

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1236 of 2017
and C.M.P.No.5847 of 2017

1. Mohamed Diwan
2. M.Peer Mohamed
3. M.Ibrahimsha

.. Petitioners

Vs.

1. A.Venkatesh
2. Dr.Ahmed Ali

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to strike off the petition in M.P.No.83/17 in MP.289/16 in RCOP.302/16 from the file of the XV Judge, Small Causes Court, Chennai.

For Petitioners : Mr.V.Lakshminarayanan
for Mr.E.Prabu

For Respondent : Mr.ARL. Sunderasan, SC
for Mr.M.R.Murali for R1

ORDER

This Civil Revision Petition is filed to strike off the petition in M.P.No.83/17 in M.P.No.289/16 in RCOP.No.302/16 from the file of the XV Judge, Small Causes Court, Chennai on the ground of abuse of process of law.

2. Petitioners in RCOP No.302 of 2016, petitioners in M.P.No.289 of 2016 and the respondents 1 to 3 in MP No.83 of 2017 are the petitioners in this revision. The first respondent is the respondent in RCOP 302 of 2016 and M.P No.289 of 2016 and petitioners in MP No.83 of 2017. The second respondent is the proposed petitioner.

2. The petitioners filed RCOP No.302 of 2016 on the file of XV Judge, Small Causes Court, Chennai for eviction of the 1st respondent on the ground of wilful default in payment of differential rent of Rs.27,35,047/- between the fair rent fixed by order dated 03.03.2005 in RCOP No.560 of 2004 on the file of the X Court of Small Causes, Chennai (Rent Controller) and the contractual rate of rent from 26.03.2004 to 29.02.2016 under Section 10(2)(i) of the Tamil Nadu Buildings and Rent Control Act. The first respondent filed M.P No.83 of 2017 to implead second respondent as proposed 4th respondent in MP No.289 of 2016 in RCOP No.302 of 2016.

Facts of the case :

3. Originally one L.Joseph, was the owner of the petition

premises and second respondent purchased the property from him through power of attorney J.Mariadoss. The 2nd respondent initiated various proceedings against the first respondent including RCOP No.560 of 2004 on the file of X Judge, Small Causes Court, Chennai, for fixation of rent. After contest, the learned Rent Controller, by order dated 03.03.2005 fixed the fair rent at Rs.19,596/- per moth. Against the said order, the first respondent filed RCA No.559 of 2005 challenging the said fixation of fair rent. While RCA was pending, the second respondent, by deed of sale dated 18.02.2008 bearing document No.604 of 2008 sold the property to the petitioners. In the said sale deed, the second respondent assigned all his rights and claims in the judgments, decrees and orders passed in the legal proceedings initiated in respect of the petition property and authorised the petitioners to continue all the legal proceedings and to execute the decrees and receive the amounts and also to take delivery of petition premises. RCA No. 559 of 2005 filed by the 1st respondent challenging the fixation of fair rent was dismissed. This Court in CRP No.4095 of 2010 confirmed the said order.

4. The petitioners filed RCOP No.302 of 2016 for eviction of 1st

respondent on the ground of wilful default stating that a sum of Rs.27,53,643/- is due and payable by the 1st respondent being the difference in fair rent fixed by the Court and contractual rent paid by the 1st respondent. The petitioners also filed MP No.289 of 2016 under Section 11(1) & (4) of Tamil Nadu Buildings (Lease & Rent) Control Act against the 1st respondent for direction to deposit the amount referred to above. The petitioners made their submissions in M.P.No.289 of 2016 and when the petition was posted for arguments on behalf of the 1st respondent, he filed M.P. No.83 of 2017 to implead the 2nd respondent as 4th petitioner in M.P No.289 of 2016 in RCOP No.302 of 2016.

5. According to the 1st respondent the assignment dated 18.02.2008 made by the 2nd respondent in favour of the petitioners was only contingent interest to recover future debt which may or may not occur. The 1st respondent also stated that he is a tenant only in respect of 675 sq. ft. in the ground floor and he is not liable to pay the entire fair rent of Rs.19,596/-.

