



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (MD) No.1246 of 2018 and
CMP (MD) .No. 5260 of 2018

K.R.Srinivasan

: Revision Petitioner/
Petitioner/Tenant

-Vs-

M.S. Senthil @ Viswanathan

: Respondent/Respondent/
Co-owner

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the orders of return un numbered I.A.No.... of 2018 in I.A.No.23 of 2017 in RCOP.No.33 of 2013 on the file of the Additional District Munsif (Rent Controller), Madurai Town, dated 06.04.2018.

For Petitioner : Mr.S. Manohar

O R D E R

The Civil Revision Petition has been filed against the orders of return made in un-numbered I.A.No.... of 2018 in I.A.No.23 of 2017 in RCOP.No.33 of 2013 on the file of the Additional District Munsif (Rent Controller), Madurai Town, dated 06.04.2018.

2. The respondent / landlord has filed RCOP.No. 33 of 2013 on the file of the Additional District Munsif, Madurai, for demolition and re-construction. In the said RCOP, the revision petitioner, who is the tenant, has filed an application in I.A.No.23 of 2017, under Section 18-A of the Tamil Nadu Buildings (Lease and Rent Control) Act and Section 151 CPC seeking prayer to re-issue the warrant to the very same Advocate Commissioner, to note down the entire physical features of the entire property and also to find out the actual area occupied by the petitioner in the entire property including the entire first floor portion of the entire building and to file a detailed report with plan. Though the application was filed on 26.03.2018, the learned Judge has returned the application on the ground that the original application in I.A.No. 23 of 2017 for appointment of an Advocate Commissioner and his report is pending, this application is not maintainable. Challenging the said return, the revision petitioner herein has filed the present Civil Revision Petition.



3. I have heard the learned counsel appearing for the petitioner. Even though the petitioner claimed for a larger relief, in the course of his argument restricted his relief for issuance of direction to the learned Additional District Munsif (Rent Controller), Madurai to number the un-numbered application filed by the petitioner. Since the petitioner has limited his relief, no notice need be sent to the respondent.

4. Admittedly, an Advocate Commissioner was appointed in I.A.No. 23 of 2017 and the Advocate Commissioner has filed a report and that both the petitioner as well as the respondent filed their objections. Pending their objections, the petitioner has filed the present un-numbered I.A.No. of 2018, under Section 18-A of the Tamil Nadu Buildings (Lease and Rent Control) Act and Section 151 CPC before the learned Additional District Munsif, Madurai seeking prayer to re-issue the warrant to the very same Advocate Commissioner. Admittedly, both the parties are entitled to file their applications for re-issuance of the warrant and they have also filed their objections for the Advocate Commissioner's report. Therefore, the learned Judge ought to have numbered the application and proceed with the same to re-issue the warrant of Advocate Commissioner or rejecting his request. But, without taking a decision from 26.03.2018, the Court could not keep the petitioner to wait for numbering and for re-issuing the warrant to the very same Advocate Commissioner, which is totally wrong. Hence, this Court is inclined to interfere with the return order made by the learned Additional District Munsif, Madurai.

5. Accordingly, this Civil Revision Petition is disposed of with the following directions:

(i) the learned Additional District Munsif (Rent Controller), Madurai Town is directed to number the un-numbered application in I.A.No.... of 2018 in I.A.No.23 of 2017 in RCOP.No.33 of 2013 within a period of two weeks from the date of receipt of a copy of this order

(ii) After numbering the application, the Additional District Munsif (Rent Controller), Madurai is directed to pass appropriate orders in the said application, within a period of two weeks, thereafter, after giving notice to both parties

(iii) No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/



To
The Additional District Munsif (Rent Controller),
Madurai Town,

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