



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2017
(Reserved on 18.04.2017)

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CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRP (PD) (MD) No.2617 of 2014

Mrs.Kartheswari

... Petitioner

vs.

1)Mr.Sivasubramanian

2)Mr.Sairam

... Respondents

Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 11.8.2014 in I.A.No.14 of 2014 in RCOP.No.1 of 2011 on the file of the District Munsif Court [Rent Controller], Kovilpatti.

For Petitioner : Mr.B.Rajesh Saravanan

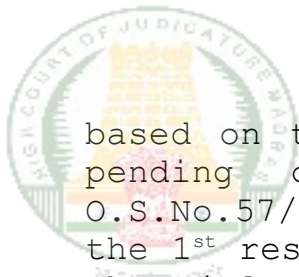
For R1 : Mr.AR.L.Sundaresan, Senior Counsel for
M/s.AL.Gandhimathi

ORDER

This revision petition is directed against the dismissal of RCOP.No.1 of 2011 on the ground that there is a bona fide dispute regarding title and hence, the matter has to be decided by the Civil Court as per Section 10(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act.

2.The brief facts of the case is that the petition mentioned property is the ancestral property of one Sairam, the 2nd respondent herein. The 1st respondent herein was tenant under the 2nd respondent for non residential purpose. While so, the revision petitioner herein had purchased the property from the said Sairam on 05.02.2010 through a registered sale deed and sought eviction of the 1st respondent from the demised premises. Since the 1st respondent herein failed to vacate the premises, RCOP.No.1 of 2011 has been filed on the ground of wilful default and owner's occupation.

3.In the said RCOP, the 1st respondent herein has filed counter <https://hcservices.ecourts.gov.in/hcservices/> alleging that the erstwhile owner Sairam had orally sold the property to him and given a receipt for sale consideration and



based on the receipt, he has initiated specific performance suit pending on the file of the Sub Court, Kovilpatti, in O.S.No.57/2010. In the said circumstances, I.A.No.14/14 filed by the 1st respondent herein under Section 10(1) of the Act, disputing the title of the revision petitioner was allowed by the Tribunal resulting in dismissal of RCOP.

4.The prime contention of the revision petitioner in the present revision filed under Article 227 of the Constitution is that the Tribunal wrongly decided the petition and forced the revision petitioner to go to Civil Court when there is no bona fide claim of title by the 1st respondent herein.

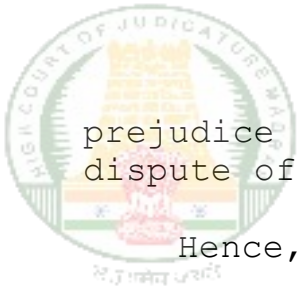
5.The counsel appearing for the 1st respondent submitted that the revision petition under Article 227 as such is not maintainable since any order passed by the Rent Controller is to be challenged by way of appeal under Section 23 of the Act. Further, even on facts, it has been consistently pleaded by the 1st respondent herein that the revision petitioner herein is not the title holder of the property and a suit for specific performance filed by the revision petitioner is pending before the Sub Court, Kovilpatti, wherein, the present revision petitioner is also impleaded as one of the respondents along with the vendor Sairam.

6.After perusing the documents and the pleadings of the respective parties, this Court holds that this revision petition filed under Article 227 of the Constitution is *per se* not maintainable in view of the fact that on dismissal of the RCOP, the alternate mode of redressal available under the Act is to prefer appeal before the Appellate Tribunal and not revision under Article 227 of the Constitution.

7.The Hon'ble Supreme Court in ***Shalini Shyam Shetty and another vs. Rajendra Shankar Patil*** reported in (2010) 8 SCC 329, held as follows:-

'High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.'

8.In so far as the plea of bona fide denial of title, it is open to the revision petitioner either to accept the impugned order and resort to Civil Court or challenge the same before appropriate forum since this Court desists from giving its opinion about the merits of the impugned order in this aspect as it may



prejudice the Court below in deciding the alleged bona fide dispute of title.

Hence, this Civil Revision Petition is dismissed. No costs.

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Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

The District Munsif [Rent Controller],
Kovilpatti.

+ 1 CC TO M/S.AL.GANDHIMATHI, ADVOCATE IN SR No. 53370
+ 1 CC TO Mr.B.RAJESH SARAVANAN, ADVOCATE IN SR No. 53512

NBI

TE/KP : 02/05/2017 : 3P/4C

Pre-Delivery order made in
CRP(PD) (MD) No.2617 of 2014
21.04.2017