

IN THE COURT OF THE DISTRICT MUNSIF, SRIPERUMBUDUR

Present: Mrs.Saranya Selvam, B.A.,B.L.,(Hons.) ,
District Munsif, (FAC)
Sriperumbudur.

Tuesday, the 19th day of September 2023

I.A No.02/2022

in

O.S. No.50/2012

B.Pream Kumar

.....Petitioner/Defendant

/Vs/

S.Sakthivel

.....Respondent/Plaintiff

This Petition has come up for final hearing on this day in the presence of Mr.S.Dillibabu, Learned Counsel for the Petitioner/Defendant and Mr.K.Balaraman Naidu & Mr.D.Muthurangan, Learned Counsels for the Respondent/Plaintiff & upon hearing both sides, upon perusing the documents on record and having stood over for consideration till this date, this Court delivers the following:

ORDER

1. The instant Petition is filed by the Petitioner/Defendant under Section 151 of CPC praying to direct the Respondent/Plaintiff to deposit the entire arrear amount of Rent for the suit property before this Court and permit the Petitioner /Defendant to withdraw, the same without prejudice to the right of the Petitioner/Defendant.

2. Averments in the Petition in brief:

The Petitioner submits that the above suit filed by Plaintiff against the Petitioner from disturbing his peaceful possession except by due process of law. The Respondent came to the suit property as tenant under tenancy agreement dated 29.03.2010. The Respondent/Plaintiff paid sum of Rs.50,000/- advance and agreed to pay Rs.2000/- as monthly rent. The Rental agreement period lapsed. The Petitioner has filed ejectment suit vide OS.No.290/2015 before this Hon'ble Court. The Respondent/Plaintiff has not paid rent for nearly 10 years. The Petitioner is the only breadwinner of his family, aged 75 years and suffering lot of financial crises to meet out his wife's treatment. Hence filing this petition to direct the Respondent/Plaintiff to deposit entire arrears amount of rent.

3. Brief Averments in the Counter filed by the Respondent:

The Respondent denies all the allegations except those that are specifically admitted herein. This suit is filed for permanent injunction, the Petitioner/Defendant cannot claim rent from the Respondent/Plaintiff. On this ground alone, the application is liable to be dismissed. The Petitioner has to file suit for arrears of rent and for recovery of possession. In such suit only, the owner can claim rent. In the suit O.S.No.290/2010, Vijayakumari minor is the 1st Plaintiff and the said property is settled to Vijayakumari daughter of Petitioner/Defendant. Hence Vijayakumari is the

owner and she alone can claim any rent. The Petitioner is not entitled to withdraw the rent. Hence prayed for dismissal with cost.

4 . Points for Determination:

Whether the Petition deserves to be allowed?

5. Heard both sides & records perused.

6. Discussion and Reasoning:

The Petitioner/Defendant claimed arrears of rent from the Respondent/Plaintiff. Resisting the claim of the Petitioner, the Respondent contended that separate suit has to be filed for collection of rent. On close reading of the claim, the prayer sought by the Petitioner/Defendant is beyond the scope of the main suit, which is highly impracticable. It is open to the Petitioner/Defendant to seek his claim by filing separate suit for recovery of possession. When there is separate provision for recovery of arrears, the Petitioner's attempt in recovering of rent by filing 151 of CPC is treated only a step to evade from Court fee. Hence, this petition definitely devoid of merits and liable to be dismissed. No cost.

In the result, this Petition is dismissed. No cost.

Dictated to the Steno-typist, typed by her in the computer, corrected and pronounced by me in the Open Court on this the 19th day September - 2023.

(Sd/- Saranya Selvam)

District Munsif,(FAC)
Sriperumbudur.