



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (MD)No.1796 of 2021

and

C.M.P. (MD)Nos.9640 & 10766 of 2021

Raj ... Petitioner/Petitioner/Respondent-Tenant
-vs-
C.Chandrasekaran ... Respondent/Respondent /Petitioner-Landlord

Prayer :- Petition filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal order dated 29.06.2020 passed in I.A.No.2 of 2019 in R.C.O.P.No.13 of 2019 on the file of the Principal District Munsif Court, Ambasamudram and allow the present civil revision petition.

For Petitioner : No Appearance

For Respondent : Mr.P.Thiagarajan

ORDER

The tenant is the revision petitioner before this Court, challenging the order of the Rent Controller (Principal District Munsif), Ambasamudram, dismissing the application filed by the revision petitioner for appointing an Advocate Commissioner to note down the physical features of the property and submit his report.

2.The facts in brief preceding the filing of this petition are as follows:-

(i) The respondent/landlord had filed RCOP No.13 of 2019 on the file of the learned Principal District Munsif cum Rent Controller at Ambasamudram for eviction of the revision petitioner on the ground of owner's occupation in respect of two shop portion. Pending the rent control proceedings and after filing of the counter, the revision petitioner has come forward with an application for appointing an advocate commissioner to note down the physical features of the demised premises.

(ii) It is the case of the revision petitioner that the respondent/landlord had sought eviction on the ground of owner's occupation as an extension of the Hospital already belonging to the petitioner. The demised premises was to be utilized for housing the hospital rooms, installing equipment etc. The petitioner would



contend that at present the demised premise is being used by the petitioner as a coffee shop. The place is not at all suited for establishing the nursing home and in order to establish this factor, there was necessity to have an Advocate Commissioner appointed to note down the physical features of the property. It is the petitioner's case that the report of the Advocate Commissioner would clearly establish the lack of bona fides in the petition for eviction.

(iii) The respondent/landlord had filed a counter *inter alia* contending that the entire allegation of the respondent that the property was not suited for running nursing home, is absolutely false. The tenants of the adjacent shops have assured the respondent that they would vacate the premises as and when demanded by the landlord. The respondent would further contend that the large area has already been vacated by one of the tenants. That apart, the first floor of the petitioner's house has been used as Kalayana Mandapam which can also be converted for the purpose of nursing home. Therefore, the allegation of the revision petitioner, was absolutely false. The application for appointing an Advocate Commissioner was totally unnecessary, since the petition is one seeking eviction on the ground of owner's occupation. The revision petitioner was only attempting to protract the proceedings.

(iv) The learned Rent Controller (Principal District Munsif), Ambasamudram, after hearing both parties, proceeded to dismiss the said petition. Aggrieved by which, the revision petitioner is before this Court.

3. Though the learned counsel for the petitioner has not appeared before the Court, however taking into account that the Rent Control Proceedings have been pending since 2019 and is at the stage of the petitioner's side evidence, this Court proceeded to pass orders in the absence of the learned counsel for the petitioner.

4. Heard the learned counsel appearing for the respondent and perused the records.

5. The Rent Control Proceeding has been filed by the respondent seeking eviction on the ground that the petition premises is required for respondent/landlord's own occupation for the purpose of running a nursing home. The respondent/landlord in his counter has clearly described as to how the petition premises and the other shops were also going to be converted for setting up the nursing home. Therefore, there was no necessity for an Advocate Commissioner to be appointed. The landlord seeks to have possession of the petition premises in order to use the same along with the other portions belonging to him to set up the nursing home. It is also seen that the application was filed on 21.06.2019. It is further seen that the order in I.A.No.2 of 2019 has been passed on



29.06.2020. However, this civil revision petition has been filed only 1 ½ year later.

6.The learned counsel for the respondent would submit that this civil revision petition has been filed only when the matter has been listed for revision petitioner's side evidence and therefore, it clearly shows lack of bona fides in the revision petition and his attempt to protract the proceedings.

7.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

The Judge,
Principal District Munsif Court,
Ambasamudram.

+1 CC to M/s.P.THIYAGARAJAN, Advocate (SR-255[F] dated 04/01/2022)

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KM(CO)

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