

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.993 of 2017

and

CMP.No.4881 of 2017

Jamaludeen

.. Petitioner

Vs.

A.M.Hameed Maraikayar Family Trust,

Rep. By its Trustees

1. Fathima Nachiar

2. H.A.Ahmed Maraikayar

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 14.09.2016 passed by the learned Rent Controller, (District Munsif) Nagapattinam in MP.No.2 of 2015 in RCOP.No.15/2013.

For Petitioner

: Mr.S.Giritharan

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 14.09.2016 passed by the learned Rent Controller, (District Munsif) Nagapattinam in MP.No.2 of 2015 in RCOP.No.15/2013.

2. The petitioner is the second respondent in RCOP.No.15/2013 and the respondent/Trust which is represented by its Trustees viz., Fathima

Nachiar and H.A.Ahmed Maraikayar filed the said RCOP.No.15/2013 for eviction of one Naganathan, who is the tenant of the property/Trust, and the petitioner, who is the sub-tenant.

3. According to the Trust, the property was let on rent to the said Naganathan, who, without consent of Respondent/Trustees, sub-let the property to the petitioner. The RCOP.No.15/2013 is filed for eviction on the ground of wilful default in respect of payment of rent and sub-letting under Sections 10(2)(i) & 10 (2)(ii)(a). The petitioner/2nd respondent filed counter statement and contested RCOP.No.15/2013.

4. The petitioner filed MP.No.2/2015 for a direction to the first Trustee of the respondent/Trust viz., (Fathima Nachiar) to appear before the Court and sign in the Court for verifying the signature found in RCOP.No.15/2013.

5. According to the petitioner, the landlord agreement has to be executed by only one of the Trustees. But the RCOP.No.15/2013 was filed by two Trustees. It creates suspicion about the genuineness of the signature of the first respondent found in the RCOP.No.15/2013 and that there is a difference of opinion between the Trustees. The second respondent filed a counter affidavit and denied the averments made in the affidavit and submitted that the signature found in RCOP.No.15/2013 is

that of the first respondent and there is no difference of opinion between the Trustees and the first respondent is willing to give evidence before the Court and prayed for dismissal of the application.

6. The learned Trial Judge, considering the averments, counter affidavit and arguments of the learned counsel for the parties, dismissed the petition.

7. Aggrieved against the said order, the present Civil Revision Petition is filed.

8. Learned counsel for the petitioner reiterated the averments made in the affidavit filed in support of M.P.No.2 of 2015 and grounds of revision and submitted that the learned Rent Controller did not properly appreciate the contention of the petitioner made in support of the petition.

9. The respondent represented by Trustees 1 and 2 filed RCOP.No.15/2013 for eviction of the tenant, Naganathan and petitioner, who according to the respondent(Trustees 1 and 2), is illegally inducted as sub-tenant by the said Naganathan and the tenant Naganathan had wilfully failed to pay the rent. It is not in dispute that the petition premises belongs to the Trust and Naganathan is the tenant. The petitioner disputed the signature of the first respondent in the RCOP.No.15/2013

and contended that there is a difference of opinion between the Trustees.

10. The respondent in the counter affidavit has submitted that the signature in RCOP.No.15/2013 is that of the first respondent and have stated that the first respondent is willing to give evidence before the Court.

11. The petition is filed for eviction of the tenant-Naganathan and petitioner, who is the sub-tenant.

12. In view of the above fact, the respondent (Represented by its Trustees 1 and 2) are seeking eviction of tenant and stated in the affidavit that signature in the RCOP.No.15/2013 is that of the first respondent and expressed the willingness of the first respondent to give evidence before the Court.

13. On perusal of the materials on record, after hearing the submissions made by learned counsel for the petitioner and considering the above facts and circumstances, this court opines that the contention of the petitioner is untenable and unsustainable. Learned Trial Judge has rightly dismissed the application by giving cogent and valid reasons. I do not find any illegality or irregularity in the order passed by the learned Trial Judge warranting interference by this Court.

In the result, the Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

10.04.2017

gv

Speaking/Non-speaking order

Index :Yes/No

V.M.VELUMANI,J.

gv

To

The learned Rent Controller,
(District Munsif) Nagapattinam.

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