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CRP.No.4989 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

**C.R.P.No.4989 of 2024**  
**and C.M.P.Nos.28049 & 28051 of 2024**

K.Thamaraiselvan

.. Petitioner

Versus

Sivakami Sachitanandam

.. Respondent

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 16.11.2024 passed in I.A.No. 3 of 2024 in RLTA.No. 248 of 2023 on the file of the Learned XIX Additional City Civil Judge, Chennai.

|                |   |                                                              |
|----------------|---|--------------------------------------------------------------|
| For Petitioner | : | M/s.Narmada Sampath, Senior Counsel<br>for Mr.S.Kumarshankar |
| For Respondent | : | Mr.P.Valliappan, Senior Counsel<br>for Mr.T.Dheeraj          |

**ORDER**

Challenging the impugned order, wherein, the appellate authority dismissed the application filed under Order XVI Rule 6 of CPC to issue



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summons to the Executive Engineer, Anna Nagar Division, Tamil Nadu Housing Board to produce document and give evidence as witness.

2. Brief background of the case is as follows:

2.a. The respondent/landlord has filed an application for eviction under Section 21(2)(a) of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017. The eviction order has been passed by the learned Rent Controller. Challenging the said order, appeal has been filed before the XIX Additional Judge, City Civil Court, Chennai. During the pendency of the appeal, the revision petitioner has taken out the subject application, inter alia, contending that the landlord is not the original owner of the property, the property stands in the name of the Tamil Nadu Housing Board. Therefore, disputed the title of the landlord and in order to prove the particular factum of ownership, he filed an application to summon the Executive Engineer, Anna Nagar Division, Tamil Nadu Housing Board. That application has been dismissed by the learned appellate authority. Challenging the same, the present revision has been filed.



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3. The learned senior counsel for the revision petitioner contended that though the revision petitioner was originally inducted as a tenant by the respondent, later, he came to know that the respondent is not the actual owner of the property and ownership is with the Housing Board. Therefore, in order to prove the said facts, examination of the Executive Engineer is absolutely necessary. Further contention is that Section 36 of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2019 provides for examination of witness also. Therefore, on this ground, the Trial Court has not properly addressed the issue. It is also the contention that tenant is entitled to deny the title of the landlord.

4. Mr.P.Valliappan, Senior Counsel appearing for the respondent submitted that the petitioner has become a tenant in the suit property for a monthly rent of Rs.30000/- on 25.02.2010. During April 2013, rent was enhanced to Rs.33000/-. From 2017 onwards, the landlord requested the revision petitioner to vacate the premises to accommodate her daughter, however, the same was refused. The respondent has filed a suit for bare injunction in O.S.No.2166 of 2018, wherein, it is clearly pleaded by the



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petitioner that the respondent is the landlord of the suit property.

Therefore, once, he was inducted as a tenant entered into an agreement, it is too late for the revision petitioner to contend that the landlord is not the owner of the property. Hence, seeks for dismissal of this petition.

5. Heard both sides and perused the materials placed on record.

6. At the outset, this Court is of the view that the tenant is clearly estopped from denying the title of the landlord as per Section 116 of the Indian Evidence Act, 1872 and Section 122 of Bharatiya Sakshya Adhiniyam, 2023. The above provisions makes it clear that tenant is estopped from denying the title of the landlord. Therefore, the application is nothing but only to drag on the proceedings. It is the categorical stand of the respondent/landlord that he has purchased the property from the original allottee, it has been clearly pleaded in the proceedings. Purchase is also made by way of registered document. Be that as it may, once the tenant has admitted in categorical terms that he was inducted as a tenant by the landlord and he was paying the rent, now, he cannot take a contrary stand denying the title in view of the settled position of law.



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7. It is relevant to note that this Court in the case of S.Krushnan vs. R.Kalaivani made in CRP.(PD).No.3070 of 2021 dated 06.01.2022 has held that as per the new act, i.e., Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 letting in evidence on the question of title cannot be permitted. The relevant paragraphs reads as follows:

*" 8. Section 36 of the new Act enables the Rent Court to devise its own procedure and the procedure laid down in the Code of Civil Procedure is not applicable to the Rent Court constituted under the new Act. Sub-Section 2 of Section 36 of the new Act provides that the evidence shall be by way of affidavits and absolute discretion is conferred on the Rent Court to call the witness for examination or cross-examination. Therefore, a party to the proceedings under the new Act cannot insist upon either examination or cross-examination of the evidence.*

*9. In the case on hand, as the Rent Court has rightly pointed out that the dispute regarding title cannot be gone into, therefore, letting in evidence on the question of title cannot be permitted. Unlike the predecessor enactment viz., Tamilnadu Buildings (Lease and Rent Control) Act, the new Act does not contain a provision for a decision on the dispute regarding title in the proceedings under the new Act before the Rent Court. Therefore, the Rent Court was justified in dismissing the application seeking permission to let in evidence."*



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**N.SATHISH KUMAR, J.,**

8. Such view of the matter, I do not find any merits in the case and this revision petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed. The learned appellate authority shall decide the appeal within a period of one month from the date of receipt of a copy of this Order.

05.12.2024

dhk

Index : Yes/No

Internet : Yes/No

To

1. The XIX Additional City Civil Judge  
XIX Additional City Civil Court  
Chennai

2. The XV Judge  
XVI Court of Small Causes, Chennai

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