

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.1493 of 2015 &

M.P.No.1 of 2015

Hindustan Petroleum Corporation Ltd.,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore,
Chennai – 600 008.

... Petitioner

v.

The South Arcot Diocesan
Rep. By its Secretary Rev. Father,
Robert M.
Archbishop's House,
Pondicherry – 605 001.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records in C.M.A.No.34 of 2011 on the file of V Additional Judge, City Civil Court, Chennai, set aside the order dated 12.01.2015 and allow the Civil Revision Petition.

For Petitioner : Mr.O.R.Santhanakrishnan

ORDER

Challenging the fair and final order passed in C.M.A.No.34 of 2011 on the file of V Additional Judge, City Civil Court, Chennai, the defendant in O.S.No. 7213 of 2001 has filed the above Civil Revision Petition.

2. The respondent-plaintiff filed the suit in O.S.No. 7213 of 2001 for recovery of possession. The revision petitioner-Corporation filed an application in I.A.No.3751 of 2003 to direct the respondent-plaintiff to sell the suit land to them at a market price to be fixed by the court by appointing an Advocate Commissioner. The said application was filed under section 9 of the Madras City Tenants Protection Act. The trial court, after taking into consideration the case of both the parties, dismissed the application. Aggrieved over the same, the petitioner-defendant preferred an appeal in C.M.A.No.37 of 2008 on the file of VI Additional Judge, City Civil Court, Chennai. The Lower Appellate Court, by order dated 17.09.2008, dismissed the appeal. Against which, the petitioner preferred a Civil Revision Petition in C.R.P.(PD)No.139 of 2009 and this court, by order dated 29.06.2009, set aside the judgment and decree passed in C.M.A.No.37 of 2008 and remanded the matter back to the trial court for fresh consideration. After remand, the trial court considered the application in I.A.No.3751 of 2003 afresh and dismissed the application. Aggrieved over the same, the petitioner preferred an appeal in C.M.A.No.34 of 2011 on the file of V

Additional Judge City Civil Court, Chennai and the Lower Appellate Court also dismissed the appeal. Aggrieved over the same, the petitioner has filed above Civil Revision Petition.

3. Mr.O.R.Santhanakrishnan, learned counsel appearing for the petitioner submitted that the courts below erroneously dismissed the application filed by the petitioner without taking into consideration the case put-forth by the petitioner.

4. On a careful consideration of the materials available on record and the submission made by the learned counsel for the petitioner, it could be seen that the application under section 9 of the Madras City Tenants Protection Act was filed by the petitioner on 13.1.2003, when the petitioner had entered appearance on 7.11.2002. Therefore, it is clear that the application was filed after the period of 30 days prescribed i.e., the application was filed after a lapse of 103 days. The application should have been filed within 30 dates from the date of service of notice on the petitioner. The courts below rightly held that the application filed by the petitioner is out of time. Under section 3(1)(f) of the Madras City Tenants Protection Act, any religious institution or religious charity belonging to Hindu, Muslim, Christian or other religions are being given exemption for the application of benefits provided under section 9 of the Act. Since the suit property is solely owned by a Public Religious Charity Institution, the

provision of section 9 of the Madras City Tenants Protection Act is not applicable.

5. Taking into consideration all these aspects, the courts below rightly dismissed the application filed by the petitioner. In these circumstances, I do not find any reason to interfere with the concurrent findings of the courts below. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Learned counsel appearing for the petitioner submitted that the trial court had taken up the matter for trial and therefore, time frame may be fixed for disposal of the suit. Having regard to the submission made by the learned counsel for the petitioner, I direct the V Additional Judge, City Civil Court, Chennai, to dispose of the suit in O.S.No. 7213 of 2001 on merits and in accordance with law, or or before 31.07.2015.

With these observations, the Civil Revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Index : No
Internet : Yes
Rj

08.04.2015

To
The V Additional Judge,
City Civil Court,
Chennai

M. DURAISWAMY,J.,

Rj

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