

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.1227 of 2016

&

C.M.P.No.6707 of 2016

V.Kalarani

... Petitioner

vs.

1.S.Santhakumar

2.S.Jayakumar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 16.03.2016 made in M.P.SR.No.3102 of 2016 in R.C.O.P.No.1669 of 2014 on the file of XIII Judge, Small Causes Court, Chennai.

For Petitioner : Mr.V.Subramanian

ORDER

The present revision has been filed against the order of the learned Rent Controller dated 16.03.2016 made in unnumbered miscellaneous petition bearing M.P.SR.No.3102 of 2016 in R.C.O.P.No.1669 of 2014. The matter stands listed today for admission.

2. The arguments advanced by Mr.V.Subramanian, learned counsel for the petitioner are heard.

3. The above said R.C.O.P.No.1669 of 2014 came to be filed by the respondents herein under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 for fixation of fair rent. In addition, the respondents have also filed R.C.O.P.No.268 of 2015 against the revision petitioner for eviction on the ground of willful default. The petitioner seems to have filed a suit in O.S.No.14141 of 2015 on the file of VI Assistant Judge, City Civil Court, Chennai claiming that she is only a tenant in respect of the land and the superstructure belongs to her. After filing such a suit, the petitioner seems to have filed an application in the said suit as I.A.No.4108 of 2015 seeking permission to deposit the rent for the land in the City Civil Court in which the suit was filed. The said application was dismissed as against which he preferred a revision before this Court in C.R.P.No.4695 of 2015. Since the order came to be passed without notice to the respondents therein and the order of the said Court contained only a direction to the office to return the petition for being presented before the Rent Controller in R.C.O.P.No.1669 of 2014, without rendering any decision in that application, this Court allowed C.R.P.No.4695 of 2015 and remitted the matter back to the civil Court in which the suit is pending to pass an order on merit, as the application had already been taken on file, either allowing or dismissing the said application.

4. Meanwhile, the petitioner has chosen to file unnumbered miscellaneous petition M.P.SR.No.3102 of 2016 on the file of the Rent Controller for stay of the Rent Control proceedings pending disposal of the said application filed in the civil Court and pending disposal of the suit in O.S.No.1414 of 2015 pending before the civil Court.

5. It is the contention of the learned counsel for the petitioner that the question of inviting an order from the Rent Controller regarding the bonafide or otherwise of the denial of title will arise only in case of eviction petition filed under Section 10 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and that the same will not be applicable to a case filed under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 for fixation of fair rent.

6. This Court is not in a position to accept the above said contention made by the learned counsel for the petitioner. The Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, a self-contained code, deals with the dispute between the landlord and tenant in respect of the buildings that come under the purview of the said Act. There is no specific provision in the Act to the effect that the civil Court's jurisdiction is barred. On the other hand, in a catena of cases, this Court and the Hon'ble Supreme Court has held that in

case of dispute regarding the jural relationship of landlord and tenant, the civil Court will get jurisdiction to entertain a suit only when the rent controller renders a finding that the denial of the relationship / the title of the landlord is bonafide. If at all the contention of the learned counsel for the petitioner is accepted, it will sound a death knell to the intention of the legislature in providing a self-contained code in the above said Act for resolution of disputes between the landlord and tenant, subject to an exception that in case of bonafide denial of the jural relationship and such denial is found to be bonafide by the Rent Controller, the civil Court shall have jurisdiction. If the tenants are allowed to simply deny the jural relationship and file suit after the filing of a petition for fixation of fair rent, the very purpose of the Act will be frustrated. Again in this case it is quite obvious that the petitioner chose to file the civil suit only after the filing of the Rent Control Original Petition for fixation of fair rent.

7. Yet another aspect which also should be taken into account is that the respondents have already filed an eviction petition in R.C.O.P.No.268 of 2015 for evicting the petitioner herein on the ground of willful default. In the eviction petition and also in the petition for fixation of fair rent, the revision petitioner herein ought to have invited the Rent Controller to decide the bonafide or otherwise of his denial of the jural relationship as landlord and

tenant in respect of the building. The petitioner herein seems to have bent upon seeking an order in the petition for fixation of fair rent to stop the proceedings pending disposal of the original suit. The same itself will show an attempt at multiplication of proceedings by filing a suit after the Rent Control petition came to be filed against him. The petition for stay also came to be filed after the eviction petition was filed. The petitioner ought to have invited a decision as to whether the denial is bonafide or not and then taken the appropriate course of action. As the petitioner has not done so, it will be prima facie seen that the petitioner is indulging in prolonging the case. Hence, this Court does not find any defect or infirmity in the order passed by the Rent Controller warranting interference by this Court in exercise of its power of superintendence under Article 227 of the Constitution of India.

In the result, the Civil Revision Petition fails and the same is dismissed.
No costs. Consequently, the connected miscellaneous petition is closed.

20.04.2016

Index: Yes/No
Internet: yes
gpa

To

XIII Judge, Small Causes Court
Chennai

P.R.SHIVAKUMAR.J.,
gpa

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