6. The petitioners have come out the present CRP to strike off

the petition in M.P.No.83 of 2017 filed by the 1st respondent to implead the 2nd respondent as the 4th petitioner in M.P No.289 of 2016.

7. The learned counsel for the petitioners submitted that the 2nd respondent sold the property in question to the petitioners by deed of sale dated 18.02.2008 registered as document No.604 of 2008. While selling the property, the 2nd respondent assigned all his rights and claims in the judgments, decrees and orders passed in the legal proceedings initiated by the 2nd respondent and also authorised the petitioners to continue the legal proceedings initiated by him. In view of the same, the petitioners got themselves impleaded as respondents in RCA No.559 of 2005 as 2nd respondent did not have any right, interest or title over the suit property after sale in favour of petitioners. The petitioners are also party in CRP No.4095 of 2010 filed by the 1st respondent challenging the dismissal of RCA No.559 of 2005 confirming the fair rent fixed by the learned Rent Controller.

8. In view of the sale in favour of the petitioners and assignment of all rights, authorisation to conduct legal proceedings initiated by

the 2nd respondent, the 2nd respondent is not a necessary, proper and interested party to the proceedings initiated by the respondents 1 to 3 in M.P.No.289 of 2016. The 1st respondent has also initiated proceedings and also contested various proceedings initiated by 2nd respondent. The 1st respondent has challenged the orders passed against him to the Appellate Authority and by way of revision in this Court and by way of S.L.P. before the Hon'ble Apex Court. Having lost in all the proceedings and after arguments advanced by the learned counsel for the petitioners in M.P.No.289 of 2016 and when the petition was posted for arguments on his behalf, the 1st respondent filed M.P.No.83 of 2017 for impleading, which is clear abuse of process of Court. The 1st respondent, with full knowledge that the 2nd respondent has not only sold the property to the petitioners but also assigned all his right and interest in legal proceedings to the petitioners, has filed M.P.No.83 of 2017 to implead 2nd respondent as 4th petitioner.

9. From the averments made in the affidavit filed in support of MP No.83 of 2017, it is clear that the said petition is not maintainable. The 1st respondent has no chance of success in the said petition. The

learned Judge has not properly exercised the power conferred on him when he directed the Registry to number M.P No.83 of 2017. This is a fit case to exercise extraordinary power under Article 227 of Constitution of India to strike off M.P No.83 of 2017.

10. The learned counsel for the petitioners also referred to counter affidavit filed by the 2nd respondent in M.P.No.83 of 2017 wherein he has categorically stated that he sold the petition premises to the petitioners and he has no subsisting interest in the said premises and he is not a necessary and proper party in the proceedings. The application for impleading filed is frivolous and vexatious with malafide intention to prolong the case.

11. The learned counsel for the petitioners relied on the following judgments in support of his contention –

(i) 1999 (1) MLJ 276 [P.Janakiraman v. N.Uma Devi & Ors.]
wherein it is held as follows –

19. From the legal position as, laid down in various decisions referred to supra, it is clear that the power under [Article 227](#) of the Constitution of

India can be invoked by this Court and the same should also be invoked in cases, where there is grave dereliction of duty and where there is flagrant abuse of process, and violation of principles of natural justice, and this power will have to be exercised to, ensure, that the Tribunals are kept within their bounds and that they do their duty according to law. If there is a miscarriage, of justice by the lower court by not looking into the evidence and it has disposed of the matter in the most superficial manner, that will be an injustice done to the party. In the instant case, the lower Court has done such injustice and naturally, it is the duty of this Court to see that the injustice is undone. When the Court below fails to consider a material piece of evidence, which would have changed the very order itself, it could only be presumed that it has not done its duty in accordance with law and naturally this Court is bound to see that the duty required to be done by the lower court is done in a legal manner. According to me, that is the scope of [Article 227](#) of the Constitution of India.

