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C.R.P(NPD)No.1549 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(NPD).No.1549 of 2021

G.Gunasekaran

..Petitioner

Vs.

S.Prema

..Respondent

Prayer: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to set aside the judgment and decree dated 12.02.2021 passed in RCA.No.7 of 2016 by the Rent Control Appellate Authority / Principal Sub-ordinate Judge, Kancheepuram, confirming the order and decretal order dated 09.09.2016 passed by the Rent Controller, Kanchipuram in MP.No.42 of 2014 in RCOP.No.9 of 2012.

For Petitioner : Mr.Duraikkan S.Phillip

For Respondent : Mr.V.Lakshminarayanan

ORDER

Challenge in this revision is to the order of the Appellate Authority constituted under the Tamilnadu Buildings (Lease and Rent Control) Act,



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1960, made in an appeal against the order of the Rent Controller made in MP.No.42 of 2014, an application filed under Section 11 of the Tamilnadu Buildings (Lease and Rent Control) Act, seeking a direction to the tenant to deposit alleged arrears of rent. The petitioner claiming to be a landlord had sought for eviction under Section 10(2)(i) and 10(2)(vii) of the Tamilnadu Buildings (Lease and Rent Control) Act.

2.This is being resisted by the tenant contending that the petitioner is not the owner of the property and being the adopted daughter of the owner of the property, she is in possession in her own right and not as a tenant under the petitioner. The petitioner came up with an application in MP.No.42 of 2014, seeking a direction for deposit of rents from March 2006 to May 2013. The said application came to be dismissed by the learned Rent Controller on the ground that the relationship of the landlord and tenant itself is disputed and since the dispute appears to be serious, the Court cannot direct deposit of rents under Section 11 of the Act.



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3. Aggrieved, the tenant preferred an appeal in RCA.No.7 of 2012.

The learned Appellate Authority agreed with the conclusions of the learned Rent Controller, dismissed the appeal. It also took care to observe the findings of the Trial Court regarding the denial of title being bonafide are premature and the same cannot be rendered while considering an application under Section 11 of the Act. The learned Appellate Authority therefore, dismissed the appeal. Hence, the petitioner in the RCOP is on revision.

4. Mr. Duraikkan S. Phillip, learned counsel appearing for the petitioner would vehemently contend that the findings rendered by the learned Rent Controller in the course of deciding the application under Section 11 would have a bearing on the final disposal of the eviction petition. I do not see any reason or basis for the apprehension of the learned counsel for the petitioner. The learned Appellate Authority has made it very clear that the findings regarding the bonafides of denial of title rendered by the learned Rent Controller are premature and the said question should have been gone into only at the time of final hearing of Rent Control Original Petition. I am of the opinion that this observation of the Appellate Authority



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protects the petitioner. Apart from that, I do not see any other ground to interfere with the conclusions of the authorities constituted under the Tamilnadu Buildings (Lease and Rent Control) Act. The tenant has raised a very serious dispute regarding the title and the existence of the relationship of landlord and tenant therefore, the refusal to invoke Section 11 at the interlocutory stage is just and proper.

5.Hence, I do not see any reason to interfere with the findings of the Authorities. This civil revision petition therefore, fails and it is accordingly, dismissed. No costs. It is made clear that either the Rent Controller or the Appellate Authority would be influenced by any of the observations made in the order impugned in this revision.

11.01.2022

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Index:No
Internet:Yes
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To-

1. The Sub-Court,
Kancheepuram.
2. The Principal District Munsif Court,
Kancheepuram.



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R.SUBRAMANIAN, J.

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