



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Tr.C.M.P.No.516 of 2019

B.Eswari .. Petitioner

-vs-

N.Rajammal .. Respondent

Transfer Civil Miscellaneous Petition filed under Section 24 of the Code of Civil Procedure to withdraw and transfer the R.C.A.No.22 of 2017 pending on the file of the Principal Subordinate Judge, Vellore to the Subordinate Court, Ranipet.

For Petitioner :: Mrs.N.Mala

ORDER

This transfer civil miscellaneous petition has been filed by the tenant against the Presiding Officer for no reason, as I could see from the entire pleadings made before this Court and also before the Court below. When the respondent/landlady filed R.C.O.P.No.32 of 2014 on the file of the learned District Munsif, Vellore under Sections 10(2)(i) and 10(3)(ii) of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 as amended by Act 23 of 1973, on the ground of owner's occupation and wilful default in payment of the enhanced rent of 20% of the monthly rent, the learned Rent Controller allowed the R.C.O.P., by order dated 20.9.2017 directing the petitioner-tenant to vacate the petition building and handover the possession thereof within 15 days from the date of order to the respondent-landlady along with costs of Rs.50,000/- payable to the respondent. Aggrieved thereby, the petitioner also filed R.C.A.No.22 of 2017 along with I.A.No.121 of 2017 seeking for stay of the order passed by the learned Rent Controller. But the learned Rent Control Appellate Authority, finding no justification for the grant of stay of operation of the order of eviction, declined to grant any order, that has given rise to the petitioner-tenant to come to this Court with C.R.P.(NPD) No.862 of 2019, taking a ground that during the pendency of the R.C.A.No.22 of 2017, the petitioner-tenant was facing the threat of eviction, therefore, as a matter of fact, when appeal is pending, stay of dispossession has to be granted, which has not been done. On



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this score, the revision petition was filed before this Court. This Court also, taking note of the fact that I.A.No.121 of 2017 seeking an order of stay of operation of the eviction order has not been disposed of, by a brief order dated 5.3.2019, allowing the C.R.P.(NPD) No.862 of 2019, directed the learned Rent Control Appellate Authority to dispose of the I.A.No.121 of 2017. Till such time an order of stay was granted. Abiding by the order passed by this Court, the learned Rent Control Appellate Authority disposed of the I.A.No.121 of 2017 and while disposing of the same, the learned Rent Control Appellate Authority also indicated to the petitioner-tenant not to protract the matter, as she had already suffered an order of eviction on the ground of owner's occupation and wilful default. Taking exception to the said observation made by the learned Rent Control Appellate Authority, this transfer civil miscellaneous petition has been filed.

2. Mrs.N.Mala, learned counsel for the petitioner, assailing the approach adopted by the learned Rent Control Appellate Authority, argued that it is not open to the Court below to issue a threat calling upon the petitioner to avoid taking adjournment, failing which cost would be imposed against the petitioner, that has given an apprehension that the Court below may not proceed fairly and reasonably within the four corners of law.

3. I do not find any justification for making such unwarranted allegation against the learned Rent Control Appellate Authority for calling upon the parties to co-operate with the Court for early disposal of the R.C.A.No.22 of 2017, when the petitioner-tenant had suffered an order of eviction on 20.9.2017 on the ground of owner's occupation and wilful default in not making the payment of rent. I am able to see full merits on the findings and conclusions reached by the learned Rent Control Appellate Authority, as it has become the usual practice for any Court to call upon the parties to co-operate with the threat of imposing costs, for, as per Order XVII, Rule 1(2) of the Code of Civil Procedure, which reads as under,

"1(2). Costs of adjournment.--In every such case the Court shall fix a day for the further hearing of the suit and shall make such orders as to costs occasioned by the adjournment or such higher costs as the Court deems fit:"

this Court is not able to find any merit whatsoever in this transfer civil miscellaneous petition. Accordingly, the transfer civil miscellaneous petition is dismissed with costs of Rs.25,000/- payable by the petitioner to the respondent within a period of two weeks from the date of receipt of a copy of this order. The learned Rent Control Appellate Authority (Principal



Subordinate Judge), Vellore shall proceed with the R.C.A.No.22 of 2017 after ensuring the payment of costs of Rs.25,000/- to the respondent. Consequently, C.M.P.No.14315 of 2019 is also dismissed.

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s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

SS

To

1. The Principal Subordinate Judge
Rent Controller Appellate Authority
Vellore.

2.The District Munsif
(Rent Controller)
Vellore.

+1 CC to M/s.M.Malar, Advocate sr 58847

Tr.C.M.P.No.516 of 2019

SP(01/08/2019)