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C.R.P.(PD).No.3992 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.3992 of 2024
and C.M.P.No.21924 of 2024

M/s.Sri Ram Auto Consulting and Service Centre,
Edapadi,

By is Proprietor K.Selvaraj

.. Petitioner

Versus

S.921 Edappadi Handloom Weavers Co-operative
Production & Sale Society Ltd., Thavan Street,
Edappadi Town and Taluk, Salem District

Rep by its President G.Balasubramaniyan

.. Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final orders, dated 03.06.2024 passed in I.A.No.1 of 2023 in O.S.No.144 of 2019 on the file of the learned District Munsif-cum-Judicial Magistrate, Edappadi and allow the above Civil Revision Petition.

For Petitioner : Ms.D.Jeevitha

For Respondent : Mr.Abishek Muthy,
Government Advocate



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ORDER

This Civil Revision Petition arises against the order of the learned District Munsif-cum-Judicial Magistrate, Edappadi in I.A.No.1 of 2023 in O.S.No.144 of 2019, dated 03.06.2024.

2. O.S.No.144 of 2019 was originally presented before the learned District Munsif, Sankari. Subsequent to the creation of a District Munsif Court at Edappadi, O.S.No.51 of 2016 was transferred to the said Court and re-numbered as O.S.No.144 of 2019. O.S.No.144 of 2019 is a suit for recovery of possession and for costs in the said suit. The suit schedule mentioned property belongs to the respondent/plaintiff. As the respondent/plaintiff required the building for his own use and occupation, he presented R.C.O.P.No.1 of 2013. This petition was held to be not maintainable as the building did not come within the purview of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. Consequently, the respondent/plaintiff withdrew R.C.O.P.No.1 of 2013 and presented O.S.No.51 of 2016.



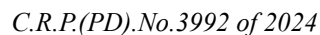
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3. In the said proceeding, the petitioner/defendant filed an application in I.A.No.1 of 2023 seeking for rejection of plaint. The ground, on which the plaint is sought to be rejected is that, Section 156 of the Tamil Nadu Co-operative Societies Act is a bar for the said suit. After the receipt of a counter-affidavit, the learned District Munsif went on to dismiss the petition. Hence this revision.

4. Heard Ms.D.Jeevitha, learned Counsel for the civil revision petitioner and Mr.Abishek Murthy, learned Government Advocate.

5. For a suit to be barred under Section 156 of the Tamil Nadu Co-operative Societies Act, there must be a provision under the Tamil Nadu Co-operative Societies Act to deal with the said issue. In other words, an Arbitrator, a Liquidator or a Registrar or an officer authorised by him, should be entitled to pass an order of eviction. A careful perusal of the Tamil Nadu Co-operative Societies Act shows that there is no provision under the said legislation for the purpose of dealing with eviction of tenants. The jurisdiction of the Civil Court is plenary and unless and until



6. Ms.D.Jeevitha is unable to point out any provision under the Co-operative Societies Act which enables a Co-operative Society to maintain a proceeding for eviction as against a tenant under the provisions of the said Act. Unless such a provision exists, Section 156 of the Tamil Nadu Co-operative Societies Act, 1983 cannot act as a bar.

7. Section 156 of the Tamil Nadu Co-operative Societies Act, not being a bar, I do not find any reason to take a different view from that taken by the learned District Munsif, Edappadi. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2024

Index : yes/no
 Speaking order/Non-speaking order
 Neutral Citation : yes/no
 grs

To



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WEB COPY The District Munsif-cum-Judicial Magistrate,
Edappadi.



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V.LAKSHMINARAYANAN, J.

grs

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