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CrI.O.P.No.23619 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.O.P.No.23619 of 2022
and CrI.M.P.No.15068 of 2022

K.Balasubramanian
Petitioner

...

Vs.

1.The Revenue Divisional Officer
Udumalpet Taluk
Tirupur District.

2.The Sub Inspector of Police
Amaravathi Police Station
Udumalpet Taluk
Tirupur District.

3.Selvaraj
S/o Arumugam

...Respondents

Prayer : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records relating to the impugned summon dated 12.09.2022 vide Na.Ka.No.3565/2022/A2 of the 1st respondent, quash the same in respect of the petitioner.

For Petitioner : Mr.D.R.Arun Kumar

For RR1 &2 : Mr.S.Santhosh



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Govt. Advocate (CrI. Side)

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ORDER

This petition has been filed to call for the records relating to the impugned summon dated 12.09.2022 vide Na.Ka.No.3565/2022/A2 of the 1st respondent, quash the same in respect of the petitioner.

2.Initially, the respondent herein filed a petition for eviction of the petitioner under the provisions of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2007, before the Rent Authority, Tiruppur.

3.It is the case of the respondent that the petitioner has been residing in the premises in question in his capacity as an usufructuary mortgagee. The respondent further averred that when he made a request to the petitioner to vacate the premises, he refused to vacate and hence the respondent filed a petition under the provisions of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2007, before the Rent Authority cum Revenue Divisional Officer.



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4. After conducting an enquiry, the Rent Authority directed eviction of the petitioner on condition of payment of mortgage debt of Rs.2,00,000/- to the petitioner within 15 days. Aggrieved by the said order of eviction, the petitioner has preferred a Civil Revision Petition in C.R.P.No.2050 of 2022 and this Court by an order dated 05.09.2022 set aside the order dated 31.05.2022, in Na.Ka.No.0589/2022/A2.

5. The learned counsel for the petitioner submitted that again now, the respondent has lodged a complaint of similar nature before the 2nd respondent and on recommendation of the 2nd respondent, the 1st respondent issued summon dated 12.09.2022 in Na.Ka.No.3565/2022/A1 under Section 145 Cr.P.C., for purely a rental dispute. It is further submitted that already the petitioner has filed a suit against the 3rd respondent in O.S.No.159 of 2022 on the file of the District Munsif Court, Udumalpet, and the same is pending for trial.

6. I have heard the submissions made by the learned counsel appearing



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for the petitioner, as well as the learned Government Advocate (CrI.Side)

appearing for the 1st and 2nd respondents.

7.On perusal of the records, it is seen that this Court by an order dated 05.09.2022 in C.R.P.No.2050 of 2022 already quashed the proceedings initiated in Na.Ka.No.0589/2022/A2 dated 31.05.2022. The relevant paragraphs are extracted hereunder:-

“7.A perusal of the impugned order suggests that the Rent Authority entertained an application filed by the respondent for eviction of the petitioner. The power of the Rent Authority is defined under Section 31 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2007. As per the said provision, the Rent Authority is entitled to exercise the powers vested with it under Sections 9,10, 14, 15 and 20 of the said Act. As per the scheme of the Act, the power to order eviction or re-possession to the landlord, vests with the Rent Court under Section 21 of the Act. The learned counsel for the petitioner also took this Court to G.O.M.s.No.63, Housing and Urban Development (HB4) Department, dated 02.05.2019, whereunder, in exercise of the power conferred under Section 32 of the



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above said Act, the Government of Tamil Nadu designated Principal District Munsif and Additional District Munsif in all the Districts except Chennai as Rent Court in respect of area over which they have jurisdiction. Therefore, it is clear that the eviction petition under the Act is maintainable only before the Rent Court and not before the Rent Authority. The Rent Authority cum Revenue Divisional Officer has committed jurisdictional error in entertaining the petition for eviction. Therefore, order impugned in revision passed by the Rent Authority is liable to be set aside.”

8.Now, the 3rd respondent has initiated another round of litigation, for an issue similar in nature. Section 31 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2007 (hereinafter referred to “the Act”), does not empower the rent authority to pass any order for eviction, which should be done by the rent Courts in accordance with Section 21 (2) of the Act, on the basis of the ground listed under Section 21(2) (a) to (h) of the Act. Since the rent authority appears to have exceeded its power given under Section 31 of the Act, there are contentious grounds



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seem to be present in this case. Hence, this Court is inclined to set aside the order dated 12.09.2022 in Na.Ka.No.3565/2022/A2.

9.Accordingly, the order dated 12.09.2022 in Na.Ka.No.3565/2022/A2 on the file of the 1st respondent is hereby set aside and the Criminal Original Petition stands allowed. Consequently connected miscellaneous petition is closed.

29.09.2022

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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To
1.The Revenue Divisional Officer
Udumalpet Taluk
Tirupur District.

2.The Sub Inspector of Police
Amaravathi Police Station
Udumalpet Taluk
Tirupur District.

3.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM, J.

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