



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2017

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P. (MD).No.744 of 2017 and
C.M.P. (MD).No.3424 of 2017

S.N.Ponraj	...	Petitioner/Petitioner
Vs.		
M.S.Kumaran @ Vaidyanathan	...	Respondent/Respondent

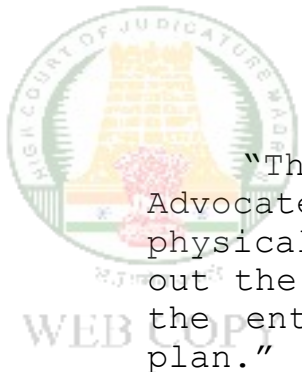
This Civil Revision Petition has been filed under Article 227 of the Constitution of India praying to set aside orders passed in I.A. No.22 of 2017 in RCOP.31 of 2013, dated 15.02.2017 on the file of Additional District Musif (Rent Controller), Madurai.

For Petitioner : Mr.S.Manohar

O R D E R

The grievance of the petitioner is that the impugned order appointing Advocate Commissioner passed by the learned Rent Controller / Additional District Munsif, Madurai in I.A.No.22 of 2017 in RCOP.No.31 of 2013 under the impression as if the main petition has been filed for fixation of fair rent whereas the petition is filed for demolition and re-construction under Section 14 (1)(B) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. The contention of the petitioner is that the Rent Controller has requested the Advocate Commissioner to inspect the petition mentioned building after issuing notice to both parties to note down the physical features of the adjacent locality, market rate of the entire building and other features and submit a detailed report with plan as if the petition is filed under Section 4 of the Act. While the respondent in his application sought for appointment of Advocate Commissioner to note down the physical features, the Court has ordered ascertain the market rate, adjacent locality etc., Thus the Rent Controller has gone beyond the relief sought for and therefore, the order passed in the Interlocutory Application has to be modified or rectified.

2. On perusing the typed set of papers filed by the revision petitioner this Court finds that I.A.No.22 of 2017 has been filed by the revision petitioner / tenant under Section 18(A) of the Tamil Nadu Buildings (Lease and Rent Control) Act and Section 151 of CPC for the following relief:-



"The Hon'ble Court may be pleased to appoint an Advocate Commissioner and directed to note down the entire physical features of the entire property and also to find out the actual area occupied by this petitioner / tenant in the entire property and to file a detailed report with plan."

3. The prayer in the RCOP.No.31 of 2013 filed by the landlord is for possession of the property on the ground of demolition and reconstruction. On perusal of the impugned order passed in the I.A.No.22 of 2017 reveals that the Rent Controller had gone beyond the prayer sought as if the RCOP has been filed for fair rent. As a consequence error has been crept in directing the Advocate Commissioner to ascertain the market rate of the building also.

4. Therefore, this Court is of the opinion that it is suffice to rectify the error in the impugned order of the Court below by deleting the direction to the Advocate Commissioner to ascertain the market rate of building. All other directions as given by the Rent Controller shall stand good. Warrant to the Advocate Commissioner shall be issued to inspect the petition mentioned building after issuing notice to both parties and to note down the physical features of the entire building and other features and to file a detailed report with plan.

5. In the result, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (C)

/True Copy/

Sub Assistant Registrar

To

The Additional District Musif,
Rent Controller,
Madurai.

+ 1 CC TO Mr.S.MANO HAR, ADVOCATE IN SR No. 51184

TRP

TE/SV : 04/05/2017 : 2P/3C

C.R.P. (MD).No.744 of 2017 and
C.M.P. (MD).No.3424 of 2017
07.04.2017