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CRP Nos.2932 and 2936 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM:

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.Nos.2932 and 2936 of 2019
and CMP Nos.18982 and 18988 of 2019

P.Sivagami

... Petitioner in both the civil revision petitions

Vs

D.Kasthuri

.... 1st Respondent in both the revisions

Vasanthi

.... 2nd respondent in CRP No.2932/2019

Muthu

.... 2nd respondent in CRP No.2936/2019

PRAYER: Civil Revision Petitions filed under Article 227 of Constitution of India against the order and decretal order dated 07.06.2019, dismissing MP No.324 of 2018 in RCOP No.48 of 2015 (CRP No.2932 of 2019) and M.P.No.322 of 2018 in RCOP No.47 of 2015 (CRP No.2936 of 2019) passed by the Principal District Munsif at Alandur.

For Petitioner : Mr.J.Kalidos

For Respondents : Mr.S.Thirumavalavan

For R.1 in both the revisions

M/s Sadhana Chundaravizhi

For Tri Law Office

For R.2



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COMMON ORDER

These revisions arise against the order passed in MP No.324 of 2018 in RCOP No.48 of 2015 (CRP No.2932 of 2019) and M.P.No.322 of 2018 in RCOP No.47 of 2015 (CRP No.2936 of 2019) by the Rent Controller/Principal District Munsif, Alandur. For the sake of convenience, the parties are referred to as their rank in Rent Control Original Petition.

2. RCOP No.48 of 2015 was filed by one Kasthuri, claiming to be the land lady of one Vasanthi. Similarly, RCOP No.47 of 2015 was filed by one Kasthuri, claiming to be the land lady of one Muthu. Both the petitions were filed under Section 10(2)(i) of Tamil Nadu Buildings (Lease and Rent Control) Act, 1960.

3. In the said proceedings, the respective tenants have filed counters stating that they are not the tenants of Kasthuri, but, they are the tenants of the Civil Revision Petitioner. The specific plea to that effect was taken in Paragraph No.2 of the counter filed to both the RCOPs.

4. The Civil Revision Petitioner, claiming to be the owner, had filed M.P.Nos.324 and 322 of 2018. The prayers in these petitions were to implead



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the Civil Revision Petitioner as a party respondent in RCOP Nos.47 and 48 of

2015. After receiving counter from D.Kasthuri/1st respondent in M.P.Nos.324 and 322 of 2018, the Rent Controller was pleased to dismiss the impleading petitions by order dated 07.06.2019. The learned Rent Controller held that the Civil Revision Petitioner/petitioner in M.P.Nos.324 and 322 of 2018 has not proved her case and therefore, she is not entitled to be impleaded as a party to the proceedings.

5. Heard Mr.J.Kalidos, learned counsel for the revision petitioner and Mr.S.Thirumavalavan, learned counsel for the first respondent in both the revisions.

6. At the outset, I have to vacate the finding of the Rent Controller that as the proposed party had not filed any title documents, she is not the owner of the property. It is not the duty of the Rent Controller to probe into the question of title. The Rent Control Court is a Court constituted under the Rent Control Act for specified purposes which has been stated in the said Act. For the sake of convenience, the Civil Court has been notified as Rent Controllers. That does not extend the jurisdiction of the Rent Controller to probe into the question of



title. The Rent Controller has no power to give a finding on the question of

title. Therefore, I am constrained to interfere with that aspect and vacate the finding.

7. Insofar as the right of the petitioner to be impleaded as a party to the proceedings, I have my own doubt and pointed out to the learned counsel for the petitioner that an application under Order 1 Rule 10 has held to be not maintainable before the Rent Controller in the case of *Aruppukottai Dravida Munetra Kazhagam vs M.Periaswami and another* 1974 TNLJ 247.

8. Mr.J.Kalidos, came with an unreported judgment of this Court in the case of *M.Thangamani vs P.Dharmaraj and another, CRP (PD) No.711 of 2007* and stated that the judgment in the case of *Aruppukottai Dravida Munetra Kazhagam vs M.Periaswami and another* 1974 TNLJ 247 is no longer good law.

