

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.1303 of 2016

and

C.M.P.No.7352 of 2016

Ravi

... Petitioner

Vs

1. Duraisamy

2. Muthammal

3. Jaffaralikhan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the judgment and decree of the learned Rent Control Appellate Authority (Principal Sub Court) Erode in R.C.A.No.2 of 2015 dated 17.03.2016 filed against the order dated 06.11.2014 passed in I.A.No.913 of 2013 in R.C.O.P.No.2 of 2008 on the file of the learned Rent Controller (1st Additional District Munsif) Erode.

For Petitioner : Mr.A.K.Kumaraswamy

ORDER

The tenant facing eviction on various grounds has denied the title of the landlords, who filed the eviction petition.

2. According to the tenant, he became a tenant under one Jaffaralikhan from whom the petitioners in the R.C.O.P claim to have purchased the property and the said Jaffaralikhan, who was all along receiving the rent, informed him that he had not parted with the property in favour of the petitioners in the R.C.O.P.

3. Contending that the question whether the tenant's denial of title of the petitioners in the R.C.O.P is *bona fide* are not, cannot be decided in the absence of the said Jaffaralikhan, the tenant filed an application in I.A.No.913 of 2013 in the above said eviction petition, namely, R.C.O.P.No.2 of 2014, which is pending on the file of the Rent Controller (I Additional District Munsif, Erode). The learned Rent Controller, by an order dated 06.11.2014, dismissed the said application. The appeal preferred by the tenant in R.C.A.No.2 of 2015 was dismissed by the Rent Control Appellate Authority (The Principal Subordinate Judge Erode) by an order dated 17.03.2016. The same is sought to be challenged in the present revision.

4. The matter stands listed today for admission. The arguments advanced by Mr.A.K.Kumaraswamy, learned counsel for the petitioner are heard. The certified copies of the orders of the Rent Controller and the Rent Control Appellate Authority and the copies of

the other documents in the form of typed-set of papers are also persed.

5. Based on a registered sale deed executed by Jaffaralikhan, who was admittedly, the owner of the petition premises in respect of which the revision petitioner is the tenant, the respondents 1 and 2 herein claimed that they are entitled to collect the rent for the petition premises from the revision petitioner. Since the revision petitioner has committed willful default in payment of rent even after intimation regarding their purchase, on the ground of requirement for additional accommodation and also on the ground of the tenant having ceased to occupy the premises.

6. The said eviction petition is resisted by the revision petitioner, who is, admittedly, the tenant in respect of the petition premises, on the ground that he continues to pay the rent to the erstwhile owner Jaffaralikhan and that the said Jaffaralikhan informed him that he had not conveyed the property to the respondents 1 and 2. Of course, the same will amount to denial of title of the respondents 1 and 2, who have chosen to file the eviction petition.

7. Whether such denial is *bona fide* or not, has to be enquired into and decided by the learned Rent Controller. Simply because the vendor of the respondents 1 and 2 informed the tenant that he had not conveyed the property to the respondents 1 and 2, he would not become a necessary or a proper party in the eviction petition, which is primarily a case between the persons claiming to be landlords and the admitted tenant. If at all, the revision petitioner wants to prove his denial to be *bona fide* and he is confident that he is supported by the above said Jaffaralikhan, he can very well produce him as a witness and invite an order from the learned Rent Controller regarding the *bona fide* or otherwise of the denial of title of the respondents 1 and 2 herein. Instead of doing it, the revision petitioner wants to load the case by impleading one more person, which is unwarranted.

8. Hence, this Court does not find any defect or infirmity in the order passed by the Rent Controller and the judgment of the Rent Control Appellate Authority warranting interference by this Court, in exercise of its power of superintendence under Article 227 of the Constitution of India. There is no merit in the revision and the revision petition deserves to be dismissed.

9. Accordingly, the Civil Revision Petition is dismissed at the threshold. No costs. Consequently, the connected miscellaneous petitions are closed.

27.04.2016

Index: Yes/No

Internet: yes/No

srn

To

The Principal District Munsif,
Ulundurpet.

P.R.SHIVAKUMAR, J

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