



C.R.P.(NPD) No.416 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(NPD) No.416 of 2022
and CMP.No.2139 of 2022

Sampathkumar

... Petitioner / Petitioner

Vs.

P.T.M.N.Perumal Chettiar

... Respondent / Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 26.11.2021 in I.A.No.01 of 20121 in R.C.O.P No.04 of 2016 on the file of the Principal District Munsif, Vellore at Vellore District.

For Petitioner : Mr.K.Elangoo

For Respondent : Mr.V.Raghavachari

ORDER

This revision petition is filed more in anxiety of an adverse finding of the Commissioner appointed by the learned Rent Controller in assisting it in



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fixing the fair rent.

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2. The landlord/respondent has filed a petition in R.C.O.P.No.04 of 2016 before the Rent Controller, Vellore, to fix a fair rent as per the Tamil Nadu Buildings (Lease and Rent Control) Act 1960. The revision petitioner / tenant has entered appearance and the Court has appointed a Commissioner to visit the property, to note down its physical features and an engineer too has been deputed to assist the Commissioner, in measuring the property, and that the Commissioner was directed to file a report on the fair rent that may have to be paid by the tenant in terms of the provisions of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. The Commissioner has visited the property, but he is yet to file his report.

3. The concern of the revision petitioner now is that at the time when the Commissioner measured the property more particularly the site of the building, he found a portion of the site over which the building stands is a poromboke land. He added that if the value of the site is added for fixing the fair rent, then that will go against the spirit of the enactment. Therefore, in order to find out the measurement of the site alone excluding



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the poromboke land, the revision petitioner filed I.A.No.01/2021, to direct the Commissioner to seek the assistance of the Village Administrative Officer, for the said purpose.

4. The learned counsel for the respondent argued that the application is premature, since the Commissioner has not even filed his report.

5. Heard the learned counsel on both sides. Turning to the merit of the contention as to whether the value of the alleged poromboke site can be included to fix the fair rent for the building is concerned, this issue first depends on what the Commissioner might be reporting to the Court. Secondly, under Section 116 of the Evidence Act, a tenant cannot challenge the title of the landlord unless a superior title-holder interferes. Admittedly, the revision petitioner is a tenant of the building. Even assuming a part of the building is in poromboke, which fact is only presumed, still the respondent as landlord can hold the site against whole world, only except the true owner, and therefore, the tenant cannot challenge the landlord's entitlement to seek fair rent for the portion over which the building stands.



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6. Now if the contention of the revision petitioner is taken to its logical end, then it may have the effect of severing the building, and hence will sever the lease. This is impermissible in law.

7. This Court leaves all the issues on merit, more particularly those which the learned counsel for the respondent has placed before this Court. Today, there is no report before the Rent Controller, and this Court cannot pass any order in anticipation of adverse finding. Indeed, if the Commissioner files any report before the Court, still the revision petitioner / tenant will have all the advantage of cross-examining the Commissioner during enquiry. And at any rate, the Rent Controller shall have to apply all jurisprudential principles in evaluating the merit of rival contentions and dispose of the matter.

8. At this juncture, the counsel for the respondent informs the Court that this Court has already directed the Rent Controller to dispose of the matter within four months vide its order dated 13.09.2021 in C.R.P.No.1068 of 2020.



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9. The learned Rent Controller, Vellore District, is now reminded of this order. This revision is closed as pre-mature. No costs. Consequently, connected miscellaneous petition is closed.

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ds

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

To:

The Principal District Munsif
Vellore.



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N.SESHASAYEE.J.,

ds

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