

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

CRP.PD.No.4044 of 2017

and

CMP.No.18906 of 2017

K.Saraswathi

..Petitioner

Vs.

1. K.Krishnakumar

2. Manickam

3. Sri Rajanani

4. Srinivasan

5. P.Pradeep

6. Sikandar

7.Attrina

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decreetal order made in IA.No.1393 of 2017 in OS.No.5732 of 2015 dated 10.08.2017 on the file of the III Assistant City Civil Judge, Chennai.

For petitioner : Mr.S.Senthilnathan

ORDER:

According to the petitioner, the petitioner has filed a suit in OS.No.5732 of 2015 on the file of the III Assistant City Civil Judge, Chennai for declaration and permanent injunction. In the aforesaid suit, the petitioner has filed an application in IA.No.1393 of 2016 to direct the respondents therein to pay

the rents to the petitioner or deposit the monthly rents to the credit of the above suit pending disposal of the above suit. But without appreciating the case of the petitioner, the trial court has dismissed the same. Hence, the petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the petitioner would submit that as per the settlement deed dated 02.04.2007 executed by her husband in favour of her son, the petitioner is entitled to receive the rent till her life time. The petitioner has filed the suit in view of the breach of the terms of the settlement deed. In the aforesaid suit, the petitioner has also filed the instant application, which was dismissed by the trial court without appreciating the case of the petitioner. Hence, the petitioner has filed the present Civil Revision Petition before this Court.

3. On perusal of the orders passed by the trial court, the instant application filed by the petitioner was dismissed by holding that interim orders cannot be sought against the parties / tenants who are all not parties to the suit. Further, it has been held that the petitioner has sought for the main relief of recovery of rent, by way of interim application in order to avoid the payment of court fees for the same. Therefore, interim relief as prayed for in the instant application cannot be granted. This Court also concurred with the findings of the trial court. No prima facie case is made out, in favour of the petitioner. But taking into consideration, the facts and circumstances of the case and the petitioner being a senior citizen now aged about 75 years and also she is unable to maintain her day to day affairs, this Court is inclined to pass appropriate orders to dispose of the suit.

4. In view of the above, the Civil Revision Petition fails and accordingly, the Civil Revision Petition is dismissed with direction to the trial court to dispose of the suit in OS.No.5732 of 2015 as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this Order. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

lok

To

The III Assistant Judge,
City Civil Court,
Chennai.

+1cc to Mr.S.Senthilnathan, Advocate in sr.no.80270

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PPA (CO)
NR 20/11/2017



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