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CRP. PD.No.3054 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 15.11.2024

Pronounced on:06.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE P.B.BALAJI

CRP. PD. No.3054 of 2022

Ms.Navnita Dev

... Petitioner

Vs

Meenakshi Holiday Resort,
A partnership Firm
represented by its Managing Partnership
Mr.A.Senthil Kumar

... Respondent

Prayer: The Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the order and decretal order dated 06.06.2022 passed in I.A. No.1 of 2021 in O.S. No.283 of 2020, on the file of Principal District Judge at Chengalpattu.

For Petitioner

: Mr.V.Ragavachari,
Senior Counsel for
for Mrs.V.Srimathi

For Respondent

: Mr.S.Arivazhagan



ORDER

The plaintiff, in a suit for recovery of vacant possession and for arrears of rent to the tune of Rs.5,25,000/-, together with future damages/mense profits at the rate of Rs.1,50,000/- per month, from August 2020, till the date of delivery of vacant possession, aggrieved by the dismissal of I.A. No.1 of 2021, which was filed for a direction to the defendant to pay the arrears of rent from February to August 2020 within the time frame fixed by the Court and to continue to pay future monthly rents pending disposal of the suit, is the revision petitioner.

2. I have heard Mr.V.Ragavachari, learned Senior Counsel appearing for the petitioner and Mr.S.Arivazhagan, learned counsel for the respondent.

3. The respondent/defendant herein is admittedly a tenant under the petitioner/plaintiff. The property was let out to the respondent/defendant on 01.07.2018. The factum of execution of lease agreement or the terms of tenancy are not in dispute. However, according to the learned Senior Counsel for the revision petitioner, the lease is a composite lease and



therefore, the plaintiff could not approach the Rent Control Act and had to file a Civil Suit for recovery of possession, together with reliefs for arrears of rent and future damages as well.

4. According to the learned counsel for the respondent/defendant, eviction could be sought for only before the Rent Controller and the lease originally entered into was infact, on 01.07.2016 and the agreement referred to by the revision in the year 2018, was only a renewal agreement and not the first agreement. Further according to the respondent/defendant, he has incurred expenses for maintaining the property and that he was also forced to pay arrears of taxes to the revenue Department and therefore, according to the respondent/defendant, no rent is payable to the petitioner/plaintiff, muchless, the amount claimed in the suit.

5. The Trial Court dismissed the said Application holding that the Court has to decide the very jurisdiction to entertain the suit and proceeded to render findings that the suit itself is not maintainable and consequently, held that the Application for a direction was also not



maintainable.

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6. It is an admitted fact that earlier when the petitioner took out the very same Application, an order came to be passed by the Trial Court on 01.12.2021 and the Trial Court held that the said Application was not maintainable and posted the Application along with the suit. Aggrieved by the said order the petitioner/plaintiff moved this Court in CRP. No.194 of 2022 and this Court, by order dated 07.03.2022, set aside the order of the Trial Court and remanded the matter to the Trial Court for fresh disposal on merits, by a speaking order, preferably on or before 30.04.2022.

7. I have considered the rival submissions advanced on either side. I have also perused the earlier order passed by the Trial Court which was impugned in the earlier round of litigation before this Court viz., CRP. No.194 of 2022.

8. While passing orders in the said Application on 01.12.2021, the Trial Court held that the suit being for arrears of rent and recovery of



possession, an I.A. for arrears of rent was not maintainable and therefore, proceeded to pass the order directing the Application to be posted along with the suit. However, the said order has been set aside by this Court in CRP. No.194 of 2022 and after the remand, the present impugned order has been passed by the Trial Court on 06.06.2022.

9. I find that the Trial Court after discussing the respective contentions of the petitioner and respondent viz., plaintiff and defendant, has rightly held that it has to be decided as to whether the Court has got jurisdiction to entertain the suit or not, especially after coming into force of the new rent legislation viz., Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. However, the Trial Court has proceeded to give a finding even in the I.A., that the Civil Court lacks jurisdiction and that the suit is not maintainable.

10. The Trial Court has also held that the lease agreement dated 01.07.2018, being for a period more than one year, has to be compulsorily registered and therefore, the suit itself is not maintainable and consequently, the interim Application is also not maintainable.



Unfortunately, the Trial Court has prejudged the issues in the suit, without affording an opportunity to the parties to lead evidence. In fact, the law with regard to the new rent legislation is also developing and this Court has also held in several cases that the jurisdiction of the Civil Court cannot be ousted in view of coming into force of the new tenancy legislation. Further, the question as to whether the lease is a composite lease or not, is also to be decided after trial. I find from the records that the defendant has already filed written statement way back on 11.09.2021. All these aspects would have to be gone into by the Trial Court only after the parties lead evidence.

11. Be that as it may, the Application filed by the petitioner/plaintiff was simplicitor to secure the rental arrears due to the petitioner from respondent/defendant, who is admittedly a tenant. On 08.11.2024, after hearing the learned counsel for the parties, I directed the learned counsel on either side to furnish statement of account regarding rental arrears as of 30.11.2024. Accordingly, in compliance with the same, both the petitioner and respondent have filed their respective calculation memos. According to the learned revision



petitioner/landlady, the rent due as on 30.11.2024 is approximately,
Rs.15,09,500/-

12. Per contra, according to the learned counsel for the respondent/tenant, rents have been paid after adjustment of property tax, arrears of the petitioner and expenses incurred by the respondent for construction of compound wall.

13. Admittedly, it is seen from the above statement that the first respondent/tenant has not paid any rent from March 2021 onwards, though he sights COVID 19 pandemic as an excuse for non payment of rent and also alleged expenses incurred for putting up compound wall. These matters can be decided only when the parties lead evidence as to whether the construction put up by the respondent was authorised or not and as to whether the tenant was entitled to seek any exemption from the rent during the pandemic period. At this stage, without going into the merits and de-merits of the respective contentions of the parties and in order to balance equities, I deem it fit to pass the following order:

(1) The respondent/tenant shall deposit a sum of Rs.8,00,000/-



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within a period of eight weeks, in the manner following,

(i) The respondent shall pay a sum of Rs.4,00,000/- (Rupees Four Lakhs Only) within a period of four weeks to the petitioner/plaintiff directly and

(ii) deposit the remaining Rs.4,00,000/- (Rupees Four Lakhs only) to the credit of O.S. No.283 of 2020 on the file of the Principal District Court, Chengalpattu within a period of four weeks thereafter, from the date of receipt of the copy of this order.

(2) In view of the pendency of the revision before this Court for close to three years, the Trial Court shall decide the suit in O.S. No.283 of 2020, as early as possible, in any event, not later than 30.04.2025.

14. In fine, this Civil Revision Petition is disposed of with the above terms. No costs.

06.12.2024

Index:Yes/No
Speaking order/Non-speaking order
rkp

To

1. The Principal District Judge at Chengalpattu

2. The Section Officer, VR Section,
Madras High Court, Chennai.



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P.B.BALAJI, J.

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**Pre-Delivery Order in
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06.12.2024