



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (MD) (PD) .No.627 of 2019

and

C.M.P (MD) .No.3226 of 2019

M.Manoharan

: Petitioner/Tenant

Vs.

K.Hariharasubramania Pattar

: Respondent/Landlord

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order, dated 21.01.2019 passed in I.A.No.71 of 2018 in R.C.O.P.No.5 of 2016 on the file of the Rent Controller / Principal District Munsif, Ambasamudram.

For Petitioner

: Mr.S.S.Thesigan

ORDER

This Civil Revision Petition has been preferred against the fair and decreetal order dated 21.01.2019, passed in I.A.No.71 of 2018 in R.C.O.P.No.5 of 2016 on the file of the Rent Controller / Principal District Munsif, Ambasamudram.

2.The respondent / landlord has filed the Rent control Original Petition for eviction of the petitioner / tenant on the ground of demolition and reconstruction, stating that the petition mentioned building is a very old one and it is in dilapidated condition and hence, the respondent / landlord planned to demolish the same and to construct a house for his own use and occupation. He has also obtained plan approval from the Local body on 04.12.2015. He has intimated the same to the petitioner / tenant and requested him to vacate the building as early as possible. Though the petitioner / tenant agreed to vacate the premises, he has not vacated the building. Hence, the respondent / landlord has filed the original petition before the Rent Controller on the ground of demolition and re-construction. Subsequently, he came to know that the undertaking regarding the demolition and reconstruction within



the period of three months from the date of order was not mentioned in the main petition. This was only by oversight. Hence, the petitioner filed I.A.No.71 of 2018 seeking to amend original petition in this regard.

WEB COPY

3.The petitioner/tenant contended in his counter statement that this amendment cannot be sought at the very belated stage i.e., at the argument stage and he filed this application only for the purpose of evicting him. The landlord intended in such tactics and there is no concrete idea to the landlord for demolition of the building and reconstruction or otherwise at the earliest point itself he would have given the undertaking regarding the demolition and construction within three months. Hence, the delay is purposely done by the petitioner/landlord which is malafide one.

4.After perusing the records and documents available, the Rent Controller has allowed the amendment application in favour of the landlord subject to the payment of cost of Rs.750 to the tenant.

5.Aggrieved over the said order, the petitioner/tenant has come forward with this Civil Revision Petition on the ground that the Rent Controller, without adverting to the scope and ambit of Order 6 Rule 17 of C.P.C, allowed the application. He further contended that the Court below has not passed the orders on merits and the Rent Controller has not considered the fact that the application was filed only at the stage of arguments and the landlord has not explained the reason for the delay in filing the amendment petition. Hence, he prayed to dismiss the amendment application.

6.Heard the learned counsel for both sides and perused the records carefully.

7.It is seen that the Rent Controller observed in order to avoid multiplicity of proceedings the said amendment sought by the petitioner can be permitted with costs. The Rent Controller has also discussed in detail and has given a finding that the amendment with regard to undertaking which was not stated by the landlord at the earliest point of time will not prejudice the tenant in any way, since the said undertaking given by the landlord will be enquired and decided only at the time of enquiry and at the time of final decision. The respondent / landlord himself has stated that he has also obtained plan approval from the concerned authority for reconstruction of the building in question. Hence, the failure of the landlord to mention about the undertaking for demolition and reconstruction within 3 months is a mere omission. Therefore, the amendment, at this stage, will never affect the case of the tenant. Hence, the order of the trial Court, which is very much reasonable does not require any interference of this Court.



8. The Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

WEB COPY

// True Copy //

Sub Assistant Registrar(CS)

TM

To

The Rent Controller / Principal District Munsif,
Ambasamudram.

**C.R.P. (MD) (PD) .No.627 of 2019
and
C.M.P (MD) .No.3226 of 2019
04.04.2019**

CS: (04/06/2019) 3P 2C