

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.2255 of 2016
and
C.M.P.No.11698 of 2016

Madhavirajan

... Petitioner

vs

1.Sebastian

2.Catherine

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of learned XII Judge, Court of Small Causes, Chennai, passed in R.C.O.P.No.432 of 2008 on 02.04.2016.

For Petitioner : Mr.K.P.Shanthosh

ORDER

This revision arises against the order of learned XII Judge, Court of Small Causes, Chennai, passed in R.C.O.P.No.432 of 2008 on 02.04.2016.

2. Respondents/landlords filed R.C.O.P.No.432 of 2008 on the file of learned XII Judge, Court of Small Causes, Chennai, seeking eviction. Petitioner/tenant filed a memo towards marking an unregistered sale deed dated 08.08.1987. The Court below, under the impugned order, rejected the request of petitioner/tenant and closed the memo. Aggrieved, petitioner/tenant has filed this revision.

3. Heard learned counsel for petitioner.

4. Before the Court below, the petitioner/tenant contended that she was a tenant only of the vacant site and the superstructure belonged to her. As such, she was entitled to the benefits of Tamil Nadu City Tenants Protection Act and the petition moved under Tamil Nadu Buildings (Lease & Rent) Control Act was not maintainable. In rejecting such plea, Court below has informed that though petitioner/tenant has been examined as RW-1, she had sought to mark an unregistered and unstamped sale deed dated 08.08.1987 allegedly in respect of the superstructure through RW-2, a Civil Engineer. Court below upheld the objection of respondents/landlords which *inter alia* was that there was no explanation why the petitioner had not produced the document while

being examined as RW-1 and that she was trying to mark the same through RW-2, a person totally unconnected there with.

5. Petitioner/tenant earlier unsuccessfully had sought to mark an unregistered lease deed which attempt came to an end with dismissal of RCA No.144 of 2009 by learned VIII Judge, Small Causes Court, Chennai, on 08.12.2011. In one other unsuccessful attempt to protract proceedings, petitioner/tenant moved M.P.No.212 of 2012 seeking that the question of jurisdiction be tried as a preliminary issue. On dismissal of such miscellaneous petition, petitioner moved R.C.A.No.703 of 2012 on the file of learned VIII Judge, Small Causes Court, Chennai, which again was dismissed under orders dated 18.09.2013. There against, petitioner/tenant preferred C.R.P.No.4839 of 2013 before this Court. However, petitioner has withdrawn such revision petition on 13.10.2014 making an endorsement that she be granted liberty to raise all points before the Rent Control Authority. Taking advantage of the liberty so granted, petitioner has now sought to introduce an unregistered sale deed to support her claim of ownership of superstructure. All this in the face of petitioner having moved RCOP No.101 of 1998 on the file of learned XI Judge, Small Causes Court, Chennai, against the predecessors in title of the

respondents/landlords admitting that she is a tenant in respect of the building and claiming right u/s.8 (5) of the Tamil Nadu Buildings (Lease & Rent) Control Act towards depositing rent.

The Civil Revision Petition is dismissed with costs in a sum of Rs.3,000/- (Rupees Three Thousand only) payable to the Tamil Nadu State Legal Services Authority within a period of two weeks of the receipt of this order. Learned XII Judge, Court of Small Causes, Chennai, is directed to dispose of R.C.O.P.No.432 of 2008 within a period of one month from the date of receipt of this order. Consequently, connected miscellaneous petition is closed.

10.08.2016

Note to office:
Issue order copy by 20.10.2016

Index:yes/no
Internet:yes
gm

To
The XII Judge,
Court of Small Causes,
Chennai.

C.T.SELVAM, J

gm

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