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K.C.G. VERGHESE  
v.  
K.T. RAJENDRAN AND ANR.

JANUARY 24, 2003

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[S. RAJENDRA BABU, D.M. DHARMADHIKARI AND  
G.P. MATHUR, JJ.]

*Rent and Eviction :*

C

*Eviction of tenant—Part of tenanted premises in possession of tenant's brother—Ejection of tenant's brother—Tenant's appeal dismissed by Supreme Court—Tenant filing an undertaking to hand over the premises to landlord on or before specified date—Later tenant intimating landlord to have vacated the portion of suit premises in his possession except the portion in possession of his brother—Landlord filing contempt petition before Supreme Court against tenant and his brother—Tenant's brother contending that he not being a party in the case, was not liable to contempt—Held, contempt proceedings against tenant's brother discharged—However, tenant while filing undertaking before the Court did not indicate that his brother occupied portion of suit premises nor was such a stand taken at any stage of the proceedings—Thus order of eviction passed against the tenant is equally binding upon his brother—Besides, in the power of attorney executed in respect of the tenanted premises, there being no mention of independent right of tenant's brother to the premises, his objection to vacating the premises is overruled—Principal Judge, City Civil and Session Court would take steps to eject tenant's brother, if necessary, with police help, from the premises—Contempt of Court.*

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CIVIL APPELLATE JURISDICTION : Contempt Petition Nos 280-281/2000.

IN

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Special Leave Petition (C) No. 5393-94/1999.

From the Judgment and Order dated 24.3.1999 of the High Court of Madras in CRP 1001 and 1002/95.

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Mahabir Singh, Ajay Pal, T.V. George and Rakesh Dahiya for the

Petitioner.

A.T.M. Sampath and Ajit Kumar Sinha for the Respondents.

The Order of the Court was delivered by

**RAJENDRA BABU, J.** On an order of eviction passed against him in RCOP NO. 3598/86 by the Rent Controller the contemnor No.1-KT. Rajendran-filed C.R.P. Nos 1001-1002 of 1995 on the file the High Court of Madras and on dismissal thereof, Special Leave Petition Nos. 5393-94 of 1999 were filed before this Court. On 31.1.2000 this Court made an order dismissing the said petition, however, subject to the usual undertaking filed within two weeks from that date and contemnor No. 1 was granted six months time to vacate the suit premises, that is, No.7, IV Main Road, Gandhi Nagar, Adyar—600 020. He filed an undertaking in the form of an affidavit on 7.2.2000 stating that *'he will not induct any other person in the suit premises and shall hand over vacant and peaceful possession of the said premises to the Landlords/respondents on or before 31st July, 2000'*. Thereafter, on 29.6.2000 he intimated the complainant that he had vacated the portion in his occupation in premises No.7, IV Main Road, Gandhi Nagar, Adyar—600 020 and the rest of the portion is in possession of his brother K.T. Baskaran's pursuant to an agreement of sale with him. By his letter dated 1.7.2000 he also intimated that he is negotiating with K.T. Baskaran for delivery of possession but he is insisting on performance of the agreements of sale with him and that will try to persuade him through mutual friends.

On these facts, the complainant brought this complaint stating that contemnor No.1 has not complied with the orders passed by this Court and contemnor No.2 is helping the first contemnor in not handing over the suit premises to him. The stand taken before us by contemnor No.1 is the same as stated earlier that portion of the premises in his possession has been vacated by him and the other portion has not been vacated since it is not in his possession but is in possession of his brother K.T. Baskaran. The said K.T. Baskaran, contemnor No.2 took the stand that he is not a party to the proceedings taken by the complainant against K.T. Rajendran either in the special leave petition filed before this Court or in any of the earlier proceedings and, therefore, question of his disobeying the orders passed by this Court could not arise at all; that the building comprised of ground floor, first floor and second floor and he is occupying the ground floor since 1989 by way of independent right under oral agreement between the complainant and the deponent by which an amount of Rs. 1,50,000 had been paid in cash to sell;

A that these fact had been concealed and the complainant has filed a Rent Control Original Petition against K.T. Baskaran but he did not pursue with since he wanted to take advantage of this contempt petition filed before this Court; that in view of his independent right the question of his vacating the premises would not arise and the complainant will have to independently work out his rights against him. In view of the fact that the second contemnor B K.T. Baskaran was not a party to the proceedings, we discharged the proceedings against him in these contempt petitions.

The stand of contemnor No.1 is plainly untenable. When the undertaking was given by him to the Court, he did not indicate that he was in possession C of a part of the premises and not the other portion of the premises nor was such a stand taken in any of the pleadings raised before the High Court or the Rent Controller. In these circumstances, we have to hold that the order of eviction passed against the first contemnor is equally binding upon the second contemnor K.T. Baskaran indeed, a Power of Attorney has been executed by contemnor No. 1, K.T. Rajendran in favour of K.T. Baskaran to D the effect to attend to all the matters relating to the tenancy of house, ground and premises No.7. IV Main Road, Gandhi Nagar, Adyar-600 020, which is the tenanted premises in the present case in that document there is no mention of his independent right to be premises as claimed now. In these circumstances, we overrule the objections raised by the said K.T. Baskaran for vacating the E premises in question.

We, therefore, direct that the Principal Judge, City Civil and Sessions Court shall take steps to give effect to our, if necessary, with the help of police of ejecting the said K.T. Baskaran from the said premises and the possession is delivered to the complainant in these proceedings by removing F all obstructions thereto and make a report after compliance of this order.

R.P.

Tenants' appeal dismissed.