and would be handed over to Sri.K.Chinna Swamy at the time of his retirement from the employment of the Company.

On top of all this the Company has borne the brunt of his medical expenses in the past.

The total consideration of all the relevant factors and in appreciation the good work being done by Sri. K.Chinna Swamy the Company has resolved to sanction to Sri. K.Chinna Swamy an annual increment of Rs.200-00 (in lieu of Rs.150.p.m. now being drawn) w.e.f 1.1.2003. The Council further resolved that this annual increment will be paid only till the monthly salary of Sri.K.Chinna Swamy touches the limit of Rs.3000-00. Other perquisites as above noted will continue as before.

The Council of Management is of the view the terms herein offered are fair to Sri.K.Chinna Swamy and to the Company which is but a non-profit making charitable organization with limited source of income.



One copy of this memorandum will be signed by Sri.K.Chinna Swamy and returned to the Company for the Company's record."

12. As could be seen from the above, it is manifestly clear that the petitioner was an employee of the respondent—Company and he was also provided a rent-free accommodation. This memorandum also contains the signature of the petitioner, signifying his assent to the terms of the employment. This document, coupled with the salary register and the bank statement which establishes regular payment of salary to the petitioner, proves without any doubt that he was an employee of the respondent—Company and had been provided with the suit property as rent-free accommodation as a perquisite of his employment.

13. It must be noticed here that providing of a rent-free accommodation, as a term of employment, would create a jural relationship of a 'landlord and tenant' even between an employer and an employee. This is because, the component of rent is a part of his emolument which results



in an employee getting a reduced salary. The Trial Court was thus justified in coming to the conclusion that there did exist a jural relationship and the suit filed for eviction was perfectly maintainable and the plea of adverse possession sought to be raised was a false and specious plea.

14. The Trial Court has duly considered the material on record and has passed a reasoned and elaborate order, and has rightly ordered the petitioner to deliver possession to the respondent—Company.

15. Consequently, I find no merit to interfere with the order passed by the Trial Court and the present revision petition is, therefore, ***dismissed***.

16. In my view, having regard to the fact that the petitioner chose to take up a false plea regarding adverse possession and also questioned the title of his employer who had provided him rent-free accommodation apart from a regular salary in addition to a recurring deposit



account and a LIC policy in his name, this would be an appropriate case to saddle the petitioner with exemplary costs of ***Rs. 50,000/-***.

Sd/-
JUDGE

PKS/P