IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2024

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THE HON'BLE M.R JUSTICE V. LAKSHMINARAYANAN

C.R.P. No. 2885 of 2024

&

C.M.P. No. 15997 of 2024

Mr.E. Sakthivel ..Petitioner

Vs.

1. Mrs. B. Shanthi

2. DCB Bank Limited,
rep. by its Authorised Officer,
Retail Assets – Collection,
1st Floor, No.6, Rajaji Salai,
Nungambakkam,
Chennai – 600 034. ..Respondents

Prayer: Civil Revision Petition under Article 227 of the Constitution of India to set aside the docket order dated 08.04.2024 passed in M.P.SR. No. 10496 of 2024 in RLTOP No. 151 of 2023 and consequently direct the Hon'ble X Judge, Small Causes Court to number the application and dispose of the same.

For Petitioner :: Mr.K.V. Sundararajan

ORDER

This Civil Revision Petition arises against the docket order dated 08.04.2024 passed in M.P.SR. No. 10496 of 2024 in RLTOP No. 151 of 2023 and consequently direct the X Judge, Small Causes Court to number the application and dispose of the same.

2. The civil revision petitioner is a tenant under the 1st respondent. There is no dispute with regard to the relationship between the parties. The 1st respondent invoked the provisions of Section 21(2)(a) of 'The Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 (Act 42 of 2017)'[hereinafter 'said Act' for the sake of convenience] to present R.L.T.O.P. No. 151 of 2023. It is not in dispute that there is no agreement between the parties as required under Section 4(1) of the said Act. The simple case of the 1st respondent is that as there is no agreement between the parties, post invocation of said Act, the tenant had to face the wrath of Section 21(2)(a) of the said Act.

3. Pending the proceedings, the tenant filed M.P.SR.No. 10496 of 2024 to implead the 2nd respondent Bank as a party to the proceedings. According to him, the property in which he is residing as a tenant, had been mortgaged, with the 2nd respondent Bank. For the default committed by the 1st respondent, invoking the provisions of Securitisation and Reconstruction of Financial Assets and Security Interest Act, 2002 hereinafter ['SARFAESI Act in short], the 2nd respondent Bank brought the property for auction. He would state that the properties were purchased by his wife and she had also deposited 25% of the bid amount. It is also stated that the auction is yet to be confirmed. The list of dates and events produced by Mr.K.V. Sundararajan, learned counsel for the revision petitioner, shows that the landlady has preferred S.A. No. 357 of 2023 before the Debts Recovery Tribunal II.

4. Pleading that the 2nd respondent Bank is a necessary party to the Rent Control proceedings, M.P.SR No. 10496 of 2024 was filed by the tenant. The learned Rent Controller dismissed the petition stating that there is no purpose in impleading the 2nd respondent Bank against which the

present civil revision petition is filed.

5. Mr.K.V. Sundararajan would submit that by virtue of the judgment of the Apex Court in ***CELIR LLP Vs. BAFNA MOTORS (MUMBAI) PRIVATE LIMITED AND OTHERS [*****(2024) 2 SCC Pg.1]** , the Bank is a proper and necessary party. He would state that as the property in question has been auctioned by the 2^{nd} respondent Bank, the Bank has to be impleaded in the R.L.T.O.P proceedings.

6. I have carefully considered the submissions of Mr.K.V. Sundararajan.

7. In order to succeed before the Rent Controller in a proceeding under Section 21(2)(a) of the said Act, the landlord has to prove that

(i) There exists landlord- tenant relationship between the parties and

(ii) There is no agreement existing as provided under Section 4(1) of the said Act.

In order to prove the same, the presence of the mortgagee is neither essential nor necessary. For the purpose of ordering eviction, the existence of the 2nd respondent is absolutely irrelevant.

8. Now, turning to the judgment of the Supreme Court relied on by Mr.K.V. Sundararajan is concerned, the issue before the Court was whether a borrower retains the right of redemption over a property after issuance of sale notice under SARFAESI Act. The Supreme Court answered the issue against the mortgagor and held that once sale notice under SARFAESI Act is issued, right of redemption of mortgagor cannot be exercised. Thus, the proposition of law laid down in *CELIR LLP'S CASE* cannot be utilised by a tenant for impleading the Bank. In fact, SARFAESI Act does not deal with the relationship of landlord-tenant. Even if it were to be under the Concurrent List, there is no legislation made by the Parliament as of today dealing with the relationship between landlord and tenant. The above observation is made only to show that the relationship of landlord and tenant is governed by State Legislation and the SARFAESI Act does not deal with the same. Furthermore, even if the landlady/respondent herein were to lose her SARFAESI appeal and the civil revision petitioner's wife were to become the owner, she would still be entitled to proceed against the

civil revision petitioner/tenant for the purpose of eviction. This makes it

V. LAKSHMINARAYANAN,J.

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abundantly clear that neither the Bank nor the successful auction purchaser are essential parties to the Rent Control proceedings.

9. For all the reasons stated above, I do not find any error in the order passed by the learned X Judge, Court of Small Causes, Chennai and the civil revision petition stands dismissed. Since the proceedings are under the said Act, the learned Rent Controller is requested to expedite the proceedings and complete the same as expeditiously as possible. No costs. Connected C.M.P. is closed.

07.08.2024

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To

The X Court of Small Causes, Chennai.

C.R.P. No. 2885 of 2024