

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.3485 of 2015

and

M.P.No.1 of 2015

K.S.Ganesh

.. Petitioner

Vs

T.S.Kasturi Ammal (Died)

1.J.Shanthi

2.Kamala Natesan

.. Respondents

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 10.07.2015 made in M.P.No.563 of 2014 in R.C.O.P.No.1204 of 2008 on the file of the XV Judge, Small Causes Court, Chennai.

For Petitioner : Mr.R.Krishnaswamy

ORDER

The Civil Revision Petition is filed against the order dated 10.07.2015 made in M.P.No.563 of 2014 in R.C.O.P.No.1204 of 2008 on the file of the XV Judge, Small Causes Court, Chennai.

2.The respondent/landlord filed a petition in R.C.O.P.No.1204 of 2008 under Section 4 of Tamil Nadu Buildings Lease and Rent Control Act 18 of 1960 as amended by Act 23 of 1973 and Act 1 of 1980 to fix the monthly fair rent of Rs.48,200/- in respect of the petition tenancy portion bearing No.328, Arcot Road, Kodambakkam, Chennai - 24 morefully described in the schedule with effect from the date of filing of the petition. During pendency of the suit, the revision petitioner/respondent/tenant filed a petition in M.P.No.563 of 2014 for appointment of Commissioner to inspect the petition premises to ascertain whether the premises is situated in the main area. The trial Court, after hearing both sides, dismissed the petition, against which, the present revision petition is preferred by the respondent/revision petitioner.

3.Learned counsel for the revision petitioner submitted that the respondent/landlord filed a petition in R.C.O.P.No.1204 of 2008 for fixation of fair rent stating that the petition mentioned property is situated in Arcot Road, Kodambakkam, Chennai-24. He further submitted that the revision petitioner who is the respondent/tenant filed a detailed counter stating that the property is not situated in a main area and to prove the same appointment of Commissioner is necessary. Hence, he filed M.P.No.563 of 2014. The Trial Court after considering the objection raised by the respondent landlord has

dismissed the same. He further submitted that to prove that the property is not situated in the main area and it was situated in Puliur second main road, appointment of Commissioner is necessary and that factum was not considered by the Trial Court. Therefore, he prayed for allowing the revision petition.

4. At the time of admission, argument of the learned counsel for the revision petitioner heard in length and notice to the respondents is dispensed with.

5. The respondent landlord filed a petition for fixation of fair rent. But the revision petitioner tenant after filing the counter, has filed a petition for appointment of Commissioner to ascertain whether the petition mentioned premises is situated in the main area. The main petition has been filed for fixing fair rent. While fixing fair rent, besides the age of the building, value of the building, amenities provided in the building, the value of the land in which the building is situated has also been taken into consideration. So, both the respondent landlord and the petitioner tenant have filed a report from the respective Engineers and examined the Engineers to fix fair rent. In such circumstances, what is the value of the property and whether the property is situated in the main area has to be decided on the basis of the guideline value fixed by the Registration Department. Therefore, I am of the view that only

with a view to drag on the proceeding, the revision petitioner tenant has come forward with this petition. Further, it is well settled dictum of the Apex Court that no Commissioner can be appointed to collect the material evidence to prove his case. In such circumstances, the trial Court has considered all the aspects in proper perspective and came to the correct conclusion. Hence, I do not find any merits in the revision petition and the revision petition deserves to be dismissed.

6. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. No costs.

02.11.2015

Index: Yes/No
Internet: Yes/No
cse

To

The XV Judge,
Small Causes Court, Chennai.

R.MALA. J.,

cse

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