



C.R.P(NPD).No.2526 of 2021
and CMP.No.18957 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(NPD).No.2526 of 2021

and

CMP.No.18957 of 2021

M.Krishnakumar

..Petitioner

Vs.

S.Ahamed Suhail

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.09.2021 made in IA.No.3 of 2021 in RLTOP.No.7 of 2020 on the file of the I-Additional District Munsif Court, Erode (Full Additional of the Principal District Munsif Court, Erode).

For Petitioner : Mr.N.Manoharan

ORDER

The petitioner challenges the order of Rent Court under the Tamilnadu Regulation of Rights and Responsibilities of Landlords and



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Tenants Act, 2017, dismissing the application for appointment of a Commissioner to inspect the property in dispute and notedown the physical features.

2.The respondent / landlord sued for eviction under Section 21(2) of the Tamilnadu Regulation of Rights and Responsibilities of Landlords and Tenants Act. The Tenant / petitioner herein, resisting the said claim of the landlord contending that he is the owner of the super structure and therefore, proceedings under the said Act will not lie.

3.Pending the said application, the Tenant filed an instant application in IA.No.3 of 2021 seeking appointment of a Commissioner to note down the physical features situated in and around the petition mentioned property and to take down detailed measurements of the petition mentioned property with a qualified Engineer to ascertain the value of the building, fixtures etc. The learned Rent Court rejected the application.



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4.I have heard Mr.N.Manoharan, learned counsel appearing for the petitioner.

5.Mr.N.Manoharan, learned counsel appearing for the petitioner would vehemently contend that in the light of the defence that is projected by the tenant namely, the claim to ownership of the super structure, appointment of a Commissioner is absolutely essential in order to enable him to establish the existence and the nature of the super structure. I do not think that such exercise could be carried out in a proceeding under the said Act. The act itself is a self-contained Court, which prescribes certain grounds for eviction and the proceedings are strictly confined to disputes between landlords and tenants.

6.If the petitioner claims ownership of the super structure then the whole proceeding will be outside the jurisdiction of the Rent Court. It is for the petitioner to establish his title to the super structure and the same cannot be done by seeking appointment of a Commissioner to note down the



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physical features in and around the property and taking measurements with the help of a qualified Surveyor, that too, to ascertain the value of the property. The value of the property has no nexus to the proceedings. The landlord claims that there is a tenancy and the tenant claims that there is no tenancy and he is the owner of the super structure. These are the things, which will have to be decided on evidence and not through a Commissioner's report. Hence, I do not see any merit in this revision. This civil revision therefore, fails and it is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

29.11.2021

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Index: No

Internet: Yes

Speaking order



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To:-

1.The I-Additional District Munsif,
Erode.



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R.SUBRAMANIAN, J.

KKN

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