



submitted that since the very intention of the respondent / landlord, seeking eviction, on the ground of demolition and reconstruction of the part of the building is *per se* malafide and therefore, the feasibility of the building sought to be demolished, has to be ascertained by an Expert and without doing so, the petitioner cannot prove his case.

5. The learned counsel for the respondent submitted that the eviction proceedings was initiated in the year 2014 and after completion of the pleadings, the petitioner has examined two witnesses and the matter has been posted for examination of respondent's side witnesses. After prolonged adjournments the present application for appointment of Advocate Commissioner has been filed, when there is no legal or factual necessity for appointing commissioner. Even assuming that appointment of Advocate Commissioner is necessary, it should have been resorted immediately after filing of the written statement or at least before commencing the trial, which the petitioner has failed to do so. Further, He also submitted that the present revision petition filed under Article 227 of the constitution is not maintainable, when there is an appeal remedy under Section 23 of the Tamil Nadu Buildings (Lease and Rent Control) Act, against any order passed by the Rent Controller. Therefore, the order of the Trial Court is correct and the same need not to be interfered by this Court, exercising its jurisdiction.

6. This Court on consideration of rival submissions hold that after the closure of the petitioner's side witness, when the matter was posted for the respondent's side witness, the present application has been filed, which is only to protect the proceedings.

7. As observed by the trial Court, the issue in the Rent Control proceedings, is only to ascertain as to whether the intention of the landlord seeking eviction on the ground of demolition and reconstruction is bonafide or malafide. To ascertain that, appointing the Advocate Commissioner is not necessary.

8. Since the reasoning of the trial Court is legal, this Court finds no error in the order passed by the Trial Court, which has discussed at length as to why the application to appoint the Advocate Commissioner is not sustainable.

9. Hence, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writs)



To

The District Munisif, Thuraiyur.

+1cc to Mr.K.PRABHAKAR Advocate in SR. No.17944

TA/PSD

JS/SV.2.05.2017/3P-3C

CRP (PD) (MD) No.626 of 2017
and
CMP (MD) NO.2879 of 2017
24.03.2017