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C.R.P.No.3658 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE P. DHANABAL

C.R.P.No.3658 of 2022

and

C.M.P.No.19394 of 2022

1. A.Suryanarayan
2. A.Girija
3. A.Venkatasubramaniam,
4. V.Bhagyalakshmi
5. A.Prabhavathi

... Petitioners

vs.

1. Tamilselvan
2. Radha

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Final order dated 21.07.2022 in I.A.No.1120 of 2014 in O.S.No.189 of 2013 on the file of the Principal District Munsif Court at Poonamallee.

For Petitioners	:	Mr.M.V.Seshachari
For Respondent 1	:	Mr.G.Muthuraj
For Respondent 2	:	Mr.P.K.Shivakumar



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ORDER

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This Civil Revision Petition has been filed by the petitioners, challenging the order, dated 21.07.2022 passed in I.A.No.1120 of 2014 in O.S.No.189 of 2013, by the Principal District Munsif Court at Poonamallee, wherein, the petitioners herein have filed a petition before the Trial Court, to appoint an Advocate Commissioner to inspect the house in the suit property with the assistance of qualified engineer to assess the value of the house in the suit property and file a report. The said Interlocutory application was dismissed by the Trial Court.

2. Aggrieved by the said order, the present Civil Revision Petition has been filed.

3. According to the petitioner, the suit has been filed for the relief of eviction of defendants and directing the defendants to vacate and hand over vacant possession of the suit property. During pendency of the suit, the petitioners herein filed a petition before the Trial Court for the appointment of an Advocate Commissioner to inspect the house in the suit property with the assistance of qualified engineer to assess the value of the house in the suit property. The petitioners claimed that the respondents are entitled for the



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benefits under TamilNadu City Tenants Protection Act. As per section 4 of TamilNadu City Tenants Protection Act, while passing orders, the Court has to pass orders for compensation for the superstructure available in the suit property. Therefore, the appointment of commissioner to find out the value of the properties is essential. The Trial Court failed to consider the same and dismissed the said petition.

4. According to the respondents, the relationship as landlord and tenant itself is denied by the respondents. They are the owners of the suit property. The 2nd respondent claimed that the suit property was inherited by her father Subramani Achari from his ancestors. The said Subrmani Achari is not a tenant of Sundaramma who is the grandmother of Plaintiffs. After the demise of Subramani Achari, the respondent's mother Saraswathy Ammal is in possession and enjoyment of the suit property. Therefore, the appointment of Advocate Commissioner is not necessary. This Civil Revision petition is liable to be dismissed.

5. Before the Trial Court no oral and documentary evidence adduced by



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both the parties. After hearing both sides, the Trial Court dismissed the Interlocutory Application.

6. The learned counsel appearing for the petitioners would contend that the petitioners filed the suit for the relief of eviction of defendants. As per Section 4 of the TamilNadu City Tenants Protection Act at the time of passing decree that if the landlord succeeds the court shall determine the compensation for the superstructure and in order to arrive the value of the property, appointment of Advocate Commissioner is essential. The trial Court failed to consider the same and dismissed the petition. Therefore, the order of the trial court is liable to be set aside.

7. The learned counsel appearing for the Respondent would contend that the 2nd respondent is the owner of the suit property, in which he inherited the property through his ancestors. There is no landlord and tenant relationship existed between the petitioners and the Respondents at all. Therefore, the appointment of Advocate Commissioner is not helpful to decide this case. If the Trial Court come to a conclusion that the plaintiffs are entitled to get decree, the trial Court itself can decide the value of the property based on the documents produced by the parties. Therefore, the Trial court also after



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elaborate discussion dismissed the petition and also decided that the petition is premature and after deciding the dispute between the parties, if at all necessary, the property may be valued at the time of passing orders. Therefore, the order passed by the Trial Court is in order.

8. This Court heard both sides and perused the records.

9. The petitioners have filed a suit for eviction of the defendants and directing the defendants to vacate and hand over vacant possession of the suit property. While pending suit, the petitioners herein filed a petition before the Trial Court to appoint an Advocate Commissioner to inspect the house in the suit property with the assistance of qualified engineer and assess the value of the house in the suit property and file a report. The respondents denied the relationship as tenant and landlord and also claim only ownership. Even as per the provision under Section 4 of TamilNadu City Tenants Protection Act, if the plaintiff succeeds the court has to award compensation. The trial Court also in this aspects passed an order that if necessary the property may be valued at the time of trial. Further, it is for the respondents to produce sufficient documents to prove the value of the property and not by appointing commissioner along with qualified engineer to ascertain the value of the property. Even according



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to the petitioner, the respondents have constructed the property, while so, it is for them to produce sufficient documents to prove the value of the property.

The respondents themselves denied the relationship between the parties as landlord and tenant and thereby at this stage the appointment of commissioner is not essential and it is for the parties to prove the value of the property by producing sufficient records.

10. Therefore, the order passed by the Trial Court is in order and there is no perversity or infirmity found in the order passed by the trial Court. Therefore, this Civil Revision Petition has no merits and liable to be dismissed. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No



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To:

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1.The Principal District Munsif Court,
Poonamallee.

2.The Section Officer,
V.R.Section,
High Court of Madras.

P. DHANABAL, J.

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