



C.R.P.(NPD) No.3250 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 12.04.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(NPD) No.3250 of 2019

A.Sakthivel ... Petitioner / Appellant / Respondent

Vs.

M/s.BVR & Co.,
Represented by its Managing Director
Mr.Barath Rai
426, Kilpauk Garden Road
Chennai – 600 010.

... Respondent / Respondent / Petitioner
Respondent

Prayer : Civil Revision Petition filed under Section 25(1) of the T.N. Buildings (Lease and Rent Control) Act, 1960, praying to set aside the fair and decretal order passed in R.C.A.No.501 of 2018 on the file of IX Judge, Small Causes Court, Chennai, dated 01.08.2019 confirming the fair and decretal order passed in M.P.No.2 of 2018 in R.C.O.P.No.1413 of 2017 on the file of the learned XIV Judge, Small Causes Court, dated 11.06.2018.

For Petitioner : Mr.P.Dineh Kumar

For Respondent : Mr.K.Ramani



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ORDER

Challenging the order dismissing the application filed by the tenant in M.P.No.2 of 2018, challenging the maintainability of RCOP.No.1413 of 2017 which the respondent/landlord have instituted for fixing fair rent under Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act, the revision petitioner has come forward with the present revision.

2. Heard Mr.Dinesh Kumar, learned counsel for the revision petitioner. The learned counsel submitted that the tenant is the owner of the building, and this has already been declared so in an earlier proceedings. Explaining the same, he submitted that the respondent herein, a partnership firm has purchased a piece of property under a sale deed dated 08.8.1972. Even at that time, a certain Arumuga Nadar, the father of the present revision petitioner was in possession, and this finds a reference to recital of the sale deed, though his name was not specifically mentioned. While so, a portion of the property so covered under the said sale deed came to be acquired for widening the road, that an award came to be passed, and an amount too was deposited in the concerned Sub Court / Tribunal, that a proceedings under Section 30 of the Land Acquisition Act, came to be



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passed, and that it was taken on file in L.A.O.P.No.116 of 1988. In this

case, one of the partners of the respondent-firm was examined as CW1 and the revision petitioner's father was examined as CW2. In his testimony, CW1 has categorically admitted that Arumuga Nadar is the owner of the building, and a final award also came to be passed accordingly.

3.The learned counsel for the revision petitioner would now submit that when once the ownership of the tenant over the building is conceded by the landlord, he cannot invoke Section 4 of the Tamil Nadu Buildings (Lease and Rent Control) Act 1960, for fixing fair rent for the building.

4. Heard the learned counsel appearing for the respondent.

5. It is not adequately evident from the facts as disclosed by the materials placed before the Court that the present building is a part of the building that was acquired. This is a question of fact which can be gone into conveniently only during trial. Therefore, this Court directs the revision petitioner to take up this issue in his defence if he is so desirous, and the Rent Controller may decide the issue if he is called upon to decide the same. The revision petition is accordingly disposed of. No costs.



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Consequently, connected miscellaneous petition is closed.

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6. This Court is given to understand that since the revision petitioner was focussing entirely on the maintainability issue, he has not filed the counter. The revision petitioner is now directed to file his counter within a period of 30 days from today, if he is so desirous of defending the RCOP.No.1413/2017 , and once done, the trial Court shall expedite the process of its enquiry. Since the case is now in its fifth year of institution, the trial Court is required to dispose of the same as expeditiously as possible, and preferably by December '2022.

12.04.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking orders

To:

The IX Judge, Court of Small Causes, Chennai.



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N.SESHASAYEE.J.,
ds

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