



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P(MD)No.1866 of 2019

and

C.M.P(MD) No.9566 of 2019

T.Velayudam

... Petitioner/Petitioner/
Respondent

Vs.

V.Saravanan

... Respondent/Respondent/
Petitioner

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order and decretal order dated 12.03.2019 made in I.A.No.22 of 2018 in R.C.O.P.No.5 of 2017 on the file of the District Munsif Court, Kovilpatti and allow the Civil Revision Petition.

For Petitioner : Mr.A.Thirukumaran

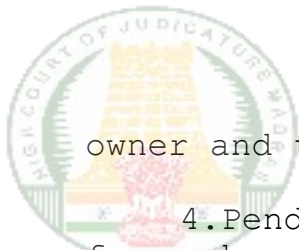
For Respondent : Mr.J.C.Rathinavel Pandian

ORDER

The tenant in a Rent Control Proceedings had taken out an application for appointing an Advocate Commissioner to note down the physical features of the demised premises and submit the report. This petition filed in I.A.No.22 of 2018 in R.C.O.P.No.5 of 2017, was dismissed by the District Munsif (Rent Controller), Kovilpatti. Aggrieved by the same, the tenant is before this Court.

2.The respondent has filed eviction petition against the petitioner herein on the ground of wilful default and denial of title. The demised premises is described as Door No.38A in Survey No.316/8 (T.S.No.30, 39, 41, 42), Block-10 of Dhanushkodiapuram New Street, Kovilpatti.

3.The petitioner/tenant had filed a counter denying the allegation contained in the petition and would submit that the respondent is not his landlord and he is not the tenant under him and that apart, he is in possession of the property as its rightful



owner and that the respondent herein had no right to the property.

4. Pending the said petition, the petitioner / tenant has come forward with the impugned petition to appoint an Advocate Commissioner stating that he is in occupation of not only Door No. 38A but also 38 B, 40 and 41 which is in his possession and enjoyment as its owner. In order to appreciate the above statement, an Advocate Commissioner had to be appointed to note down the physical features.

5. The respondent/landlord objected to the same stating that it is nothing, but an attempt to gather evidence and it cannot be permitted to do so.

6. The learned District Munsif, Kovilpatti, had dismissed the said petition and challenging the same, the revision petitioner is before this court.

7. Heard the learned counsel appearing on either side and perused the records.

8. A very reading of the affidavit filed in support of the petition would clearly indicate that the intention of the petitioner/tenant to appoint an Advocate Commissioner is only to note down the possession of the adjacent door numbers by the petitioner/tenant. Independent of the commissioner report, the petitioner and respondent have to prove their respective case.

9. It is case of the revision petitioner that he is the owner of the demised premises and the adjoining property and the same has to be proved by him independently and he cannot seek the assistance of the Advocate Commissioner to prove the above. The application filed is frivolous one and has been rightly dismissed by the Rent Controller. Therefore, I do not see any reason to interfere with the order passed by the learned District Munsif, Kovilpatti.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

cp

<https://hcservices.ecourts.gov.in/hcservices/>



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

To:-

The District Munsif, Kovilpatti.

C.R.P (PD) (MD) No.1866 of 2019

01.12.2021

_RD(30.12.2021) 3P 2C