
(2015) 08 MAD CK 0020

In the Madras High Court

Case No : C.R.P. (MD) No. 1475 of 2015 & M.P. (MD) No. 1 of 2015

Bose

APPELLANT

Vs

Chokalingam

RESPONDENT

Date of Decision : 20-08-2015

Acts Referred:

Citation : (2016) 1 MadWN(Civil) 480

Hon'ble Judges : P. Devadass, J.

Bench : Single Bench

Advocate : V.R. Shanmuganathan, Advocate, for the Petitioner; No appearance, for the Respondent

Final Decision : Disposed Off

Judgement

P. Devadass, J.—The Civil Revision Petition arises out of an Order passed in I.A. No. 172 of 2014 in R.C.O.P. No. 11 of 2012, on the file of the Rent Controller (Principal District Munsif), Karaikudi.

2. In R.C.O.P. No. 11 of 2012, the Respondent/Landlord sought for eviction of the Revision Petitioner on the ground of demolition and reconstruction. In Paragraph 6 of the Eviction Petition it is stated that there is wilful default. However, in the said Petition, the Landlord has stated that he is seeking eviction only on the ground of demolition and reconstruction. An Advocate/Commissioner has been appointed with reference to the ground demolition and reconstruction. The matter reached the argument stage.

3. At that stage, the Landlord filed I.A. No. 172 of 2014, seeking to include wilful default ground under 10(2) (i) under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. Accordingly, he wanted to effect amendment in the R.C.O.P. Earlier he was not serious about that. Later he was serious about that. Accordingly, he wanted to amend the pleadings. The Rent Controller after noticing the averments in R.C.O.P No. 11 of 2012 allowed the amendment.

4. Aggrieved, the Tenant has directed this Revision.

5. The Landlord has been served. Yet, he has not appeared. Now based on the arguments of the learned Counsel for the Revision Petitioner/Tenant and materials on record, we will dispose of this Revision.

6. According to the learned Counsel for the Revision Petitioner, the mala fides of the Landlord is ex-facie because he has given up the wilful default ground. Again he wants to urge it at the time of arguments. According to the learned Counsel for the Revision Petitioner, making such plea at the later point of time cannot be encouraged. There is no bona fide on the part of the Landlord. He is making a new plea at the argument stage.

7. I have anxiously considered the submissions of the learned Counsel for the Petitioner/Tenant, perused the materials available on record and the impugned Order of the Rent Controller.

8. If we read the Petition averments in R.C.O.P. No. 11 of 2012, the case was projected on the ground of wilful default, demolition and reconstruction. However, in the same R.C.O.P., there is a mentioning that the Landlord is not seeking eviction on the ground of wilful under Section 10(2)(i) of the Act and he is seeking eviction only under Section 10(3) of the Act viz. demolition and reconstruction. Counter filed. Evidence recorded Days passed. Counsel started their arguments. At that point of time, this amendment is sought for.

9. Amendment to pleadings can be sought for at any stage of the case but before pronouncing Judgment. But amendment cannot be permitted when new pleas are averred or right already accrued to a party is attempted to be divested or to drag on the proceedings. If there are sufficient pleadings for seeking relief on the ground already pleaded, to seek such reliefs the parties need not file a separate proceedings. That will result in multiplicity of proceedings. In such circumstances, the Court can consider the plea to amend the pleadings.

10. Now, in this case, in Paragraph 6 in the Petition R.C.O.P. No. 11 of 2012, pleadings have been made for eviction on the ground of wilful default under Section 10(2)(i) of the Act. Then, the Landlord was a liberal person. He was not stingy. He thought that he can succeed under Section 10(3) of the Act. Now, he wants to succeed on both the grounds. Sufficient pleadings to that effect are available. Here question of harassment will not arise when Question of Law arises.

11. But all these days the Tenant had fought the case only on the ground of demolition and reconstruction. He believed that Section 10(2)(i) was not urged. After amendment, the Landlord will adduce evidence with reference to Section 10(2)(i) of the Act and opportunity should be given to the Tenant to put forth his case. Further, he must be given opportunity to file Additional Counter with reference to the ground under Section 10(2)(i) of the Act.

12. In the circumstances, we cannot find fault with the Order of the Rent Controller.

13. In the result, ordered as under:

(i) The impugned Order of the learned Rent Controller (Principal District Munsif) Karaikudi is upheld.

(ii) The Rent Controller shall give opportunity to the Revision Petitioner/Tenant to file his Additional Counter.

(iii) The Rent Controller shall give further opportunity to both sides to adduce further evidence including of the Witnesses for the purpose of the ground under Section 10(2)(i) of Tamil Nadu Buildings (Lease and Rent Control) Act.

14. Accordingly, this Civil Revision Petitions is disposed of. No costs. Consequently, connected M.P.(MD) No. I of 2015 is closed.