(ii) **Judgment of this Court in S.Viswanathan v. Sri Muruga Agencies and ors dated 09.08.2001 wherein it is held as follows–**

22. The next question is whether the facts, and circumstances warrant interference by this Court under [Article 227](#) of the Constitution of India. It is true that the said power of interference must be exercised only in rare cases and I felt doubtful at the time of hearing the arguments. But after I went through the series of facts as mentioned above and the outrageous conduct on the part of the plaintiff in collusion with the tenants, I feel that if this Court declines to interfere even in a case of this type, the very administration of justice would be rendered a mockery. If parties are allowed to play hide and seek and hood-wink the process of law, people will lose faith in the Courts. If a legitimate relief and decree obtained are rendered only a piece of paper

and cannot be executed and the law breaker is given a green signal to continue his high handed activity, it will badly reflect only ineffective administration of justice and result in loss of confidence in the Courts. Section 9, C.P.C. does not give liberty to parties who do not act bona fide and if the High Court does not interfere on the ground that the suit should go through its normal course. It will not be possible to execute any decree. It is all the more distressing to hear acquisition of collusion and fraud against the affected party and legalistic arguments to sustain such blatant illegal actions and clear abuse of process of Court.

(iii) Judgment of the Hon'ble Apex Court in K.K.Modi vs. K.N.Modi & Ors. wherein it is held as follows –

One of the examples cited as an abuse of the process of court is re-litigation. It is an abuse of the process of the court and contrary to justice and public policy for a party to re-litigate the same issue which has already been tried and decided earlier against him. The re-agitation may or may not be barred as res judicata. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of court. A proceeding being filed for a collateral purpose, or a spurious claim being made in litigation may also in a given set of facts amount to an abuse of the process of the court. Frivolous or vexatious proceedings may also amount to an abuse of the process of court especially where the proceedings are absolutely groundless. The court then has the power to stop such proceedings summarily and prevent the time of the public and the court from being wasted. Undoubtedly, it is a matter of courts' discretion whether such proceedings should be stopped or not; and this discretion has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised, and exercised only in special cases. The court should also be

satisfied that there is no chance of the suit succeeding.

(iv) Judgment of this Court in CRP No.2381 of 2004 & CRP Nos.2382 to 2384 of 2004 in G.GAnesan v. J.Surejndran wherein it is held as follows –

8..... *He also relied upon a decision of this Court in [K.K.Swaminathan vs. Srinivasagam](#) (2003(4) CTC 347) wherein this Court has held that Supervisory revisional jurisdiction of the High Court is the residuary jurisdiction conferred on the High Court and it can be exercised under Section 115, CPC, where it is just and necessary to strike off any proceedings. Therefore, the learned Senior Counsel submitted that the proceedings can be struck off at any stage if the Court find that it is an abuse of process of the Court.*

14. *As held by the Supreme Court in K.K.Modi Vs. K.N.Modi referred above, the Court has discretion to strike off the proceedings on being satisfied of there being no chance of success in the suit when it is satisfied that it is an abuse of process of Court. In the case of [K.K.Swaminathan vs. Srinivasagam](#) referred above, where it is just and necessary to strike off any proceedings, the Court has inherent power under Section 115 of CPC; and that can be done at any stage of proceedings, if the Court found that it is an abuse of process of Court.*

12. Per contra the learned Senior counsel for the respondent submitted that it is only the 2nd respondent who filed RCOP No.560 of 2004 for fixation of fair rent and orders were passed in his favour in RCOP when he was the owner. The sale by the 2nd respondent

pending RCA No.559 of 2005 in favour of the petitioners and assignment will not entitle the petitioners to file RCOP No.302 of 2016 for eviction of the 1st respondent on the ground of wilful default. The assignment in favour of the petitioners is only a contingent assignment and the 2nd respondent is the person who is having right to continue the legal proceedings and initiate further proceedings based on the orders passed in the RCOP No.560 of 2004. In these circumstances, the 2nd respondent is a necessary and proper party and this issue can be decided only by hearing the arguments of the parties in MP No.83 of 2017. The learned Senior Counsel further submitted that even in the CRP before this Court, he is a party. The order passed in SLP also, all the four of them are the parties. There is no order to say that a person cannot be prevented from filing an application. His presence is necessary for some parties. Attitude of the petitioners have to be taken into consideration. In so far as the fair rent is concerned, a review has been filed and it is in the SR stage. A portion of the property was let out to a tenant and the remaining portion is occupied by himself is the stand of the landlord.

