

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

CRP.PD.No.3786 of 2017

and

C.M.P.No.17637 of 2017

1. Malarvizhi
2. Pavai
3. Thamizarasi
4. Thenmozhi
5. Kalyani
6. Mohan

.. Petitioners/ Tenant

Vs.

Selvam Ammal

.. Respondent/ Landlord

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside order passed in I.A.No.187 of 2017 in R.C.O.P.No33 of 2009 dated 18.09.2017 on the file of the Rent Controller, (Principal District Munsif), Vellore.

For Petitioners : K.Mohanamurali

For Respondent : A.Rajesh Kanna

ORDER

The present Civil Revision Petition is filed to set aside order passed in I.A.No.187 of 2017 in R.C.O.P.No.33 of 2009 dated 18.09.2017 on the file of the Rent Controller,(Principal District Munsif), Vellore.

2. According to the petitioner, the respondent had filed the R.C.O.P No. 33 of 2009 seeking for eviction. The aforesaid R.C.O.P is posted for trial and evidence on both sides were concluded and arguments was also heard. Thereafter, the petitioners herein has filed two interlocutory applications one seeking to reopen the evidence of the respondent and the other seeking leave of the court to file additional counter affidavit. The court below after hearing both sides dismissed the application seeking to file additional counter affidavit and allowed the application for reopen. Challenging the aforesaid order passed by the Rent Controller, the petitioners are before this Court.

3. The learned counsel for the petitioners fairly submitted that after the evidence of the respondent/landlord was concluded and the case was posted for evidence of the petitioner's/ tenant's side. At this stage, the petitioners have filed the interlocutory application.

4. According to the learned counsel for the petitioners the instant Interlocutory Application has been filed seeking to grant leave to file additional counter affidavit wherein, the plea taken is with regard to the payment of pakadi and the earlier filing of RCOP. No prejudice would be caused to the respondent if the said application is allowed. Therefore, it is just and necessary to permit the petitioners to file additional counter affidavit.

5. Per contra, the learned counsel appearing for the respondent/landlord would submit that the aforesaid plea has already been raised by the revision petitioners in the counter statement itself. Now, after concluding the evidence of both sides the instant application has been filed. At this stage, if the said application is allowed, it amounts to drag on the proceedings. Therefore, the court below has rightly rejected the said application and passed the detailed order. Hence, no interference is warranted and the Civil Revision Petition is liable to be dismissed.

6. It is the case of the petitioners herein that the present IA has been filed in order to prove the payment of pakadi to the erstwhile

owners and it is also stated that the some other co-tenants earlier, while vacating the premises have misused the pakadi amount and so as to bring these facts the present IA is just and necessary.

7. A perusal of the elaborate order passed by the court below, it is seen that there exists a enormous delay in filing the present applications. Though sufficient opportunities was granted to the petitioners herein from the date of filing of RCOP, the petitioners have let in evidence only in 2015. It is also seen that they successfully dragged on the evidence till April 2017. After closure of evidence on both sides and after conclusion of arguments, the petitioners have chosen to file the present applications. No clear explanation has been given by the petitioners herein for the enormous delay in filing the present applications. If the petitioners felt that the additional counter affidavit is necessary they could have filed the same during the pendency of the proceedings. The Court below after discussing the issues in detail has passed the order. Therefore, the order passed by the trial court is confirmed.

8. It is needless to state that this court as well as the Apex court have held in several judgement after closure of evidence, filing of application without any valid reason is unnecessary.

9. Therefore, this court is of the view that the order passed by the court below does not require any interference. Accordingly, the Civil Revision Petition is dismissed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

31.10.2017

Speaking/Non-speaking order
Index : Yes/No

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To

The Rent Controller,
Vellore,
(Principal District Munsif, Vellore).

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D.KRISHNAKUMAR. J,

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