



CRP.No.3127 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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Rajeshkanna

... Petitioner

Vs.

M.Premakumari

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair order and decreetal order dated 26.08.2022 passed by the learned Subordinate Judge, Madurantankam in I.A.No.8 of 2022 in O.S.No.82 of 2017 by allowing this revision.

For Respondent : Mr.Y.George William



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ORDER

This revision petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner to reject the plaint.

2. The respondent herein filed a suit for ejectment against the revision petitioner based on the landlord and tenant relationship. As per the plaint averments, the petitioner herein is the tenant under the respondent.

3. The revision petitioner filed written statement denying the landlord and tenant relationship between the petitioner and the respondent. It was specifically averred by the revision petitioner that the mother of the respondent was the original owner of the property and he entered the suit property as tenant under the mother of the respondent.



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4. The present application to reject the plaint was filed by the revision petitioner mainly on the ground that, when the respondent was examined as PW1, he admitted that the petitioner herein was tenant under the mother of the respondent.

5. The learned counsel for the petitioner had taken me to the cross examination of PW1 and submitted that there is a clear admission by PW1 that the mother of the respondent is the landlord of the revision petitioner and hence, the suit for ejectment filed by the respondent is not maintainable.

6. The respondent who was examined as PW1, in his chief examination, clearly stated that there was an oral tenancy arrangement between the respondent and the revision petitioner. In the cross examination, he deposed that the revision petitioner paid the advance to the respondent's mother, as the respondent was not available at the relevant point of time. The suggestion made by the petitioner that there was no relationship of



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landlord and tenant was specifically denied by her. The respondent also denied the suggestion put to her by the petitioner as if the petitioner had been paying the rent to the mother of the respondent, from the beginning.

7. In the facts and circumstances of this case, on the face of it, there is no admission by the respondent in her examination as if there was landlord and tenant relationship between petitioner and mother of the respondent. The trial in the suit has already commenced, PW1 was already cross examined and the evidence of PW1 has to be considered as a whole and the Court cannot come to any conclusion based on the truncated statement, if any, made in the cross examination. The oral tenancy pleaded by the revision petitioner between himself and mother of the respondent has to be decided in a full fledged trial and the same cannot be decided in the petition for rejection of plaint. As far as the rejection of plaint is concerned, in the present case, the respondent clearly averred there is an oral tenancy arrangement between the respondent and the revision petitioner. Hence, I do not find any illegality or irregularity in the order passed by the Court below.



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8. Hence, this Civil Revision Petition is dismissed. No costs.

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Index : Yes / No
Internet : Yes / No
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To

The Subordinate Judge, Madurantankam.



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S.SOUNTHAR, J.

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