13. In support of his contention, the learned Senior Counsel

relied on the following judgments –

(i) 2007 (3) CTC 662 [S.Rengarajan & ors v. M/s.Nathan Foundations Pvt. Ltd.]

9. *Considering the above submissions of the learned counsels, it is clear that the order of status quo granted by the Trial Court is not prejudicial to the cause of both sides and by passing the order of status quo, the rights of the parties are not finally determined in the I.A. And the petitioners will be provided every opportunity to advance their arguments in the I.A. by the Trial Court. The Apex Court, in its judgment reported in **K.Venkaata Subbiah v. Chellappan**, had categorically stated that invoking the constitutional remedy under Article 227 of Constitution of India should not be entertained when there is an efficacious alternative remedy of Appeal provided under the Statute. In the present case, the petitioners without even contesting the I.A. and without exhausting the Appeal remedy, have invoked the jurisdiction under Article 227 of the Constitution of India.*

14. *However it is to be pointed that the merits of the rival contentions of the parties to the suit as well as the rights of the parties in relation to the suit properties can be decided only in the trial of the suit, which is also in the arguments stage, if any finding is rendered one way or the other in this CRP touching on the merits of the subject matter of the suit, it would cause great prejudice to both the parties. Therefore, this CRP is dismissed with a direction to the trial court to dispose of the suit on merits and according to law, which is ripe for arguments within a period 2 months from the date of receipt of a copy of this order, without being influenced by any of the*

observations made in this order.

(ii) 2010 (3) CTC 604 [The Governing Council of American College, Madurai v. Dr.M.Davamani Christober]

13. Before going into the merits of the case, I want to emphasis the power of this Court, while exercising the extraordinary jurisdiction under [Article 227](#) of the Constitution of India. The circumstances under which, the Honourable High Court can exercise the extraordinary jurisdiction under [Article 227](#) of the Constitution of India, has been elaborately discussed in the judgement reported in 2003(6) SCC 675, in the case of [Surya Devi Rai vs. Ram Chander Rai and others](#), and in that case it has been held as follows:

"Supervisory jurisdiction under [Article 227](#) of the Constitution is exercised for keeping the subordinate courts within the bounds of their jurisdiction. When a subordinate court has assumed a jurisdiction which it does not have or has failed to exercise a jurisdiction which it does have or the jurisdiction though available is being exercised by the court in a manner not permitted by law and failure of justice or grave injustice has occasioned thereby, the High Court may step in to exercise its supervisory jurisdiction.

Supervisory jurisdiction may be refused to be exercised when an alternative efficacious remedy by way of appeal or revision is available to the person aggrieved. The High Court may have regard to legislative policy formulated on experience and expressed by enactments where the legislature in exercise of its wisdom has deliberately chosen certain orders and proceedings to be kept away from exercise of appellate and revisional jurisdiction in the hope of accelerating the conclusion of the

proceedings and avoiding delay and procrastination which is occasioned by subjecting every order at every stage of proceedings to judicial review by way of appeal or revision.

The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion."

(iii) 2010 (3) CTC 430 [The General Secretary HVF Employees Union, Avadi v. Socialist Workers Forum]

22. It is a well settled position of law that a Civil Revision Petition can be filed before this Court, under [Article 227](#) of the Constitution of India, only in certain extraordinary or special circumstances, arising due to want of jurisdiction, grave errors of law, perverse findings, or when there is gross violation of the principles of natural justice.

