

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2017

CORAM :

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

S.A.No.684 of 2017
and C.M.P.No.17629 of 2017

Sriranjani

... Appellant/Plaintiff

versus

1. Poongothai

2. Vijaya

... Respondents/Defendants

Prayer: This second appeal filed under Section 100 of C.P.C. prays to set aside the judgment and decree of the XIX Additional City Civil Court at Chennai dated 25.04.2017 made in A.S.No.292 of 2016 which was confirmed by the Judgment and Decree of the XVII Assistant City Civil Court, Chennai dated 20.06.2016 in O.S.No.281 of 2015.

For Appellant : Dr.G.Krishnamurthy

J U D G M E N T

The plaintiff, who lost before both the Courts below, in a suit filed by her for permanent injunction, has preferred the above second appeal.

2. It is not in dispute that the plaintiff is a tenant and the defendants are the landlords. It is also not in dispute that the rent which was originally fixed was subsequently enhanced. It is the contention of the plaintiff that the defendants threatened her to vacate the suit property without due process of law. Hence, the suit was filed for a permanent injunction restraining the defendants from evicting her without following due process of law.

3. The defendants while denying the fact that they have not interfered with the possession of the plaintiff or threatened to evict her had contended that the plaintiff committed default in payment of rent. Though the plaintiff has resorted to initiate the proceedings under Section 8 (5) of the Tamil Nadu Buildings (Lease and Rent Control) Act and Rent Control Original Petition, the same was not proceeded with and she let it dismissed for default. The relief of injunction being equitable and discretionary, the same cannot be granted for the mere asking. In the above said facts, the plaintiff has not made out that she is a bona fide in her action and that she might not

be evicted from the premises without due process of law.

4. The learned counsel appearing for the appellant also states that already defendants have filed Rent Control Original Petitions for eviction of the plaintiff on various grounds and thus, due process of law has been resorted to by the defendants.

5. Admittedly, the defendants have initiated proceedings under the Rent Control Act against the plaintiff to evict her. In such view of the matter, the prayer sought for by the plaintiff to restrain the defendants from evicting her without following the due process of law does not arise for consideration. Both the courts below have concurrently held that already due process of law was initiated by the defendants by filing Original Petition before the Rent Controller and such a findings rendered by the Courts below does not warrant interference by this Court. There is no question of law arising for consideration in the above facts.

6. In the result, the second appeal is dismissed confirming the judgment and decree dated 25.04.2017 passed by the Lower Appellate Court in A.S.No.292 of 2016. No Costs. Consequently, connected miscellaneous petitions is closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

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To

1. The XVII Assistant Judge,
City Civil Court, Chennai.

2. The XIX Additional Judge,
City Civil Court, Chennai.

3.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Dr.G.Krishnamurthy, Advocate sr.no.84130

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nr 18/01/2018