

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.09.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2537 of 2016 and
CMP.No.13053 of 2016

1.R.Ramesh
2.L.Sivamani

...Petitioners

versus

1.C.Sudandira
2.N.Subramani

...Respondents

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, against the order and decreetal order dated 30.03.2016 made in R.C.A.No.21 of 2015 on the file of the Sub-Court, Udhagamandalam, Nilgiris District preferred against the order and decreetal order dated 07.08.2015 made in I.A.No.156 of 2014 in R.C.O.P.No.11 of 2008 on the file of District Munsif cum Rent Controller of Udhagamandalam, the Nilgiris District.

For Petitioner : Dr.R.Gouri

For Respondents : Mr.P.Ravi Shankar Rao for
Mr.L.Mouli for R1
No appearance for R2

ORDER

The petitioners filed an application for impleading in a Rent Control Original Proceedings in R.C.O.P.No.11 of 2008 on the ground that the first respondent has no right to initiate proceedings for eviction against the second respondent. The application was dismissed by the learned Trial Judge. Feeling aggrieved, the petitioners are before this Court.

2. The learned counsel for the petitioners contended that the petitioners have already filed a suit in O.S.No.503 of 2013 on the file of the II Additional Sub-Court, Coimbatore praying for a decree of declaration. Since any finding given in the RCOP proceedings would affect the case of the petitioners in the pending suit, they have filed the application for impleading. The learned trial Judge without considering the background facts dismissed the application and as such, the order is liable to be set aside.

3. The first respondent filed RCOP.No.11 of 2008 under Section 10(2) of the Tamilnadu Buildings (Lease and Rent Control) Act, 1960, against the second respondent praying for an order of eviction on the ground of keeping the rent in arrears. The petitioners have taken up a

contention that the first respondent has no authority to initiate eviction proceedings against the second respondent. The petitioners have already filed a civil suit for declaration. The first respondent is the sole defendant in the said suit. The question with regard to the title of the property can be decided by the learned Judge in O.S.No.503 of 2013. The proceedings in RCOP cannot be converted into a civil suit so as to give a finding on title. The apprehension raised by the petitioners that there is a possibility of giving a finding with regard to title by the learned Trial Judge in RCOP No.11 of 2008 has absolutely no basis.

4. The Trial Court is expected to decide as to whether the second respondent is in arrears. There is no question of giving a finding with regard to the title of the property in the rent control proceedings. The adjudication of the title would be made only in the civil suit filed by the petitioners in O.S.No.503 of 2013. I am therefore of the view that there is no basis for the apprehension raised by the petitioners.

5. The learned trial Judge is directed to decide RCOP.No.11 of 2008 in accordance with the provisions of Tamilnadu Buildings (Lease and Rent Control) Act, 1960 without giving a finding with respect to title.

K.K.SASIDHARAN, J.

(svki)

6. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

21.09.2016

Index : Yes/No

svki

To

1. The Sub-Court, Udthagamandalam, Nilgiris District
2. The District Munsif cum Rent Controller of Udthagamandalam, Nilgiris District.

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