23. From the decisions cited supra, it is clear that such extraordinary or special circumstances do not exist in the present case, for this Court to invoke its supervisory jurisdiction, under [Article 227](#) of the Constitution of India, in spite of an alternative remedy being available to the petitioner. Merely, for the reason that the subordinate Judge, Ponnammallee, had passed an order, on 22.1.2010, in I.A.No.33 of 2010, in O.S.No.8 of 2010, directing the second respondent to conduct the election, to elect the office bearers of the Heavy Vehicles Factory Employees Union, Avadi, Chennai, for the years 2009-2011, including certain persons, who are said to be outsiders, it cannot be held that the petitioner could invoke the supervisory jurisdiction of this Court, under [Article 227](#) of the Constitution of India. Even if the order passed by the Subordinate Judge, Ponnammallee, on 22.1.2010, in I.A.No.33 of 2010, in

O.S.No.8 of 2010, is found to be erroneous, on various grounds, as alleged by the petitioner, the said order can be challenged, as per the relevant provisions of the Code of Civil Procedure, 1908. It would not be open to the petitioner to contend that the alternative remedy available to the petitioner, under the relevant provisions of the code of Civil Procedure, 1908, is ineffective and therefore, the present civil revision petition is maintainable before this Court, under [Article 227](#) of the Constitution of India.

24. Once it is found that an alternative remedy is available to the petitioner, unless certain extraordinary or special circumstances are existing, as held in the various decisions of this Court, as well as of the Supreme Court, it would not be open to the aggrieved party to approach this Court, by filing a civil revision petition, under [Article 227](#) of the Constitution of India. Further, there is no impediment for the petitioner to raise all the available grounds before the appropriate forum, as per the provisions of the code of civil procedure, 1908. Even though the availability of an alternative remedy may not act an absolute bar, for aggrieved party to approach this Court, it is clear, from the various decisions cited above, that the supervisory jurisdiction of this Court would be available to the party concerned only when it could be shown that the order under challenge has been passed totally without jurisdiction, in gross violation of the principles of natural justice or when there is an apparent error on the face of the order, inviting the interference of this Court. However, in the present case such circumstances do not exist.

(iv) 2000 (7) SCC 695 [A.Venkatasubbiah Naidu v. S.Chellappan & Ors.]

It cannot be contended that the power to pass

interim ex parte orders of injunction does not emanate from the said Rule. In fact, the said rule is the repository of the power to grant orders of temporary injunction with or without notice, interim or temporary, or till further orders or till the disposal of the suit. Hence, any order passed in exercise of the aforesaid powers in Rule 1 would be applicable as indicated in Order 43 Rule 1 of the Code. The choice is for the party affected by the order either to move the appellate court or to approach the same court which passed the ex parte order for any relief.

Now what remains is the question whether the High Court should have entertained the petition under [Article 227](#) of the Constitution when the party had two other alternative remedies. Though no hurdle can be put against the exercise of the constitutional powers of the High Court it is a well recognized principle which gained judicial recognition that the High Court should direct the party to avail himself of such remedies one or the other before he resorts to a constitutional remedy. Learned single judge need not have entertained the revision petition at all and the party affected by the interim ex parte order should have been directed to resort to one of the other remedies. Be that as it may, now it is idle to embark on that aspect as the High Court had chosen to entertain the revision petition.

(v) 2010 (2) SCC 432 [Abdul Razak and others v. Mangesh Rajazram Wagle & ors.]

If the petition filed by respondent Nos. 1 and 2 was under [Article 227](#) of the Constitution of India, then the learned Single Judge should have taken note of the often quoted judgment in [Surya Dev Rai v. Ram Chander Rai](#) (2003) 6 SCC 675, in which a two-Judge Bench, after threadbare analysis of Articles 226 or 227 of the Constitution and considering large number of judicial precedents on

the subject, recorded the following conclusions:

(5) Be it a writ of certiorari or the exercise of supervisory jurisdiction, none is available to correct mere errors of fact or of law unless the following requirements are satisfied: (i) the error is manifest and apparent on the face of the proceedings such as when it is based on clear ignorance or utter disregard of the provisions of law, and (ii) a grave injustice or gross failure of justice has occasioned thereby.

