



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.06.2018
CORAM:
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.1251 of 2018
&
CMP (MD) No.5272/2018

S.N.Ponraj

... Revision Petitioner/Petitioner/Tenant

-Vs-

M.S.Kumaran @ Vaidyanathan

... Respondent/Respondent/
Co-Owner

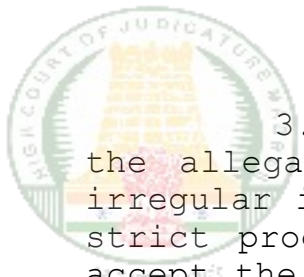
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India praying to direct Additional District Munsif, Madurai Town (Rent Controller) to take on the file in un-numbered I.A. of 2018 in I.A.No.22 of 2017 in R.C.O.P.31 of 2013.

For Petitioner : Mr.S.MANO HAR

ORDER

The revision petitioner is the tenant in the property, belonging to the respondent herein (landlord) and the landlord has been running a watch company along with his brother. The landlord filed R.C.O.P.31 of 2013 before the Rent Controller, Madurai Town for vacating the tenant from the premises on the reasoning that the landlord and his brother wanted to expand their business in their own building. During pendency of the said petition, the tenant filed an application in I.A.No.22 of 2017 for appointment of an Advocate Commissioner to note down the physical features of the property and the extent of the area occupied by him and the said petition was allowed with a direction to the Advocate Commissioner to inspect the property and also to ascertain the actual market rate of the building also. Aggrieved by the portion of the order regarding assessment of market rate, the tenant approached this Court by filing C.R.P.(MD) No.744 of 2017, which was disposed of by this Court, by deleting the particular portion of the order. Subsequently, the tenant sought to file another application for re-issuance of warrant to the Advocate Commissioner for noting down the entire physical features of the property, which was returned by the learned Additional District Munsif, Madurai Town (Rent Controller). Aggrieved by the same, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and notice to other side is dispensed with, in view of the nature of disposal of this case. This Court also perused the material documents available on record.



3. It is the case of the revision petitioner / tenant that the allegation levelled against him by the landlord that he was irregular in payment of rent was not true and he is ready to put to strict proof of the same and it was the landlord, who refused to accept the rent by giving some false excuses. In fact, he had sent the money through cheque, which was returned by the landlord and therefore, it cannot be said that the petitioner is a defaulter.

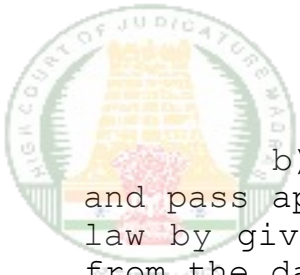
4. The revision petitioner states that the landlord had imposed some unreasonable conditions on the tenant, which were refused to be accepted by the petitioner and on being frustrated by the same, the landlord had filed the vexatious petition for vacating the petitioner from the premises, which is nothing, but frivolous, thereby using the forum as a ruse to evict the petitioner. The petitioner further states that the entire building consists of three separate portions in two different door numbers and three separate tenancy in the entire building and therefore, the landlord cannot demolish the alleged petition mentioned property in absence of his ownership to the property. Unless the entire building is inspected by the Advocate Commissioner once again, the exact physical features of the property cannot be ascertained and since the learned Rent Controller did not accede to his request and refused to number the application filed for re-issuance of warrant, it is prayed that the intervention of this Court is unavoidable.

5. It is seen that the petition mentioned property was purchased by the landlord and his brother by a registered sale deed dated 03.03.2004 and the same was duly intimated to the tenant also with a request to vacate the premises so as to enable the landlord and his brother to carry on their business in the own property, as they had been doing their business in a rented building. Though the tenant sought for six months' time to hand over the vacant possession of the property, subsequently, he deviated from his promise. It is the claim of the landlord that the building is in dilapidated condition and has to be renovated at the earliest point of time and it was also brought to the notice of this Court that the landlord had already remitted payment to Madurai Corporation for renovation work on 21.09.2012 and 22.09.2012 respectively.

6. It is pertinent to mention here that once an application is filed, it is the duty cast upon the Rent Control Court to number the same and thereafter, decide thereon based on its own merits and demerits of the matter in accordance with law. Therefore, finding much force in the contention raised by the learned counsel for the petitioner and to meet out the ends of justice, this Court is of the view that a direction shall be issued to the Trial Court to first number the application and take a decision thereon on merits and in accordance with law.

7. In the result,

a) this Civil Revision Petition is disposed of and the matter is remanded back to the learned Additional District Munsif, Madurai Town (Rent Controller);



b) the Trial Court is directed to number the application and pass appropriate orders thereon on merits and in accordance with law by giving notice to both parties within a period of four weeks from the date of receipt of a copy of this order;

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To:

1. The Additional District Munsif,
Madurai Town (Rent Controller).
2. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**.

+1CC to Mr.S.MANOHAR, Advocate, SR.No. 70428

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AR

ES/SKN/RSK/SAR 4/27.07.2018/3P/5C