

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.08.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

CRP. (PD) No.1762 of 2021

and C.M.P. Nos.13599 & 13600 of 2021

A.Mohandoss

... Petitioner

Vs.

1.Manju Bai

2.P.Vikash Kumar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and Decreetal order dated 27.04.2021 passed by the learned Chief Judge, Small Causes Court, Chennai, in Tr.O.P. No.25 of 2021, allow the said Tr.O.P. No.25 of 2021.

For Petitioner : Mr. R.Balasubramanian

For Respondents : Mr. Poovendra Perumal

for T.Saikrishnan

O R D E R

This petition is filed to set aside the order passed in Tr.O.P. No.25 of 2021, on the file of learned Chief Judge, Small Causes Court, Chennai.

2. Tr.O.P. No.25 of 2021 was filed by the petitioner alleging that though the petitioner was a tenant initially, there was a sale agreement between the petitioner and the landlord. He paid advance to the tune of Rs.12,67,954/- and also filed a suit for specific performance in O.S. No.2169 of 2019 before the learned XVIII Additional City Civil Court, Chennai. There are proceedings pending between the petitioner and the respondents. However, without giving sufficient opportunity to the petitioner, the learned Judge is expediting the trial. Therefore, he filed a petition to transfer the case from the file of learned XIII Judge, Small Causes Court, to the file of any other Rent Controller. After considering the submissions of the parties, the learned Chief Judge, Court of Small Causes, Chennai, dismissed the petition. Against the said dismissal, this Civil Revision Petition is filed.

3. As said earlier, the learned counsel for the petitioner submitted that there are proceedings pending between the parties which went up to Hon'ble Supreme Court. There is a suit in O.S. No.2169 of 2019 which is pending for enforcing the specific performance of executing the sale deed on the basis of the sale agreement entered into with the landlord. When these proceedings are pending, the urgency shown by the learned Judge, without giving an opportunity to the petitioner to present his case, is not just and reasonable.

Therefore, he filed a transfer petition in Tr.O.P. No.25 of 2021 before the Chief Judge, Court of Small Causes, Chennai. The learned Chief Judge, without considering the grievance of the petitioner dismissed the transfer petition. Hence, he prays to allow this Civil Revision petition.

4. In response, learned counsel for the respondents opposed this petition on the ground that R.C.O.P. Nos.1317 & 1318 of 2015 was filed for eviction. This Court, by an order dated 07.03.2017, in C.R.P. PD Nos.708 and 709 of 2017, directed the learned Rent Controller to dispose the aforesaid R.C.O.P's. on merits and in accordance with law, within a period of three months from the date of receipt of a copy of that order. As mandated by this Court, the learned Rent Controller has been conducting enquiry in this case. He further submitted that P.W.1 was chief examined during November 2016. In spite of giving sufficient opportunities, P.W.1 was not cross examined. Petition to recall P.W.1 was filed three times and the same was allowed. Despite that, P.W.1 was not cross examined and P.W.1 evidence was closed. Then the matter was posted for respondent's evidence. The petitioner, who is the respondent before the learned Rent Controller has not chosen to give evidence and therefore, the respondent's evidence was also closed in the year 2017. Petitioner's arguments was heard and the matter was pending for respondent's evidence. Challenging the adjudication,

the petitioner preferred R.C. Sr. No.1739 & 1740 of 2020 and the same were dismissed. Against the dismissal, the petitioner preferred C.R.P. PD. Nos.716 & 717 of 2021, before this Court. This Court, dismissed both the C.R.P's., by imposing cost of Rs.50,000/- for each petition. Petitions for extending time for paying the cost were filed in C.M.P. No.8863 & 8864 of 2021 and time was extended till 03.07.2021. Without paying the costs, the petitioner preferred S.L.P. Nos.9680 & 9681 of 2021, before the Hon'ble Supreme Court. The Hon'ble Supreme Court disposed these petitions stating that it is not inclined to interfere with the orders. However, the costs imposed by this Court was reduced from Rs.50,000/- each to Rs.25,000/- each.

5. It is also brought to the notice of this Court by the learned counsel for the respondents that there are at least 24 proceedings which have been initiated by the petitioner against the respondents. He submitted that the petitioner, by suppressing the petition for extension of time for paying costs which was ordered in C.M.P. No.8863 & 8864 of 2021, filed SLP. Nos.9680 & 9681 of 2021, before the Hon'ble Supreme Court. Learned counsel for the respondents submitted that these previous proceedings clearly show that the intention of the petitioner is just to protract the proceedings by not allowing the present RCOP's to reach its logical conclusion.

6. The narration of sequence of events shows that the present litigation has been continuing from the year 2015. Prima facie, it shows that the petitioner is not cooperating with the Court for proceeding with the enquiry. He has taken all steps to protract the proceedings. In fact, some scathing and adverse remarks have been passed against the petitioner in C.R.P. No.716 & 717 of 2021. This Court is not inclined to repeat that again. Suffice it is to say that the petitioner is taking advantage of his position as an advocate and has been protracting the proceedings. It is not as though the learned Rent Controller has some personal interest in these R.C.O.P's. These R.C.O.P's. are of the year 2015 and comes under category of 'More than five year old cases. The Courts are expected to give priority in disposal of the old cases, especially the cases which are pending for more than five years. There is a specific direction given to the learned Rent Controller in C.R.P. Nos.708 & 709 of 2017, for disposing the case within three months from the date of receipt of a copy of that order. The order was passed on 07.03.2017. Till now, the R.C.O.P's. are not yet disposed. It was mainly due to the attitude of the petitioner in protracting the proceedings.

7. This transfer petition, in the view of this Court, is yet another attempt on the part of the petitioner to further protract the proceedings by filing petitions against the learned Rent Controller. The learned Chief Judge, Small Causes

Court, considered all these aspects and rightly dismissed the petition. This Court finds no reason to interfere with the order of the learned Chief Judge, Court of Small Causes, Chennai, in Tr.O.P. No.25 of 2021, dated 27.04.2021 and the same is confirmed.

Accordingly, the Civil Revision Petition is dismissed with the cost of the respondent. Consequently, connected civil miscellaneous petitions are closed. The learned Rent Controller is directed to dispose the R.C.O.P's. as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

25.08.2021

Index: Yes / No
Speaking order / Non speaking order
bkn

Copy To:

The Chief Judge, Court of Small Causes, Chennai.

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G.CHANDRASEKHARAN. J.,

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