



CRP(PD)(MD)No.1985 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 29.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1985 of 2022

and

C.M.P.(MD)No.9122 of 2022

M.Govindaraj

... Petitioner

versus

A.Kalidasan
Hereditary Trustee,
Arulmigu Mathankovil
Angalaparameswariamman Temple

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 27.06.2022 made in I.A.No.2 of 2021 in R.C.O.P.No.2 of 2016 on the file of the Rent Controller, District Munsif Court cum Judicial Magistrate Court-I, Srivilliputtur

For Petitioner : Mr.A.Sivaji



CRP(PD)(MD)No.1985 of 2022

ORDER

WEB COPY

This Civil Revision Petition is filed against the fair and decreetal order dated 27.06.2022 passed in I.A.No.2 of 2021 in R.C.O.P.No.2 of 2016 by the Rent Controller, District Munsif Court cum Judicial Magistrate Court-I, Srivilliputtur.

2. The petitioner herein is the tenant. The respondent/landlord has filed R.C.O.P.No.2 of 2016 under Section 10(2)(i), 10(2)(ii)(a), 10(2)(iii) and 14(i)(b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and the same is ripe for trial. The respondent/landlord was also examined as P.W.1 and four documents were also marked as Exs.P1 to P4. When the case was posted for corss examination of P.W.1, the petitioner/tenant has filed an interlocutory application in I.A.No.2 of 2021 under Order 26 Rule 9 C.P.C. to appoint an Advocate Commissioner to disprove the claim of the respondent/landlord that the building is not in a dilapidated condition. The Rent Controller, by order dated 27.06.2022, dismissed the said



CRP(PD)(MD)No.1985 of 2022

application holding that since the burden of proof lies on the landlord, the tenant need not to prove the case that the building is not in a dilapidated condition and further, this application has been filed belatedly. Aggrieved over the same, the present Civil Revision Petition is filed.

3. The learned counsel appearing for the petitioner submits that the respondent/landlord has filed the rent control proceedings mainly on the ground that the building is in a dilapidated condition, which requires demolition and reconstruction. The landlord has also averred in the petition that the building is not properly maintained. But, the grounds raised by the landlord in the said petition are not correct and it can be established only through the Advocate Commissioner that the landlord has not approached the Court with clean hands and the building is in proper condition. Therefore, in this case, the appointment of Advocate Commissioner is necessary. In support of his contention, he has also relied on the decision of this Court in the case of



CRP(PD)(MD)No.1985 of 2022

G.Gomathi Thilagasekaran vs. M.Chinnamuthu (CRP(MD)No.1329

of 2022, dated 20.07.2022)

4. This Court considered the submissions made by the learned counsel appearing for the petitioner and also perused the materials available on record.

5. The respondent/landlord has filed R.C.O.P.No.2 of 2016, not only on the ground that the building is in a dilapidated condition, but also on the ground of willful default. The petitioner/tenant wants to disprove the case of the respondent/landlord that the building is not in a dilapidated condition and he has not approached the Court with clean hands. Since the burden of proof lies on the respondent/landlord, who filed R.C.O.P.No.2 of 2016 before the Rent Controller, the petitioner need not disprove the case of the landlord. If the petitioner wants to establish his case, he can establish it during his evidence, by producing necessary materials before the Rent Controller. Therefore, there is no



CRP(PD)(MD)No.1985 of 2022

necessity for appointing an Advocate Commissioner to assess the property in this case. Hence, this Court is not inclined to interfere with the order of the Rent Controller.

6. Accordingly, the Civil Revision Petition is dismissed.

7. Considering that the Rent Control Proceedings is of the year 2018 and it is ripe for trial, the Rent Controller, namely, the learned District Munsif cum Judicial Magistrate No.1, Srivilliputtur is directed to expedite the trial and dispose of the case in R.C.O.P.No.2 of 2016 on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

29.09.2022

Index : Yes / No.

Internet: Yes / No.

ogy



WEB COPY



CRP(PD)(MD)No.1985 of 2022

B.PUGALENDHI, J.

ogy

To

1. The District Munsif Court cum Judicial
Magistrate Court-I,
Srivilliputtur.

CRP(PD)(MD)No.1985 of 2022

29.09.2022