



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 09.01.2015

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P(PD) (MD)No.16 of 2015

and

M.P(MD)No.1 of 2015

N.M.P.Mani Ponnusamy .. Petitioner/Petitioner/Respondent

Vs.

K.R.Somasundaram .. Respondent/Respondent/Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.214 of 2014 in R.C.O.P.No.148 of 2010 on the file of the Principal District Munsif (Rent Controller), Madurai Town, dated 02.12.2014.

For Petitioner : Mr.C.Vakeeswaran
for Mr.T.C.S.Thillainayagam

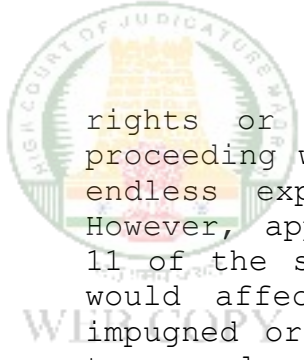
ORDER

The tenant in the Rent Control Proceedings has taken out the application in I.A.No.214 of 2014 in R.C.O.P.No.148 of 2010 on the file of the Principal District Munsif (Rent Controller), Madurai Town under Section 45 of the Indian Evidence Act, 1872 to send Ex.A.1 to an expert for the veracity of the proceedings.

2. Heard the learned counsel appearing for the revision petitioner.

3. First of all, the revision itself is not maintainable against the order passed by the Rent Controller, as per Section 23 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. Any order passed by the Rent Controller is only appealable before the Rent Control Appellate Authority and cannot be filed under Article 227 of the Constitution of India.

4. Any order passed by the Rent Controller would certainly exclude the procedural orders or those which do not affect the rights or liabilities of the parties. Unless the right or liability of the party is affected, even an appeal would not lie. Now, in any Rent Control proceedings, the Rent Controller may pass orders on Interlocutory Applications regarding summoning of witnesses, production and inspection of documents and the one like the present impugned order viz., issuance of commission to send the document to an expert for comparison and admissibility of the documents etc. These Interlocutory Applications are taken out and the orders are passed only for the final adjudication and for assisting the parties in prosecuting the case. Sometimes these interlocutory orders regulate the procedure only and do not affect the



rights or liabilities of the parties. Otherwise, in Rent Control proceeding which is summary in nature, the parties would be harassed with endless expenses and delay by appeals from such procedural orders. However, appeal is maintainable against the orders passed under Section 11 of the said Act where any order passed under 11 (4) of the said Act would affect the right of any one of the parties. Therefore, the impugned order refusing to appoint the Commissioner cannot be subjected to appeal even the before the Rent Control Appellate Authority.

5. Even on the merits, the revision petitioner is not disputing either the signature or the thumb impression subscribed therein, but disputing the fact of pasting a strip of white paper, on which the amount has been typed and fixed on Ex.A.1 with the help of cellotape.

6. It is alleged by the petitioner herein that the said material alteration on Ex.A.1 is concocted and therefore, it has to be sent to an expert for opinion. However, the Rent Controller had dismissed the said application that there is no necessity to send Ex.A.1 to the expert since the alteration, namely, affixture of a strip of paper on Ex.A.1 is visible.

7. A reading of Section 45 of the Indian Evidence Act, 1872 point out that a Court of law in order to base an opinion on a point of science or art or as to identity of handwriting or finger print can treat the opinion of a person skilled specially in the field.

8. When the Court itself felt unnecessary to send the document to expert, as the material alteration done in a strip of paper typed and affixed on the disputed document, which is visible to naked eye. No experts' opinion is required for the same. The reasoning of the learned Principal District Munsif (Rent Controller), Madurai is correct and there is no material irregularity to interfere with the order of the Rent Controller and the same is confirmed.

9. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

The Principal District Munsif (Rent Controller),
Madurai Town.

+1cc to MR.C.VAKEESWARAN, ADVOCATE IN SR : 1239

Ps

SR : 05.02.2015 : 2p/3c