IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.12.2020

PRONOUNCED ON : 25.01.2021

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(NPD).No.2197 of 2020
and
C.M.P.Nos.3453 & 13845 of 2020

Sundarrajan
Properietor - Ganesh Cool drinks Shop,
Door No.302, Kutchery Road,
Veerapandi Village,
Gobichettypalayam. ... Petitioner

Versus

V.Srinivasakumar ... Respondent

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order dated 01.10.2020 in I.A.No.2 of 2020 in R.C.A.No.1 of 2019 pending on the file of the Sub Court, Gobichettipalayam and to allow the Civil Revision Petition.

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For Petitioner : Mr.V.Anand
For Respondent : Mr.N.Manoharan

O R D E R

The Respondent / Landlord filed R.C.O.P.No.2 of 2014, seeking eviction of the Petitioner / Tenant on the ground of wilful default and for

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his own use and occupation and for expansion of the business. R.C.O.P. was allowed only to a limited extent on the ground of personal use and occupation. However, the Rent Controller has rejected the eviction on the ground of wilful default. Tenant has preferred the R.C.A. against the order of eviction on the ground of personal use and occupation. Pending R.C.A., petitioner has filed I.A.No.2 of 2020 for appointment of Advocate Commissioner to note down the physical features. The said I.A. was dismissed since already an Advocate Commissioner was appointed by the Rent Controller and he has also submitted his report. Hence, this Civil Revision Petition.

2. Heard the learned counsel for the petitioner and learned counsel for the respondent / Caveator.

3. As stated supra, the Respondent / Landlord has filed the above R.C.O.P. for eviction of the petitioner from the premises on the ground of wilful default and for owner's occupation to expand business and for construction. During the time of trial, an Advocate Commissioner was appointed and he has inspected the petitioner's premises and filed the Advocate Commissioner Report and his sketches were marked before the

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Rent Controller as Exs. C1, C2 & C3 and after trial, the Rent Controller has rendered a finding that the plea of wilful default was not proved in the manner known to law. However, an order of eviction was passed on the ground of owner's occupation and for personal use and hence, the tenant has preferred the R.C.A.No.1 of 2019, Sub Court, Gobichettipalayam. Pending R.C.A. again the tenant has preferred the I.A.No.2 of 2020 under Order XXV1 Rule 9 r/w Section 151 of CPC to inspect the western portion of the suit property and to note down the physical features and also to note down the further developments taken place after the first Advocate Commissioner's Report before the trial Court.

4. In the counter, it was alleged that subsequent to vacation of the some of the tenants in the above portion of his property, he has completed that of part of the godown after eviction order in these R.C.O.P's petition, he has to complete the balance of the construction work.

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5. The crux of the issue is that the Respondent alleged to have constructed godown outside the petition premises to the extent of 150 feet length 15 feet width. Based upon the above developments made by the

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respondent / landlord in respect of his property wherein the respective tenant have vacated the premises, he has constructed the said buildings. Since what was constructed is out side the petition's premises, the same will not provide any aid or Assistance for determining the issue involved in the present case. Accordingly, the Sub Judge, Gobichettipalayam / Rent Control Appellate Authority rejected the petition.

6. After going through the counter affidavit and also schedule of the property, I find that it is the specific case of the Respondent / Landlord that as the existing building is not sufficient enough to carry on his business, he has filed the Eviction Petition on the ground of requirement of landlord for his own use and occupation. In the neighbouring petition premises wherein some of the tenants were occupied the property has vacated and he has carried out the part of the godown construction to an extent of 50 feet length 16 feet width. Evidence of the landlord before the Rent Controller has also been taken note of by the Rent Control Appellate Authority and hence, the developments said to have been made by the landlord in the neighbouring part of the petition's property will not render any assistance or aid to the Court to arrive at a conclusion whether the requirement of the landlord is

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bonafide or not. As stated supra, in view of the specific plea of the land lord that he has to expand the business by constructing a big godown to suit the size of the business and hence, that part of godown has been constructed in the area outside the petitioner's premises, the finding rendered by the Rent Control Appellate Authority that appointment of another Advocate Commissioner in respect of certain developments said to have been carried out by the land lord outside the petition's premises is not necessary and cannot be interfered with as the same does not suffer any procedural irregularity or illegality warranting interference at the revisional jurisdiction.

7. In this view of the matter, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Speaking Order:Yes/No

To

The Sub Court, Gobichettipalayam

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RMT.TEEKAA RAMAN, J.

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