

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2017

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THE HON'BLE Ms.JUSTICE V.M.VELUMANI

C.R.P.(PD) Nos.1887 of 2017
and CMP.No.9074 of 2017

C.Dhanalakshmi ...Petitioner

Vs

C.Anbu ...Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order in I.A.No.2595 of 2017 in O.S.No.156 of 2017 on the file of IV Assistant City Civil Court, Chennai, dated 27.04.2017.

For Petitioner : Mr. V.Raghavachari

ORDER

Challenging the order of dismissal dated 27.04.2017 passed in I.A.No.2595 of 2017 in O.S.No.156 of 2017 by the learned IV Assistant Judge, City Civil Court, Chennai, the petitioner has filed the civil revision petition.

2. The petitioner is the landlord and respondent is the tenant. The respondent, as plaintiff, filed the suit in O.S.No.156 of 2017 on the file of the City Civil Court, Chennai against the petitioner/defendant for

<http://www.judis.nic.in> Injunction restraining the petitioner not to evict him or interfere with the

peaceful possession and enjoyment of the property except under due process of law.

3. According to the respondent/tenant, the petitioner-landlord had attempted to evict him with the help of rowdy elements on 25.10.2016. The respondent gave a police complaint and also filed the said suit.

4. The petitioner filed an application in I.A.No.2595 of 2017 under Order VII Rule 1(a) of CPC, to reject the plaint on the ground that no cause of action arose in the suit. He also filed a petition in RCOP.No.172 of 2017 on the file of the learned XII Assistant Judge, Court of Small Causes/Rent Controller, Chennai, for eviction of the respondent from the suit premises, on the ground of willful default and for requirement of additional accommodation.

5. The respondent filed counter and prayed for dismissal of the said application in I.A.No.2595 of 2017 on the ground that the application is devoid of merits and lacks bonafide. The said application was filed by the petitioner only with an intention to drag on the suit proceedings. It is alleged by the respondent-tenant that the petitioner also suppressed the fact that he refused to receive the rent and therefore, the respondent filed a petition in RCOP.No.283 of 2017, for deposit of rent into the Court.

6. It is contended in the plaint that, on 25.10.2016, the petitioner attempted to evict the respondent illegally and therefore, the respondent/plaintiff gave a police complaint on that date and filed a suit. This is the cause of action for the respondent-tenant for filing the suit. Thereafter, filing of original petition in RCOP.No.172 of 2017 by the petitioner for evicting the respondent, cannot be a reason for rejection of the plaint. The original petition in RCOP.No.172 of 2017 would not nullify or invalidate the earlier alleged illegal act done by the petitioner on 25.10.2016. Accordingly, the learned IV Assistant, City Civil Judge, Chennai vide order dated 27.04.2017 has dismissed the application in I.A.No.2595 of 2017 in O.S.No.156 of 2017. This Court does not find any illegality or infirmity in the order of the learned trial Judge, warranting interference.

7. In the result, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed. However, it is open to the petitioner to raise her contentions in the suit before the learned trial Judge.

15.06.2017

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Speaking order / Non Speaking
Index : Yes / No
Internet : Yes / No



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V.M.VELUMANI,J
ds

To:

The IV Assistant Judge,
City Civil Court,
Chennai.

C.R.P.(PD) Nos.1887 of 2017



15.06.2017

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