



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.09.2020

DELIVERED ON : 30.09.2020

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD)No.2321 of 2019

WEB COPY

N.K.Usha Devi

: Petitioner

.. Vs ..

T.G.Pradeep Kumar

: Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order, dated 21.11.2019 passed by the learned Principal District Munsif, Madurai Town in I.A.No.178 of 2019 in R.C.O.P.No.80 of 2017.

*(Prayer amended vide order of this Court dt.15.09.2020 made in CMP(MD)No.4185/2020 in CRP(MD)No.2321/2019)

For Petitioner

:Mr.T.Senthil Kumar

For Respondent

:Mr.R.Sevuga Raja

for M/s.Mother Land Association

ORDER

This Civil Revision Petition is directed against the order passed in I.A.No.178 of 2019 in R.C.O.P.No.80 of 2017 by the learned Principal District Munsif, Madurai Town, dated 21.11.2019.

2.Heard the learned Counsel appearing for the petitioner and the learned Counsel appearing for the respondent.

3.Brief facts that are necessary for the disposal of this revision petition are as follows:

4.The revision petitioner is the landlady, who filed a petition in R.C.O.P.No.80 of 2017 under Section 10(2)(ii)b), (iii) and (vii) of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960, to vacate the tenant/respondent on the ground of wilful default, denial of title and different user. Though the respondent/tenant admitted the tenancy, he filed his statement of objection stating that the husband of landlady had earlier executed a sale agreement in favour of him. It is further stated by the respondent that he has also filed a suit in O.S.No.328 of 2016 for an injunction.

5.After the closure of evidence on both sides, the respondent filed an application in I.A.No.140 of 2019 for



reopening the case for the respondent's side evidence. That petition was allowed on condition that the respondent should complete his evidence on 16.09.2019 itself. There was a default clause in the order stating that the petition will stand closed, in case, the respondent failed to complete his side evidence on 16.09.2019. Thereafter, the respondent filed another application in I.A.No.178 of 2019 to reopen the case for further evidence on his side.

6.In the affidavit filed in support of that petition, the respondent has stated that he has given evidence and he was cross examined. It is further stated that the trial Court did not give any adjournment for further evidence and that therefore, the petition was warranted for reopening the case for leading further evidence on the side of the respondent. Further scrutiny of the application reveals that the respondent wants to prove a subsequent sale agreement between the tenant and the husband of the landlady/revision petitioner.

7.Though the petition to reopen the case for the second time was strongly opposed by the revision petitioner, the petition was allowed by the learned Principal District Munsif, Madurai Town, with the cost of Rs.1,000/- to the landlady/revision petitioner. Aggrieved by the same, the above revision petition is filed.

8.The learned Counsel for the revision petitioner submitted that the main petition for eviction was filed on the ground of wilful default and other grounds and the petition for reopening the case was to call the witness in the sale agreement alleged to have been executed by petitioner's husband, which has nothing to do with the petition for eviction. Further, the learned Counsel for the revision petitioner submitted that the sale agreement was proved to be a forged one as per the expert opinion and that therefore, the petition for reopening the case was only to drag on the proceedings and therefore, it is an abuse of process of law. It is further stated that lower Court failed to see the attitude of the tenant seeking several adjournments one after another just to prolong the matter and that the petition is filed for the third time for re-opening the case. It is pointed out that respondent/tenant filed I.A.No.385 of 2008, I.A.No.140 of 2019 and I.A.No.178 of 2019 for re-opening the case.

9.The petition for eviction was filed in the year 2017. Though a sale agreement is pleaded in the statement of objection filed by the respondent, the respondent has no definite stand as regards the tenancy pursuant to the sale agreement. It appears that the respondent/tenant, at best, can claim right as an agreement holder, which does not create any right in favour of the respondent in respect of the demised premises. If the respondent



is a tenant, he cannot just set up a title in himself on the basis of a sale agreement, unless, there is an agreement putting an end to the tenancy.

10. Further the tenant has set up another agreement, dated 03.09.2012. It is to be seen in the eviction petition that the revision petitioner has referred to the expert opinion obtained in respect of the sale agreement, dated 07.03.2007 with the finding that the signature of the petitioner's husband was forged by the respondent. It is in the said circumstances, this Court is of the view that the petition for reopening the case for the second and third time for examining some more witnesses is nothing, but an attempt to drag on the proceedings.

11. As stated earlier, the petitioner, who is a landlady, has filed a petition for eviction against the tenant, who claims right under a sale agreement. The tenant in his objection has not referred to any suit for specific performance based on the agreement, dated 01.03.2007. In such circumstances, this Court is unable to find any *bona fide* in filing a petition one after another to reopen the case. The lower Court, without considering the case of revision petitioner and the *bona fide* of respondent in seeking to reopen the case for the third time, allowed the petition. It is true that the Court has power to reopen the case for giving a fair opportunity to the parties, in case, their request is for a *bona fide* purpose. In this case, this Court is unable to find any justification in the order of lower Court to reopen the case for the third time.

12. As a result, this Civil Revision Petition is allowed and the order passed by the learned Principal District Munsif, Madurai Town, in I.A.No.178 of 2019 in R.C.O.P.No.80 of 2017, dated 21.11.2019 is set aside. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

cmr



To

1.The Principal District Munsif, Madurai Town.

2.The Section Officer-2 copies

V.R.Section,

Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.T. SENTHILKUMAR, Advocate (SR-18608[F] dated
01/10/2020)

Order made in
C.R.P. (PD) (MD) No.2321 of 2019
30.09.2020

KM(CO)

KM (13.10.2020) 4P 5C