



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) Nos.866 and 867 of 2016

and

C.M.P. (MD) Nos.4455 and 4454 of 2016

1.Meena Saba

2.Ramayee @ Ramu

...Petitioners/Landlords

(in both petitions)

-vs-

M.Somasundaram

...Respondent/ Tenant

(in both petitions)

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to call for the records relating to the fair and decreetal order dated 01.02.2016 passed in I.A.No.18 and 19 of 2014 in R.C.O.P.No.1 and 2 of 2013, respectively on the file of the Rent Controller cum District Munsif, Devakkottai and set aside the same.

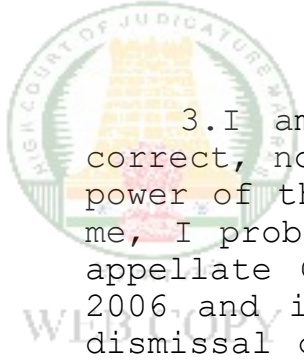
For Petitioners : Mr.R.Sundar Srinivasan

For Respondent : Mr.H.Mohamed Imran
for M/s Ajmal Associates
(in both petitions)

ORDER

The revision petitioners claim that they are the landlords of the premises in question. They filed R.C.O.P.No.2 of 2013 before the Rent Controller cum District Munsif, Devakkottai, for eviction on the ground of wilful default, demolition and reconstruction. They also filed R.C.O.P.No.1 of 2013 for fixation of fair rent. In both petitions they took out interim applications for appointment of an Advocate Commissioner for the purpose of ascertaining the age of the building and for valuation. Both petitions were dismissed by the the learned Rent Controller cum District Munsif, Devakkottai. Questioning the same, these Civil Revision Petitions are filed.

2. At the very out set, the learned counsel for the respondent pointed out that only an appeal will lie against the orders impugned in this Civil Revision Petition and the Civil Revision Petitions are not maintainable.



3.I am of the view that even though the said submission is correct, no hurdle can be put against the exercise of constitutional power of this Court. If these matters came up for admission before me, I probably would relegate the revision petitioners to move the appellate Court. This Civil Revision Petition was filed in April 2006 and is now posted for final disposal before me. Therefore, dismissal on the ground of maintainability does not appear to be a proper cause.

4.The revision petitioners are the landlords. They only want to appoint an Advocate Commissioner for the purposes set out supra. Getting a report from the Advocate Commissioner would only aid the process of adjudication in the matter and also reduce the volume of oral evidence. In any event the rights of the respondent will not be infringed. The respondent is always at liberty to lodge his objections and also to controvert his contents of the report, if it is against him. Since the rights of the respondent are not infringed, I am of the view that the orders impugned in these Civil Revision Petitions deserve to be set aside. Accordingly, these Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To:

The Rent Controller cum District Munsif,
Devakkottai.

+1CC to M/s Ajmal Associates, Advocate, SR.No.81200
+1CC to Mr.R.Sundar Srinivasan, Advocate, SR.No.81048

C.R.P. (PD) (MD) Nos.866 and 867 of 2016
29.08.2018

TA
ES/SKN/RSK/SAR 4/16.10.2018/2P/4C