



CRP.No. 2406 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2023

CORAM:

THE HONOURABLE MRS.JUSTICE V. BHAVANI SUBBAROYAN

CRP.No. 2406 of 2023
and
CMP.No. 15066 of 2023

M. Rajasekar

..Petitioner

Versus

1.Raghupathy Devi
2.Radha
3.J. Venkatesh

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India prays to set aside the fair and decreetal order dated 13.06.2023 made in IA.No. 2 of 2023 in RLTOP.No. 28 of 2021 on the file of the I Additional District Munsif Court, Coimbatore.

For Petitioner : Mr.R. Prabakar

For Respondents : Mr.V. Anandhamurthy for Caveator

ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decreetal order dated 13.06.2023 made in IA.No. 2 of 2023 in RLTOP.No.



CRP.No. 2406 of 2023

28 of 2021 on the file of the I Additional District Munsif Court, Coimbatore.

WEB COPY

2. The brief facts of the case are that the respondents/landlords have filed RLTOP.No. 28 of 2021 under Section 21(2)(a), (e) and (g) and Section 34 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 before the I Additional District Munsif Court, Coimbatore. The respondent has contested the petition by filing counter denying all the averments made in the petition. While pending the original petition, the tenant has filed a petition in I.A.No. 2 of 2023 under Order 26 Rule 10 CPC., seeking for appointment of Advocate Commissioner and the same was dismissed by order dated 13.06.2023. Aggrieved by the said order, the tenant has filed the present Civil Revision Petition.

3. The learned counsel for the petitioner would submit that the order of the trial Court in dismissing the application to stop the Commissioner's report and reissue of warrant is against law. Further, the trial Court failed to consider the grievance of the petitioner that some of the main features were left out by the Advocate Commissioner, thereby pleaded to allow the present Revision.

4. According to the respondents, the application was filed to drag on the



CRP.No. 2406 of 2023

proceedings in RLTOP.No. 28 of 2021 and questioning of correctness of reports filed by the Advocate Commissioner as well as Engineer is just to prolong the matter which is not proper and correct. The petitioner came to know that the claim of demolition and reconstruction is one among the grounds sought for eviction and that the rent control proceedings under the new tenancy Act stipulates that the proceedings has to be conducted summarily. At this juncture, intending to delay the proceedings filing such a petition is just to cause annoyance to the respondents. The first petitioner aged about 85 years. The contention of the respondents is that there is no need to appoint an Advocate Commissioner along with another Engineer not at all warranted and it is just delaying tactics.

5. On a perusal of the impugned order dated 13.06.2023, it reveals that the application in I.A.No. 1 of 2022 was already filed and Advocate Commissioner along with qualified Engineer to inspect and note down the age, structure and condition of the building was ordered on 19.04.2023 and the Advocate Commissioner has submitted her report along with sketch before the Court below on 28.04.2023. While that being the case, again, there is no need to appoint an Advocate Commissioner to inspect and note down the physical features of the building in question. Hence, this Court is not inclined to allow



CRP.No. 2406 of 2023

the above Revision and there is no illegality or irregularity in the impugned order passed by the trial Court in I.A.No. 2 of 2023 dated 13.06.2023.

6. Accordingly, the Civil Revision Petition is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed.

18.07.2023

Index:Yes/No
Speaking/Non Speaking
MSM

To

1. The I Additional District Munsif Court,
Coimbatore.
2. The Section Officer, V.R. Section,
High Court of Madras.



WEB COPY



CRP.No. 2406 of 2023

V. BHAVANI SUBBAROYAN, J

MSM

CRP.No. 2406 of 2023



WEB COPY



CRP.No. 2406 of 2023

18.07.2023