



C.R.P.No.4258 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4258 of 2022 and

C.M.P.No.22362 of 2022

T.Punniyamoorthy .. Petitioner

vs

V.P.Murugesan .. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India seeking to allow the civil revision petition and set aside the fair and decretal order dated 03.11.2022 passed by the Hon'ble X Judge, Small Causes Court, dismissing the M.P.No.1 of 2022 in RLTOP.No.810 of 2021.

For Petitioners : Mr.N.Ravichandran



C.R.P.No.4258 of 2022

ORDER

The civil revision petition has been instituted challenging the fair and decretal order dated 03.11.2022 passed in M.P.No.1 of 2022 in R.L.T.O.P.No.810 of 2021.

2. The revision petitioner herein is a tenant and the respondent / landlord filed an application for eviction under the provisions of the Tamil Nadu Regulation of Rights and Responsibilities of Landlord and Tenants Act, 2017 (for brevity, “the New Act”). During the pendency of the R.L.T.O.P, the revision petitioner / tenant filed I.A.No.1 of 2022 under Section 37(4) of the New Act read with Order XXVI, Rule 9 of the Code of Civil Procedure to appoint an Advocate Commissioner to note down the physical features of the superstructure / facilities and assess the values in the quotation dated 20.06.2018.

3. The Rent Court adjudicated the issues and arrived at a conclusion that no such assessment is required in the R.L.T.O.P and accordingly



C.R.P.No.4258 of 2022

dismissed the petition. Thus, the petitioner is constrained to move the present revision petition before this Court.

4. The findings of the Rent Court reveals that it is not at all warranted to assess the superstructure built by the respondent based upon the quotation and on perusal of Exhibit R.1, it has never been mentioned that the superstructure is built by the respondent. Thus, the Rent Court arrived at a conclusion that it is not necessary to appoint an Advocate Commissioner.

5. Section 36 of the New Act enumerates the procedure of Rent Court and Rent Tribunal. Sub-section (1) of Section 36 of the New Act stipulates that “the Rent Court and the Rent Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but, shall be guided by the principles of natural justice”. Thus, any application under Order XXVI, Rule 9 of the Code of Civil Procedure is not entertainable by the Rent Court and the Rent Tribunal. When the Code of Civil Procedure is not applicable, any interlocutory application / miscellaneous petition filed



C.R.P.No.4258 of 2022

under the Code of Civil Procedure is not entertainable by the Rent Court and the Rent Tribunal under Section 36(1) of the New Act. In the petition filed by the revision petitioner before the Rent Court, it is stated that the miscellaneous petition is filed under Section 37(4) of the new Act read with Order XXVI, Rule 9 of the Code of Civil Procedure.

6. Let us consider Section 37 of the New Act which confers powers on the Rent Court and Rent Tribunal. Section 37(4) of the New Act enumerates that “ the Rent Court may, if it thinks fit appoint one or more persons having special knowledge of the matter under consideration as an assessor or valuer to advice it in the proceeding before it”. The spirit of the above Sub-section reveals that the Rent Court may, if it thinks fit, appoint one or more persons for the purpose of assessing or valuing the subject premises or otherwise. Therefore, the appointment of a person having special knowledge of the matter is the criteria to be followed. In other words, an expert to be appointed, if necessary, for the purpose of valuing the property or assessing certain structure or otherwise. In the context of the above provision, the



C.R.P.No.4258 of 2022

Court need not appoint an Advocate Commissioner, who is not an expert in the field of assessing or otherwise. An Advocate cannot be considered as an expert with reference to Section 37(4) of the New Act and therefore, it is the discretion of the Rent Court and the Rent Tribunal, if the Court thinks fit, that such assessment is warranted for the purpose of deciding the issues raised between the landlord and the tenants. Thus, Section 37(4) of the New Act is not mandatory. Appointment of an expert is discretionary. The language employed in Sub-section (4) of Section 36 is “Rent Court may..”. Therefore, it is subjective satisfaction of the Rent Court and the Rent Tribunal for the purpose of appointing an expert having special knowledge of the matter under consideration. When the Section particularly stipulates that the persons having special knowledge of the matter under consideration is to be appointed, the question of appointing an Advocate as a Commissioner would not arise at all.

7. The very purpose and object of the Act is to ensure that the proceedings are concluded within a time limit stipulated under Section



C.R.P.No.4258 of 2022

36(6) of the New Act. Thus, any party attempting to prolong and protract the issues, at no circumstances, be encouraged by the Courts and in such times, it should be thwarted by the Rent Court and Rent Tribunal, if necessary, by imposing costs.

8. Thus, this Court is of the opinion that the miscellaneous petition filed by the revision petitioner is unnecessary and probably, filed with an idea to prolong the matter. Therefore, this Court is not inclined to entertain the civil revision petition and accordingly, the civil revision petition stands dismissed. There will be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

Speaking Order/Non-Speaking Order.

05.01.2023

Internet : Yes/No

Neutral Citation: Yes/No

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To

1. The X Judge, Small Causes Court, Chennai

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C.R.P.No.4258 of 2022

S.M.SUBRAMANIAM, J.
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C.R.P.No.4258 of 2022 and
C.M.P.No.22362 of 2022

05.01.2023