



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(MD).No.104 of 2017

and

CMP(MD).No.376 of 2017

R. Rajalakshmi

: Petitioner/Plaintiff

Vs.

1. The Executive Engineer,
Public Works Department,
Buildings Construction and Maintenance Div.II,
Madurai.

2. The Revenue Divisional Officer,
Usilampatti, Madurai District.

3.The Assistant Executive Engineer,
Public Works Department,
Buildings Construction and Maintenance Division,
Usilampatti

: Respondents/Defendants

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the return endorsement made by the learned trial Court dated 04.01.2017 and subsequent endorsement 06.01.2016 in O.S.No.... of 2017 on the file of the learned Principal Subordinate Judge, Madurai and to direct the trial court to number and take the suit on file.

For Petitioner

: Mr. E.R. Gurubalachandran

O R D E R

This Civil Revision Petition is filed to set aside the return endorsement made by the learned trial Court, dated 04.01.2017 and subsequent endorsement dated 06.01.2016 in O.S.No.... of 2017 on the file of the learned Principal Subordinate Judge, Madurai.

2. The petitioner filed suit in plaint SR.No.366 of 2017 to declare the letter dated 21.12.2016, sent by the third respondent is arbitrary and for a direction to the respondent to extend the lease period.



3. The learned Judge returned the plaint on the ground that the lease is fixed for a period from 16.12.2013 to 15.12.2016 and the petitioner undertook to stop the Tea Stall on expiry of lease period i.e on 15.12.2016 and acted contrary to that undertaking and therefore, the suit is not maintainable.

4. The petitioner re-presented the plaint stating that the period of expiry has been mentioned even right from the first lease deed upto the last lease deed viz., from 1995 to till 15.12.2016 and the same has been incorporated in every lease agreement and important should not be given for such clause. The petitioner paid lease amount up to 15.12.2016. The learned Judge again returned the plaint stating that explanation is not satisfactory and granted one month time, by order dated 06.01.2017, for representation.

5. Against that return, the present Civil Petition has been filed by the petitioner.

6. The learned counsel appearing for the petitioner reiterated the explanation made in the plaint while re-presenting the plaint and grounds raised in the present Civil Revision Petition and submitted that the returns of the learned Judge dated 04.01.2017 and 06.01.2017 are erroneous, to harass the petitioner. The learned Judge ought to have seen that the petitioner paid Court fee for the relief claimed in the suit. The learned Judge ought to have numbered the suit.

7. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

8. From the materials on record, it is seen that the learned Judge returned the plaint on two occasions stating that the petitioner is not entitled to file a suit, in view of the undertaking given by the petitioner in the lease agreement. The petitioner is lessee in the building belonging to the Public Works Department. The letter which the petitioner seeks to be declared that arbitrary is written by the competent authority after expiry of lease.

9. The learned Judge after considering the fact as well as undertaking of the petitioner to stop the Tea Stall after expiry of lease period, returned the plaint stating that explanation is not satisfactory. The petitioner is not entitled to claim extension of lease as a matter of right. It is for the authority to decide whether to continue the lease for further period.

<https://hcservices.courts.gov.in/hcservices> In the circumstances, there is no irregularity or illegality warranting interference by this Court in the returns dated 04.01.2017 and 06.01.2017.



11. In the result, the Civil Revision Petition is dismissed.
No costs. Consequently, connected Miscellaneous Petition is
closed.

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/True copy/

Sd/-

Assistant Registrar (AS)

Sub Assistant Registrar

To

The Principal Subordinate Judge, Madurai.

+1 cc to M/s.E.R.Guru Balachandran, Advocate in SR.No. 3285

trp

CSL/PM-PN/SAR-II/22.02.2017 : 3P/3C

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