

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

CRP (PD).No.260 of 2015
and M.P.No.1 of 2015

Babitha Devi

.. Petitioner

Vs

V.Anandmull Jain

.. Respondent

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 06.11.2014 made in M.P.No.365 of 2014 in R.C.O.P.No.959 of 2011 on the file of the XVI Small Causes Court, Chennai.

For Petitioner : Mr.S.T.Raju
for M/s.Om Sairam Associates
For Respondent : Mr.C.Umashankar

ORDER

The Civil Revision Petition is filed against the order dated 06.11.2014 made in M.P.No.365 of 2014 in R.C.O.P.No.959 of 2011 on the file of the XVI Small Causes Court, Chennai.

2.The respondent/landlord filed a petition in R.C.O.P.No.959 of 2011 for eviction on the ground of onus occupation, sub-letting and also nuisance.

During the examination of P.W.1/landlord, the rental agreement entered into between the petitioner/tenant and respondent/landlord for a period of three years has been marked as Ex.B1. Since the document is an unregistered document, the petitioner/tenant filed a petition in M.P.No.365 of 2014 for sending the document to the Collector to collect the deficit stamp duty. The Trial Court has dismissed the same. Against which, the present Civil Revision Petition has been filed.

3.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

4.The learned counsel for the petitioner submitted that even though the respondent/landlord has made an endorsement to the effect that without prejudice the petition may be allowed, the Trial Court has dismissed the said petition. Hence, he prayed for setting aside the order passed by the Trial Court in M.P.No.365 of 2014.

5.The learned counsel for the respondent submitted that the document was marked when the respondent/landlord was in the witness box during the cross examination. So, even though endorsement has been made to the effect that without prejudice the petition may be allowed, the Trial Court has

correctly held that once the document was marked during the cross examination, there is no question of admissibility and relevancy and that cannot be challenged by the respondent/landlord. On that basis, the Trial Court dismissed the petition filed by the petitioner/tenant. He further submitted that the tenant want to drag on the proceeding and hence, he filed the present revision petition even though it is not necessary to pay the deficit stamp duty. Therefore, he prayed for dismissal of the revision petition.

6.Considered the rival submissions made on both sides and perused the typed set of papers.

7.The respondent/landlord filed a eviction petition on the ground of onus occupation, sub-letting and nuisance. When P.W.1 was in the witness box, rental agreement entered into between the respondent/landlord and the petitioner/tenant for a period of three years was marked as Ex.B1 even though it was not properly stamped and registered. It is true that rental agreement entered for more than 11 months ought to have registered, otherwise it is an inadmissible evidence. But in this case, the document was marked during cross examination of P.W.1/landlord. In such circumstances, the validity and relevancy shall not be challenged by the landlord/respondent. So, the Trial Court has rightly held that only with a view to drag on the proceeding, the

petitioner/tenant has filed this type of petition. Hence, I do not find any reason to interfere with the order passed by the Trial Court and it is hereby confirmed. However, the Trial Court is directed to dispose of the case in R.C.O.P.No.959 of 2011 within a period of three months from the date of receipt of a copy of this order.

8.In the result, the Civil Revision Petition is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed. No costs.

03.11.2015

Index: Yes/No
Internet: Yes/No
cse

To

The XVI Small Causes Court, Chennai.

R.MALA. J.,

cse

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