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Review Application No.244 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.01.2023

PRONOUNCED ON : 06.01.2023

CORAM: JUSTICE N.SESHASAYEE

Review Application No.244 of 2022
and C.M.P. No.20679 of 2022

A.Shenbagavalli

... Applicant

Vs.

1.R.Muthukumarasamy
2.P.Krishnasamy

... Respondents

PRAYER: Review Application filed under Order 47 Rule 1 r/w Section 114 of CPC, to review the order dated 23.09.2022 made in C.R.P. (NPD) No.1163 of 2022.

For Applicants : Mr.J.Srinivasa Mohan

For Respondents : Mr.T.M.Naveen

ORDER

The review is preferred by the revision petitioner/tenant in H.R.C.O.P.
No.67 of 2010.



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2. The tenant who is facing eviction on the ground of wilful default in the matter of payment of rent and conversion of user of the property, has taken up a defence disputing the title of the landlords, and contending that the property involved in this litigation belonged to certain Easwara Dharmaraja Temple which holds it in Patta No.211. The tenant, having lost in defending the eviction proceedings, preferred an appeal in R.C.A. No.14 of 2019 and has taken up an application in I.A. No.216 of 2021 under Order XLI Rule 27 CPC for admitting certain documents as additional evidence. The said application was dismissed vide a speaking order of the Appellate Tribunal on the ground that the tenant had not shown satisfactory cause for their non-production within the meaning of Order XLI Rule 27(1) CPC., and vide a separate order, it dismissed R.C.A. No.14 of 2019 on the same day.

3. Challenging the said order, the tenant had preferred C.R.P. (NPD) No.1163 of 2022 before this court. One of the grounds, to be specific ground No.9, pointedly refers to the grievance over the dismissal of I.A. No.216 of 2021 by the Rent Control Appellate Authority. This court, in paragraph 6 of its order dated 23.09.2022 has referred to the ground raised



by the tenant in the revision petition. However, this was not pointedly discussed. Hence the tenant has come forward with this review application.

4. This court concedes that there is an error apparent on the face of the record in not considering the aspect raised by the tenant and hence, this court chooses to review its order.

5.1 Learned counsel for the tenant took this court to various documents to support his case that the denial of landlords' title by the tenant is *bonafide*. Indeed he took this court to a copy of Puducherry Gazette dated 26.05.1988, wherein the Commissioner, HR&CE, had published the list of properties held by various temples under the administration of the HR&CE., and as concerning the property involved in this litigation in Survey No.C/15-49, it is mentioned as standing in the name of Easwara Dharmaraja Temple. This indeed is the property, in relation to which, eviction is sought in H.R.C.O.P. No.67 of 2010.

5.2. The next document is the Settlement Land Register dated 27.12.2010, which shows that this property stands in Patta No.211 and in the name of



the said temple. Another document that he relied on is the Patta No.211, which carries the same information.

5.3 The learned counsel for the tenant, now brings to the notice of this court an application dated 20.09.2012 filed by the landlord / second respondent before the Settlement Officer seeking his interference and praying for cancellation of the patta granted to the temple, and for issuance of patta in his name. The Settlement Officer, vide his proceedings dated 16.02.2017 had rejected the landlord's prayer for cancellation of patta and ordered preservation of *status quo*.

5.4. In the meantime, even when the eviction proceedings were pending before the Rent Controller, the Government had passed a G.O., dated 16.12.2011 permitting the Executive Officer of the temple to participate in H.R.C.O.P. No.67 of 2010. Following this Government Order, the Executive Officer, did file a petition, which was received by the Registry of the Rent Controller in S.R. No.4084 of 2012 for impleading the temple in the eviction proceedings, but the temple left it at that and did not pursue it.



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6. The learned counsel for the tenant would submit :

- that the documents produced before the court, if segregated into two, would disclose that one set of documents show that the registered owner of the property is stated to be the temple under reference, and the other set of documents relates to the muted-attempt of the temple to have it impleaded in the eviction proceedings.
- that the proceedings of the Settlement Officer dated 16.02.2017, and contended that inasmuch as the Settlement Officer has dismissed the landlords application for cancellation of patta issued in the name of the temple, that literally estops the landlords from contending that they are the owners of the property, and this is not affected by the indifference which the Executive Officer of the temple has displayed in not pursuing his application for impleading it in H.R.C.O.P. No.67 of 2010.

7.1 The learned counsel for the landlords took this court extensively through the proceedings of the Settlement Officer dated 16.02.2017, wherein the Settlement Officer had made a reference to the documents dated 06.05.1922



and 09.11.1887, to the effect that in terms of these documents, the income from the property alone was directed to be applied for the benefit of the temple, and there is no intent to alienate or transfer the title of the property to the temple. The Settlement Officer has also made a specific emphasis that these documents stipulate that the property should neither be mortgaged nor shall be sold. It is in this context, he has ordered *status quo*, and notwithstanding the dismissal of the application filed by the landlords, the proceedings of the Settlement Officer does not vitiate against the object of the documents dated 06.05.1922 and 09.11.1887.

7.2 This apart, the HR&CE Department has now given a certificate that the suit property is not a temple property. This Court however, does not consider it necessary to take notice on the same, since taking cognizance of this fact, will go beyond the contours of review.

8. On carefully weighing the rival submissions, this Court finds that the tenant continues to find herself on a slippery wicket. She relies extensively on the proceedings of the Settlement Officer dated 16.02.2017, but that does not give any advantage to the tenant, as the Devasthanam at no point of



time, appeared to have interfered with the jural relationship between the landlord and the tenant in order the denial of title of the landlord by the tenant could be termed *bonafide*.

9. A reading of the proceedings of the Settlement Officer refers to certain documents of the year 1887 and 1922, which gives a *prima facie* indication that the dedication made to the temple in question, may well be a partial dedication. However, no opinion needs to be made since making a conclusive statement on the same is beyond the scope of the present proceedings. To reiterate, this court is now concerned only with the question as to whether denial of landlords' title by the tenant is *bonafide*? None of the documents, which the tenant has produced before the Rent Control Appellate Authority and referred to before this court now, support that possibility.

10. In conclusion, this court does not find any material convincing enough as to warrant review of its order dated 23.09.2022 made in C.R.P. (NPD) No.1163 of 2022.



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11. Accordingly, the Review Application is dismissed. However, there is no order as to costs. Consequently, the connected civil miscellaneous petition is closed.

06.01.2023

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N.SESHASAYEE, J.,

Asr

Pre-delivery order in
Review Application No.244 of 2022

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