



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 24.04.2018

DELIVERED ON : 23.08.2018

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) (PD) No.897 of 2018

and

CMP(MD)No.4002 of 2018

Bhagavathiammal ... Petitioner/ Petitioner/ Respondent

vs

Raja .. Respondent/ Respondent/ Petitioner

Civil Revision Petitions filed under Article 227 of Constitution of India against the order dated 06.1.2018 passed in I.A.No.196 of 2017 in R.C.O.P.No.77 of 2014 on the file of the Principal District Munsif Court, Nagercoil.

For Petitioner : Mr.P.Senthur Pandian

For Respondent Mr.D.Saravanan

:

ORDER

This Civil Revision Petition is directed against the order dated 6.1.2018 passed in I.A.No.196 of 2017 in R.C.O.P.No.77 of 2014 on the file of the Principal District Munsif Court, Nagercoil. The petitioner is the tenant and the respondent is the landlord in R.C.O.P.No.77 of 2014.

2. The petitioner herein has filed I.A.No.196 of 2017 under Section 151 of C.P.C. praying to receive the additional counter on her side stating that in order to brought to the notice of the additional facts to the Court, it is necessary to permit the petitioner to file the additional counter.

3. Resisting the petition, the respondent filed counter stating that only with a view to delay the disposal of R.C.O.P., the petitioner has filed the petition to receive additional counter. It is stated that previously the petitioner remained ex parte in the original O.P. and the ex parte order was recalled with a condition that the petitioner should be ready to proceed with the case. But contrary to the same, the petitioner has filed the petition to receive additional counter to drag on the proceedings.

4. Upon consideration of the rival submissions, the learned <https://hcservices.ecourts.gov.in/hcservices/> Judge, Nagercoil dismissed the petition. Aggrieved by the same, the petitioner has filed this Civil Revision Petition.



5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and also perused the materials available on record.

6. The learned counsel for the petitioner submitted that the learned Rent Controller has failed to take into consideration the special material fact available in abundance in this case and due to sickness, illiteracy, helplessness, the petitioner has not filed the additional counter immediately. He would submit that the additional counter was filed in the terminal stage was no reason to reject the same. The learned counsel further submitted that the petitioner was running the flour mill with many horse power motor to make out her living as a widowed childless sickly lady and the same was suppressed by the respondent in the eviction petition.

7. The learned counsel for the petitioner next submitted that the Rent Controller has failed to take into consideration the material fact that along with the additional counter the visual picture of the schedule building vis-a-vis the surrounding building by way of photograph was filed which would add light on the contention raised in the additional counter and which was also required to be brought to the notice of the learned Rent Controller by way of additional counter.

8. Per contra, the learned counsel for the respondent submitted that there was no bona fide in the petition filed to receive the additional counter and only to drag on the proceedings, the petitioner has filed the petition, which was rightly dismissed by the learned Rent Controller. He would submit that upon analysing the rival submissions, the learned Rent Controller dismissed the petition and there is no need to interfere with the same.

9. The point that arises for consideration is whether the Rent Controller was right in dismissing I.A.No.196 of 2017 filed by the petitioner.

10. The main O.P. being R.C.O.P.No.77 of 2014 was filed by the respondent under Sections 10(3)(i), 14(1)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act 18 of 1960 as amended by 23 of 1973. Resisting the petition, the petitioner has filed a detailed counter and trial has commenced and the main O.P. is pending for reply arguments.

11. In the affidavit filed in support of the petition, the petitioner has stated that in order to brought to the notice of the Court some additional facts, the petitioner was forced to file the additional counter. Nothing has been stated in the affidavit about the reason for non-mentioning of the additional facts in the original counter.



12. It is pertinent to mention that before the Rent Controller, the respondent was examined as P.W.1 and based on the original counter filed by the petitioner, P.W.1 was cross-examined and arguments of both sides were also partly heard.

13. In its order, the Rent Controller stated that when the main O.P. was posted for reply arguments of the petitioner on 13.12.2017, the petitioner has filed the petition to receive additional counter, which cannot be permitted, as the petitioner has failed to offer reason restraining her from filing the additional counter at the earlier stage.

14. Admittedly, in the case on hand, as stated supra, there was no convincing reason for not filing the additional counter at the earlier point of time. More over, in this case, evidence was over and arguments were also almost heard. At this stage, if the petitioner was permitted to file the additional counter, it would definitely affect the entire trial.

15. As rightly held by the learned Rent Controller, though rules of procedures are handmade of justice, the party who seeks an opportunity to file additional counter has to offer reasons for not filing the same at the earlier stage. In the case on hand, admittedly, there was no reason and only to drag on the proceedings, the petitioner has filed the petition to receive additional counter.

16. No valid grounds have been made out to interfere with the order of the learned Rent Controller and the Civil Revision Petition is liable to be dismissed.

17. The Civil Revision Petition is dismissed. No costs. Consequently, C.M.P.(MD) No.4002 of 2018 is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar(CS-I)

To
The Principal District Munsif Court,
Nagercoil.

+1cc to Mr.D.Saravanan, Advocate Sr.No.80034

VSV

VB/RSK/SAR1/20.09.2018/3P/3C