9. I have gone through the order of the learned Single Judge of this Court. It is true that the learned Single Judge of this Court held that the judgment in the case of *Aruppukottai Dravida Munetra Kazhagam vs*



M.Periaswami and another 1974 TNLJ 247 is no longer good in law and has

to be eschewed. However, it was not with respect to the factual scenario which has been arisen before me. That was the case where the property had been sold by the original landlord in favour of the proposed party and the proposed party wanted to come on record. To this, an argument was made that Order 1 Rule 10(2) was not maintainable. It was in those circumstances, the learned Judge held that the judgment in the case of ***Aruppukottai Dravida Munetra Kazhagam vs M.Periaswami and another 1974 TNLJ 247*** cannot be applied. I am afraid that one learned Single Judge of this Court cannot overrule a judgment of another learned Single Judge. This has been the position from the time the Courts have been created and I presume the same position of law prevails as on today.

10. The position of law is this - When a landlord alienates the property in favour of a third party and the third party wants to continue the proceedings, he can do so by filing an application before the Court. It is because what he in effect doing is continuing with the proceeding on the old cause of action on the basis of which the Rent Control proceeding had been initiated. Apart from that, by virtue of Section 109 of Transfer of Property Act, there is a statutory



attornment of tenancy in favour of the purchaser. However, this is fundamentally different from a case where there are two persons who are fighting with each other claiming that both of them are the landlords. In such circumstances, the Rent Controller would have to decide as to who is the landlord. My reading of the Rent Control Act does not lead me to the conclusion that the Rent Controller can decide *inter se* between two persons as to who is the landlord.

11. Mr.J.Kalidos would submit that both the tenants have specifically pleaded that they are the tenants of his client and not the tenants of the landlady Kasthuri.

12. It is the issue which would be gone into by the Rent Controller. The Rent Controller would have to necessarily decide as to whether Vasanthi and Muthu, who have been shown as tenants, are in fact the tenants of Kasthuri. If the Rent Controller comes to a conclusion that they are not the tenants of Kasthuri, the buck stops there. The Rent Control Original Petition will have to be dismissed. The Rent Controller is certainly entitled to give a finding as regards the jural relationship between *inter se* respondents before me. For the



said purpose, the Civil Revision Petitioner is neither necessary nor a proper party. Apart from that, the Civil Revision Petitioner is only fishing in troubled waters, in the sense of the dispute between the respondents 1 and 2 who are before me. If the Civil Revision Petitioner wants to stake a claim to the property, her remedy is only by way of a suit for title before a regularly constituted Civil Court and not attempt to get a decree by guile before a Rent Controller.

13. I am of the clear view that in a dispute between the *inter se* respondents 1 and 2, the civil revision petitioner is not necessary and therefore, I confirm the order passed by the Rent Controller, not for the reasons given by the Rent Controller, but for the reasons aforesaid.

14. Mr.J.Kalidos would state that civil suit had already been initiated by his client claiming title to the property. The findings given in this revision will not in any way affect the matters pending before the Civil Court. I have only decided whether the Rent controller has a jurisdiction to decide the *inter se* question of title between two persons, claiming to be the landlords and my answer is that the Rent Controller does not possess jurisdiction.



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V.LAKSHMINARAYANAN,J.

Sr

15. In fine, the order passed by Principal District Munsif at Alandur in No.324 of 2018 in RCOP No.48 of 2015 (CRP No.2932 of 2019) and M.P.No.322 of 2018 in RCOP No.47 of 2015 (CRP No.2936 of 2019) are confirmed and both the Civil Revision Petitions stand dismissed.

16. Since the RCOP is pending for more than five years, the learned Rent Controller is requested to bestow some attention to the matter and dispose of the same as expeditiously as possible.

No costs. Consequently, connected miscellaneous petitions are closed.

22.08.2023

Index:Yes/No

Speaking order/Non-speaking order

sr

To

The Principal District Munsif, Alandur

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