

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 28.04.2016****CORAM****THE HONOURABLE DR. JUSTICE S.VIMALA****C.R.P. (NPD) No.1323 of 2016****and****C.M.P.No.7415 of 2016**

1. M/s.Aroma Restaurants & Resorts Pvt. Ltd.
Doing Business under the Name and Style
of Dhaba Express, Rep. by its Director,
Mr.Kewel Krishnan Mehndiratta,
S/o.Mr.R.N.Mehndiratta
At A.G.-2, New No.AG5
4th Avenue, Shanthi Colony,
Anna Nagar, Chennai – 600 040.

2. Mr.Sachin
S/o.Mr.R.N.Mehndiratta,
Rep. by its Director of
M/s.Aroma Restaurants & Resorts Pvt. Ltd.,
Doing the Business under the name
and style of Dhaba Express
at AG-2, New No.AG5,
4th Avenue, Shanthi Colony,
Anna Nagar, Chennai – 600 040.

... Revision Petitioners/
Tenants

Vs.

Mrs.Usha Agarwal
W/o.Late.Mr.Ratanlal Agarwal
AG-2, New No.AG-5, 4th Avenue
Shanthi Colony
Anna Nagar,
Chennai – 600 040.

... Respondent/landlady

Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 as amended by the Act 23 of 1973) in Act 1/90, against the order of the learned IX Judge, Court of Small Causes, Chennai (Rent Control Appellate Authority) dated 11.01.2016, dismissing the M.P.No.206 of 2015 in R.C.A.No.756 of 2014.

For Petitioners : Mr.T.R.Rajagopalan,
Senior Counsel

For Respondent : Mr.A.Abdul Rahim

ORDER

This Civil Revision Petition has been filed challenging the order 11.01.2016, dismissing the application for appointment of Commissioner.

2. R.C.O.P. NO.2164 of 2012 has been filed seeking eviction of the tenant on the ground that the building is required for demolition and reconstruction under Section 14 (b) of the Tamil Nadu (Lease and Rent Control) Act, 1960. The learned Rent Controller ordered eviction as against RCA.No.756 of 2014 has been filed. Pending RCA, the tenant filed an application for appointment of Commissioner, which was dismissed. Challenging the same, this revision petition has been filed.

3. Heard the learned counsel on both sides.

4. The learned counsel for the respondent has submitted that a) already this Court has passed an order, dated 16.03.2016, in CRP (NPD)

No.832 of 2016, directing the IX Judge, Small Causes Court, Chennai, to dispose of R.C.A.No.756 of 2014, within a period of two months from the date of receipt of a copy of the said order; b) Only towards dragging on the proceeding, this revision has been filed; c) there is no necessity for appointment of Commissioner, and the CRP is liable to be dismissed.

5. The learned counsel for the revision petitioner submitted that the intention is not to drag on the proceedings and that the tenant will co-operate to keep up the time schedule ordered by this Court, but the facts and circumstances of this case warrants the appointment of the Commissioner.

6. The learned counsel for the respondent pointed out the avement made in paragraph 4 of the petition in R.C.O.P.No.2161 of 2012, which reads as under:

"4.The petitioner further state that the said entire premises including the petition portion under the respondent's tenancy is a old aged more than 30 years and it is in bad and dilapidated condition. It is constructed with sub-standard materials and is out-moded and an eye sore. The wall are having cracks and the roofing is leaking and there are leakage marks in several places. It is in structurally unsound condition. There are plants and vegetations and people tree are growing in the wall and roof in several places, which even if removed, grow back in the same places and which are damaging the

building. The wood works including the doors and windows are damaged and are constructed with country wood. The premises are in a shabby condition and beyond maintenance.”

7. It is also pointed out that a portion of the building in the first floor has been demolished by the landlord which also requires to be noted down.

8. Considering the averment made in paragraph 4 of the petition, in RCOP No.2164 of 2012 and submissions made on both sides, this Court is of the view that the grievance of both sides can be rectified by appointing a Commissioner with a direction to file a report within a period of one week so that the time frame for disposal of RCA as fixed by this Court can be adhered to.

9. Mr.R.Ramkumar, having office at No.364, New Additional Law Chambers, High Court, Chennai (Mobile No.9739799885) is appointed as Advocate Commissioner to inspect the petition mentioned premises, who would take note of the physical features which would throw light on the averment made in paragraph 4 of the petition referred supra and also to take note of any other features which may be pointed out by both sides and to file a report within a period of one week from the date of receipt of the Commissioner warrant.

9.1. The learned Advocate Commissioner is permitted to get Memo of Instructions from both sides, before inspecting the petition mentioned premises.

9.2. The remuneration for the learned Advocate Commissioner is fixed at Rs.15,000/-, which is payable by the revision petitioners. The travel and other expenses of the Advocate Commissioner shall be defrayed by the petitioners herein.

10. On the Commissioner filing the report, the report shall be forwarded along with this order, to the Court hearing the RCA. The Rent Control Appellate Authority shall grant a week's time to file objections to Commissioners report and then to dispose of the RCA as per the time schedule given in the CRP (NPD)No.832 of 2016.

11. The CRP stands disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

28.04.2016

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Note: Issue order copy today itself.
Issue Advocate Warrant by 29.04.2016

S.VIMALA, J.

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CRP (NPD) No.1323 of 2016

28.04.2016