

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.4812 of 2015

and

M.P.No.1 of 2015

J.S.Raghu Sekar

... Petitioner

vs.

1)Minor Selvi.Kavya
Represented by her father
and next friend
G.Shankar Prasad Naidu

2)P.S.Govindasamy

3)G.Shankar Prasad Naidu

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of the Rent Controller (Principal District Munsif), Vellore dated 13.10.2015 made in I.A.No.24 of 2015 in R.C.O.P.No.29 of 2013.

For Petitioner : Mr.A.Muthukumar
For Respondents : Ms.C.Jaya Chitra

ORDER

Notice before admission was served on the respondents and the respondents are represented by counsel. The arguments advanced by Mr.A.Muthukumar, learned counsel for the petitioner and by Ms.C.Jaya Chitra, learned counsel for the respondents are heard.

2. The first respondent, who is a minor, filed RCOP No.29/2013 on the file of the Rent Controller, which is now pending on the file of Principal District Munsif, Vellore (Rent Controller) against the revision petitioner for eviction on the ground of bonafide requirement for her personal occupation, act of waste and the tenant ceasing to occupy the premises for a number of years. Since the first respondent is a minor, the RCOP came to be filed by her, represented by her father Shankar Prasad Naidu, as her guardian. The Rent Control Original Petition is in the part heard stage and during the course of cross examination of PW1, who is none other than the said Shankar Prasad Naidu, the respondents chose to file I.A.No.24/2015 for impleading one P.S.Govindasamy, the father of Shankar Prasad Naidu and PW1-Shankar Prasad Naidu himself as petitioners 2 to 3 in the RCOP. In the supporting affidavit, Shankar Prasad Naidu, who swore the affidavit, claimed that it was he who filed the RCOP on various grounds for eviction and that since he was residing at Chennai, the property was leased out by his father, namely Govindasamy and he was receiving the rent on behalf of Shankar Prasad Naidu and thus both Shankar Prasad Naidu and his father Govindasamy became necessary parties to be impleaded in the RCOP filed by the first respondent minor Kavya.

3. The said application was resisted by the revision petitioner herein contending that the father/next friend of the petitioner in the RCOP and his father in turn could not claim to be necessary parties in the petition for eviction simply on the ground that Govindasamy was collecting rent on

behalf of Shankar Prasad Naidu, who in turn, acted on behalf of Minor Kavya, the petitioner in the RCOP. It was also contended in the counter statement that the proposed parties could not invoke the provisions of the Code of Civil Procedure and obtain recognition from the Rent Controller as landlords, much against the pleading made in the RCOP that it was the minor first respondent who was the landlord to the revision petitioner in respect of the petition premises.

4. As rightly pointed out by the learned counsel for the revision petitioner, the impleadment was sought, based on contradictory pleadings. If at all the respondents 2 and 3 are recognised to be the landlords in respect of the petition premises, then it will go against the earlier plea made in the RCOP that the first respondent is the landlord in respect of the petition premises. In case the respondents 2 and 3 claim to be the landlords in their own right, they can very well file a separate RCOP instead of seeking impleadment in the RCOP filed by the first respondent. In any event, the attempt made by the respondents to get the respondents 2 and 3 impleaded as parties in the RCOP will be nothing but an abuse of process of court and also an attempt at prolongation of the case.

5. The learned Rent Controller, without appreciating the same in proper perspective, has chosen to allow the said petition for impleadment assigning a single reason that they are the family members of the first respondent. Family members of the landlords, in the absence of any

transfer of title or attornment of tenancy, cannot claim to be impleaded as a co-petitioner in the RCOP filed by the landlord. The order of the Rent Controller shows improper exercise of jurisdiction conferred on the Rent Controller. Hence the same deserves to be interfered with and set aside by this court in exercise of its power under Article 227 of the Constitution of India.

Accordingly, the civil revision petition succeeds and the same is allowed. The order of the Rent Controller (Principal District Munsif), Vellore dated 13.10.2015 made in I.A.No.24 of 2015 is set aside. I.A.No.24 of 2015 in R.C.O.P.No.29 of 2013 on the file of the Rent Controller (Principal District Munsif), Vellore shall stand dismissed. However, there shall be no order as to cost. Consequently the connected civil miscellaneous petition is closed.

04.02.2016

asr

To
The Rent Controller (Principal District Munsif),
Vellore

P.R.SHIVAKUMAR, J.

asr/-

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