

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.09.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) Nos.3074 and 3075 of 2016 and
CMP.Nos.15679 and 15680 of 2016

S.Manimaran

...Petitioner in both CRPs

versus

1.Raheema Bibi
2.Noorunnisha
3.M.S.Sadiq
4.M.S.Thahir
5.M.S.Raffi

...Respondents in both CRPs

PRAYER in CRP(PD) No.3074/2016: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 24.02.2016 in R.C.A.No.30 of 2014 on the file of Principal Sub Judge/Rent Controller Appellate Authority, Coimbatore confirming the fair and decreetal order dated 14.03.2013 in I.A.No.19 of 2011 in I.A.No.195 of 2009 in RCOP No.89 of 2009 on the file of Rent Controller/Principal District Munsif, Coimbatore.

PRAYER in CRP(PD) No.3075/2016: Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 24.02.2016 in R.C.A.No.31 of 2014 on the file of Principal Sub Judge/Rent Controller Appellate Authority, Coimbatore confirming the fair and decreetal order dated 14.03.2013 in I.A.No.3 of 2013 in RCOP No.89 of 2009 on the file of Rent Controller/Principal District Munsif, Coimbatore.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.Vasudevan

COMMON ORDER

The respondents filed a petition against the petitioner before the Rent Controller,Coimbatore, praying for an order of eviction on various grounds including arrears of rent. The application was opposed by the petitioner by filing counter affidavit.

2. The respondents filed an application before the Trial Court in I.A.No.195 of 2009 invoking Section 11(4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, on the ground that defence of the petitioner should be struck off on account of his failure to pay the admitted rent. In the said application, the respondents marked an unregistered document as per Ex.P1. The petitioner, immediately thereafter filed an application in I.A.No.19 of 2011 to reject the said document on the ground that being an unregistered document, it cannot be received in evidence. The learned Trial Judge dismissed the application in I.A.No.19 of 2011. The petitioner challenged the said order before the Appellate Authority. The Appellate Authority upheld the order passed by the Trial Court. The petitioner is therefore before this Court.

3. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents on caveat.

4. The respondents filed an application against the petitioner in

I.A.No.195 of 2009 with a prayer to struck off his defence on account of his failure to pay the rent. It was only in the said application, the petitioner filed an interlocutory application in I.A.No.19 of 2011 to eschew Ex.P1 from evidence on the ground that it was an unregistered document. The petitioner filed another application to take up the application in I.A.No.19 of 2011 at the first instance before deciding the further proceedings in I.A.No.195 of 2009. The Trial Court dismissed the application in I.A.No.19 of 2011 primarily on the ground that the question of admissibility and relevancy of the document is essentially an issue to be decided during the course of trial. The order was upheld by the first Appellate Authority.

5. There is no dispute that the respondents produced an agreement, which is stated to be unregistered. The Trial Court has already marked the said document as per Ex.P1. There is no question of deciding the evidentiary value or admissibility at the time when the document was sought to be marked. The question of admissibility and relevancy would be decided by the Trial Court during trial. The learned trial Judge as well as the Appellate Authority were therefore perfectly correct in dismissing the applications filed by the petitioner.

K.K.SASIDHARAN, J.

(svki)

6. The learned Judge is directed to decide the question raised by the petitioner with regard to the admissibility of the document in Ex.P1 while deciding the rent control original petition in RCOP No.89 of 2009.

7. The Civil Revision Petitions are disposed of with the above direction.
No costs. Consequently, connected miscellaneous petitions are closed.

30.09.2016

Index:Yes/No
svki

To

The Rent Controller/Principal District Munsif, Coimbatore.

C.R.P.(P.D.) Nos.3074 and 3075 of 2016