

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.(PD).Nos. 1548 & 1549 of 2016

And

C.M.P.No. 8409 of 2016

T.Balan ... Revision Petitioner/Petitioner/
Respondent/Tenant in both Cr.Ps.

Versus

P.Usha ... Respondent/Respondent/Petitioner/
Landlord in both Cr.Ps.

PRAYER IN BOTH C.R.Ps.: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decretal orders of the learned Rent Controller and X Small Causes Court, Chennai made in M.P.Nos. 198 & 197 of 2016 in R.C.O.P.No. 499 of 2014 dated 13.04.2016.

For Petitioner in
both Cr.Ps. : Mr. N.Chandra Raj

For Respondent in
both Cr.Ps. : Mr.P.Gunaraj

C O M M O N O R D E R

The petitioner filed two applications before the trial Court in M.P.Nos. 197 &

198 of 2016 with a request to direct the respondent to produce the passport and to send Exs.P-2 and P-3 for expert's opinion. Those two applications were dismissed by the learned Judge, by a common order. Feeling aggrieved, the petitioner is before this Court.

2. The learned counsel for the petitioner contended that the document marked as Exs.P-2 and P-3 were not actually executed or sent by the respondent. The power agent has signed the document on her behalf, but however it was projected as if notice was issued by the respondent herself. According to the learned counsel, it was only to prove that no such notice was issued by the respondent, the petitioner has filed the applications before the trial Court.

3. The learned counsel for the respondent on the other hand justified the impugned order. According to the learned counsel, it was only to protract the proceedings, the petitioner has filed two applications before the trial Court which was rightly dismissed by the learned trial Judge.

4. The respondent initiated proceedings against the petitioner for eviction under Section 10(2)(i) and 10 (2) (vi) of the Tamil Nadu Buildings Lease and Rent Control Act 1960. The application was opposed by the petitioner by filing

counter statement. According to the petitioner, there was no arrears of rent in view of the payment made to the predecessor in interest of the petitioner and subsequent payments through Court.

5. The respondent marked two documents as per Exs.P-2 and P-3. The petitioner challenges those two documents on the ground that it was not actually executed by the respondent.

6. The trial Court has already marked the documents. It is for the trial Court to examine those documents and decide as to whether notice was actually issued by the respondent, as contended by RW-1 in his evidence. It is not as if the petitioner has to prove the negative. Since a contention was taken by the respondent that there was willful default in as much as the rent was not paid in spite of issuing notice, the burden of proof is on her to prove the same. There is no question of sending the documents for expert opinion or to direct the respondent to produce the passport. These are beyond the scope of the proceedings initiated under the Rent Control Act.

7. The proceedings are summary in nature. The Court is not expected to conduct a roving enquiry for the purpose of deciding the collateral issues raised by the petitioner.

8. I am therefore, of the view that there is no merit in the contention taken by the petitioner. The learned Judge is directed to appreciate the documents marked by the respondent as per Exs.P-2 and P-3 uninfluenced by the observation made in the order under challenge.

9. The Civil Revision Petitions are disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

10. The learned counsel for the respondent submitted that inspite of this Court passing an order directing the trial Court to dispose of the matter, the petition was adjourned time and again.

11. This Court passed an order on 10.02.2016 in C.R.P.No. 321 of 2016 directing the trial Court to dispose of the matter within a period of three months. Even now the matter is pending before the trial Court. There shall be a direction to the learned trial Judge to dispose of the matter as expeditiously as possible and in any case within a period of three months from the date of receipt of a copy of this order.

26.09.2016

vsg

To

Rent Controller and X Small Causes Court, Chennai.

K.K.SASIDHARAN, J.

vsg

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