

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.01.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.4744 of 2015
and M.P.No.1 of 2015

B.Sridhar

.. Petitioner

Vs.

K.Mohanasundari

.. Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 06.11.2015 made in M.P.No.33 of 2015 in R.C.O.P.No.34 of 2014 on the file of the District Munsif Court (Rent Controller), Thiruvottiyur and direct the respondent to pay the deficit stamp duty of Rs.36,410/- for the lease deed Exhibit P1.

For Petitioner : Mr.K.Harishankar
For Respondent : Mr.V.Nicholas

ORDER

Civil Revision Petition is filed against the order dated 06.11.2015 made in M.P.No.33 of 2015 in R.C.O.P.No.34 of 2014 on the file of the District Munsif Court (Rent Controller), Thiruvottiyur.

2.The respondent herein as a landlord filed a petition in R.C.O.P.No.34 of 2014 for eviction on the ground of wilful default and owner's occupation. The revision petitioner herein, who is a tenant, filed a counter and contesting the same. At the time of examination of P.W.1/landlord, the revision petitioner/tenant has filed a petition in M.P.No.33 of 2015 to determine Ex.P1/lease deed dated 03.08.2009 is not duly stamped and to direct the respondent herein to pay the deficit stamp duty stating that the property is leased out for 11 months and Ex.P1 is an unregistered document, which is not properly stamped and the same is marked subject to objection. The trial Court, after hearing both sides, dismissed the petition stating that the said un-registered document has been written in Rs.50/- stamp paper, which is sufficient. Challenging the said order, this revision has been preferred by the tenant.

3.Learned counsel for the revision petitioner/tenant submits that as per Article 35 of Indian Stamp Act, unregistered document is not an admissible evidence. To substantiate his arguments, he relied upon para-9 of the decision of this Court reported in **AIR 1968 Mad 294 (Yasodammal and another v. Janaki Ammal)** and para-14 of the decision of the Apex Court reported in **AIR 2001 SC**

1158 (Bipin Shantilal Panchal v. State of Gujarat and another); He further submits that some documents are marked subject to objection. If the document is duly stamped, it can be marked directly. Even though the order was passed in M.P.No.33 of 2015 by the Rent Controller without invoking the appeal, he can very well maintain the revision by invoking Article 227 of the Constitution of India, since there is an error in considering the provision of law, which affects rights of the parties.

4.Learned counsel for the respondent has fairly conceded that the Rent Controller may be directed to send the document for impounding the lease deed.

5.Considering the consent given by the learned counsel for the respondent along with the above decisions, the revision is allowed by setting aside the order passed by the trial Court. The Rent Controller is directed to send the document for impounding Ex.A1 to collect deficit stamp duty and penalty in accordance with the law.

R.MALA,J.

Kj

6.In fine, this Civil Revision Petition is allowed. No costs.
Consequently connected Miscellaneous Petition is closed.

08.01.2016

Index:Yes/No

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To

The District Munsif Court (Rent Controller), Thiruvottiyur.

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