

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.((PD) No.4623 of 2014
and M.P.No.1 of 2014

M. Leo Antony

..... Petitioner

vs.

M/s Sri Lakshmi Brick Industries,
A Partnership Firm,
represented by its Partner,
T. Rajasimmon,
No.1/230, Madhavaram High Road,
Redhills,
Chennai-600 052

.... Respondent

Civil Revision Petitions filed under Article 227 of the Constitution of India against the order dated 5.2.2014 passed in I.A.No.599 of 2013 in O.S.No.259 of 2012 on the file of Subordinate Court, Poonamallee.

For Petitioner : Mr.T.K.S. Gandhi

For respondent : Mr.A. Thiagarajan, SC for
Mr.Arunkumar Rajan

ORDER

Challenging the fair and final order in I.A.No.599 of 2013 in O.S.No.259 of 2012, on the file of Subordinate Court, Poonamallee, the defendant has filed the above Civil Revision Petition.

2. The plaintiff filed a suit in O.S.No.259 of 2012 for recovery of possession, arrears of rent and also for other reliefs.

3. The defendant filed an application in I.A.No.599 of 2013, under Order VII Rules 3 and 11 of Civil Procedure Code, to reject the plaint and to strike off the suit from the file. In the affidavit, filed in support of the petition, the defendant has stated that he has paid a sum of Rs.1,00,000/- as advance and was paying a sum of Rs.8,000/- per month, as monthly rent to one Bala. Further, the defendant has stated that he has also paid a sum of Rs.5,00,000/- to the said Bala, by way of cash, on various dates, for purchasing the suit property. That apart, the defendant has also stated that there is no landlord-tenant relationship between the plaintiff and the defendant. On these grounds, the defendant has filed the above application to reject the plaint.

4. The application was contested by the plaintiff. The plaintiff has stated that the defendant has paid a sum of Rs.80,000/-, viz., Rs.71,000/- by way of Security Deposit and Rs.9,000/-towards one month rental advance. That apart, the plaintiff has also stated that right from the date of inception of the tenancy, the defendant has never paid the monthly rents. Therefore, the plaintiff terminated the tenancy, by issuing a legal notice dated 28.6.2012. Further, according to the plaintiff, the defendant refused to receive the notice.

5. The trial court, after taking in to consideration the case of both the parties, dismissed the application finding that the issue, with regard to the relationship of the landlord-tenant, can be established only after the trial. When the defendant has stated that there is no jural relationship between the plaintiff and the defendant, that can be decided only at the time of trial. The trial court has rightly dismissed the application. The plaint cannot be rejected based on the averments stated in the affidavit, filed in support of the petition.

6. In these circumstances, I do find any error or irregularity in the order passed in I.A.No.599 of 2013 in O.S.No.259 of 2012, on the file of

Subordinate Court, Poonamallee and the Civil Revision Petition is liable to be dismissed as devoid of merits and accordingly, the Civil Revision Petition is dismissed. No costs. Consequently connected MP is closed.

7. Since the Suit is pending from the year 2012, I direct the Subordinate Judge, Poonamallee to dispose of the suit, on merits and in accordance with law, within a period of nine months from the date of receipt of copy of this order.

29-06-2015

sr

Index:no
website:yes

To

The Sub Court, Poonamallee

M. DURAISWAMY,J.,

sr

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