



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2015

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (PD) (MD) Nos.361 & 362 of 2015

and

M.P. (MD) Nos.1 & 1 of 2015

RAJENDRAN .. Petitioner in both the C.R.Ps.

Vs.

AKKAMMAL .. Respondent in both the C.R.Ps.

Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside orders dated 09/07/2014 made in IA Nos. 19 & 20 of 2014 in RCOP NO. 6 of 2007 passed by the file of the Learned District Munsif Court, Tiruchendur.

For Petitioner : Mr.V.Natarajan

ORDER

The Civil Revision Petition has been filed against the orders dated 09/07/2014 made in IA Nos. 19 & 20 of 2014 in RCOP NO. 6 of 2007 passed by the file of the Learned District Munsif Court, Tiruchendur.

2. The tenant is a revision petitioner in the rent control proceedings. The applications were filed by the tenant to reopen the respondent's side evidence and to recall P.W.1 for further cross examination. The said applications were dismissed, against which, these revisions are filed.

3. In a Rent Control Proceedings, where it is filed for eviction, any interlocutory application may be filed. However, the orders passed in such interlocutory application, unless it affects the rights and liabilities of the parties in the main petition, are not appealable, much less a revision is not maintainable against the same. Even assuming that the petitioner is entitled to challenge the order impugned, he should have only filed an appeal before the Rent Control Appellate Authority and should not have moved this Court under Article 227 of the Constitution of India. Any order, passed by the Rent Controller in an interlocutory application, which does not affect the rights and liabilities of the parties, cannot be challenged. By rejecting an interlocutory application, no finality is reached in the main original petition. The rejection of the petition to reopen and recall does not affect the rights of the parties.

4. This has been set out in the earlier decision of this



Court also, in 1989 (1) MLJ 482 (V.GOVINDARAJULU v. T.GOVINDARAJULU), has held as follows:-

"6. In the decision relied on by the learned counsel for the revision petitioner, Lodge Malasia V. Tamil Nadu Real Estate, (1983) 2 M.L.J. 560:96 L.W. 560 the maintainability of the appeal was not considered; but the power of the Rent Controller to issue Commission alone was considered and as such the said decision is not at all helpful, even though the revision filed against the order appointing a Commissioner was dismissed. In Murugesan v. Nataraja Mudaliar, 100 L.W. 156: 1986 T.L.N.J. 243, where the question arose about the maintainability of the appeal against the order of rejection of the petition for amendment, it was held relying on the decision of the Supreme Court reported in Shanthi Kumar R.Canli v. Home Insurance Company of New York, A.I.R. 1974 S.C. 1917: (1975) 1 S.C.R. 550, and also Devadass V.S. v. S.Velu and another, (1984) 1 M.L.J. 31:97 L.W. 100; Chinnaraju v. Barani Bai, (1981) 2 M.L.J. 354:94 L.W. 375 and Hyath Basha v. Tajan Bi, (1983) 1 M.L.J. 277:96 L.W.85.

Thus, it would be seen that an order passed by Rent Controller in an interlocutory application and which does not affect the rights and liabilities of the parties in the sense that they become final orders, could not be appealed against. By refusal of an amendment of door No. It would not only result in the dismissal of interlocutory application, but in turn lead to the main petition itself being dismissed. Thus, it would acquire the character of a final order so far as the landlord is concerned. As pointed out by the Supreme Court, an order refusing to amend affects the rights of parties could lead to the main relief claimed by the petitioner being rejected. Hence, the appeal "preferred against the order of the Rent Controller was maintainable."

Applying the ratio in the above decision of the Supreme Court and this Court, to the facts of this case, it cannot be said that the order appointing a Commissioner to examine the respondent herein is one which affects the rights and liabilities of the parties in the main petition. But, on the other hand, it is only a procedural one and the same does not affect the rights and liabilities of the parties. Hence, no appeal is maintainable and the Appellate Authority is perfectly justified in holding that the appeal is competent."



Hence, no appeal is maintainable. However, the petitioner has preferred these revisions here against the same, which are certainly liable to be dismissed.

6. In the result, these Civil Revision Petitions are dismissed. Consequently, connected Miscellaneous Petitions are also dismissed. No order as to costs.

Sd/-

Assistant Registrar(T & P)

/True Copy/

Sub Assistant Registrar

To

The District Munsif Court,
Tiruchendur.

+1cc to Mr.M.S.Jeyakarthik, Advocate Sr.No.10767

rj2

AA/09.04.2015/3p-3c/

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