

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2017

CORAM:

THE HONOURABLE MR.**JUSTICE S.M.SUBRAMAINAM**

C.R.P.(P.D.) No.251 of 2014 &
M.P.No.1 of 2014

A.Haja Tajudeen

.. Petitioner

Vs.

Hameed Julaika Nachiar
w/o Sulthan Abdul Kader
rep. By her General Power Agent
M.S.M.Sulthan

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal order in I.A.No.29 of 2013 in RCOP No.1 of 2012 dated 10.12.2013, on the file of the District Munsiff Court, Nagapattinam.

For Petitioner : Mr.M.S.Palaniswamy

For Respondent : Mr.A.Muthukumar

ORDER

This Civil Revision Petition is filed challenging the order dated 10.12.2013, in I.A.No.29 of 2013 in R.C.O.P.No.1 of 2012, by the learned District Munsif, Nagapattinam, rejecting the Interlocutory Application filed by the petitioner/tenant, under Order 26 Rule 9 and 10 of Civil Procedure Code, for appointing the Civil Engineer, to assess the stability of the building, which is

leased out by the respondent/landlord to the petitioner/tenant.

2.The learned counsel appearing for the petitioner/tenant contended that the building is very much in a stable condition and the petitioner being a tenant is comfortably living in the building.

3.The respondent/landlord filed R.C.O.P.No.1 of 2012, seeking for eviction, on the ground of demolition & re-construction and owner's occupation.

4.The respective counsels appearing both for the petitioner and the respondent admitted that the petitioner/tenant was examined and the matter was posted for further evidence of the tenant. At this stage, the petitioner preferred this Revision Petition, challenging the order regarding the appointment of Civil Engineer to assess the suitability of the building in question.

5.The fact as stated in the Petition filed by the respondent/landlord is that the building is of more than 80 years old and in a dilapidated condition. Therefore, he wants to demolish and reconstruct a new building.

6.The choice of the owner cannot be disputed by the tenant

and the tenant has no right whatsoever to interfere with the decisions taken by the landlord in respect of demolition or reconstruction. The right of the tenant is limited and further the fact remains that the building is of 80 years old and therefore, the reasons stated by the respondent in his Petition for demolition and reconstruction seems to be justifiable.

7.The normal life time of a building in common parlance is 60 years and in this case, the building is 80 years old. Therefore, this Court is not inclined to consider the contentions raised by the learned counsel for the petitioner/tenant. Further, the trial has already commenced, the evidence of the petitioner in R.C.O.P. was also closed and it is posted for the evidence of the petitioner/tenant and at this stage, the appointment of a Civil Engineer is unnecessary and the trial Court can very well proceed the case based on the evidences and the documents produced by the respective parties.

8.The learned counsel for the respondent represented that since the R.C.O.P., preferred by the respondent/landlord is of the year 2012 and the trial has already commenced, prayed for a direction to the learned District Munsif, Nagapattinam, to dispose of the R.C.O.P., at an early date.

9. Accordingly, while dismissing the Civil Revision Petition as devoid of merits, the learned District Munsif, Nagapattinam, is directed to complete the trial and dispose of R.C.O.P.NO.1 of 2012, as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order. No Costs. Consequently, connected Miscellaneous Petition is closed.

11.01.2017

Index : Yes/No
Internet : Yes/No
rpa

To

The learned District Munsiff,
Nagapattinam.

S.M.SUBRAMANIAM, J.,

rpa

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