(7) The power to issue a writ of certiorari and the supervisory jurisdiction are to be exercised sparingly and only in appropriate cases where the judicial conscience of the High Court dictates it to act lest a gross failure of justice or grave injustice should occasion. Care, caution and circumspection need to be exercised, when any of the above said two jurisdictions is sought to be invoked during the pendency of any suit or proceedings in a subordinate court and the error though calling for correction is yet capable of being corrected at the conclusion of the proceedings in an appeal or revision preferred there against and entertaining a petition invoking certiorari or supervisory jurisdiction of the High Court would obstruct the smooth flow and/or early disposal of the suit or proceedings. The High Court may feel inclined to intervene where the error is such, as, if not corrected at that very moment, may become incapable of correction at a later stage and refusal to intervene would result in travesty of justice or where such refusal itself would result in prolonging of the lis.

(8) The High Court in exercise of certiorari or supervisory jurisdiction will not convert itself into a court of appeal and indulge in reappreciation or evaluation of evidence or correct errors in drawing inferences or correct errors of mere formal or technical character.

(vi) 2010 (8) SCC 329 [Shalini Shyam Shetty & Anr.v.
Rajendra Shankar Patil]

52. To the same effect is the judgment rendered in the case of Laxmikant Revchand Bhojwani and another vs. Pratapsingh Mohansingh Pardeshi reported in (1995) 6 SCC 576. In paragraph 9, page 579 of the report, this Court clearly reminded the High Court that under Article 227 that it cannot assume unlimited prerogative to correct all species of hardship or wrong decisions. Its exercise must be restricted to grave dereliction of duty and flagrant abuse of fundamental principle of law and justice.

14. Though notice has been served to the 2nd respondent and the name was also printed in the cause list, there is no representation either in person or through counsel.

15. Heard the learned counsel for the petitioners and Senior Counsel appearing for the first respondent.

16. Both the learned counsel for the parties referred to various proceedings and orders filed in the typed set of papers. From the materials on record, it is seen that on the petition filed by the 2nd respondent as owner, fair rent was fixed at Rs.19,596/- by the order dated 03.03.2005 made in RCOP No.560 of 2004. The 1st respondent filed RCA No.559 of 2005 challenging the said order. Pending the said

RCA, the 2nd respondent sold the property to the petitioners assigning all his rights in the legal proceedings to the petitioners and authorised the petitioners to continue the legal proceedings initiated by him. Petitioners got impleaded themselves in RCA No.559 of 2005 and contested the same. When the said appeal was dismissed and the 1st respondent filed CRP No.4095 of 2010, the petitioners were also respondents in said revision. The CRP was dismissed on 04.01.2013 by this Court. There is nothing on record to show that the 1st respondent has challenged the order of this Court by filing any Special Leave Petition.

17. It is pertinent to note that the 1st respondent filed SLP Nos.27525 & 27526 of 2014 against the 2nd respondent challenging the order of this Court dated 09.04.2014 made in CRP NPD Nos.1359 & 1371 of 2014. The Hon'ble Apex Court directed the 1st respondent to pay the entire arrears of rent calculated at Rs.19,596/- within four weeks from 05.01.2015, taking note of the fact that the 1st respondent is paying only Rs.500/- per month, The Hon'ble Apex Court has also stated that if the 1st respondent fails to pay the arrears

amount within the stipulated time, it will be viewed seriously. The 2nd respondent and petitioners filed Contempt Petition Nos.695 & 696 of 2015. The Hon'ble Apex Court disposed off the contempt petitions observing that the arrears of rent could be claimed through Execution Petition.

18. Considering the sale deed dated 18.02.2008 and assignment by second respondent in favour of the petitioners, it is clear that the second respondent has no interest, right or title over the petition premises and decree passed in RCOP No.560 of 2004. It is the petitioners who contested RCA No.559 of 2005 and CRP No.4095 of 2010. Knowing fully well of these facts the 1st respondent has filed the petition for impleading the 2nd respondent as 4th petitioner in M.P. No.289 of 2016 in RCOP No.302 of 2016.

19. The learned Rent Controller failed to consider the above facts and also the provisions of Rent Control Act whether any one of the co-owners can maintain the petition under the said Act. In the present case, ample materials are available on record, especially in the admission of first respondent that the second respondent has sold the property to petitioners and also assigned all his rights in the legal

proceedings to the petitioners. The petition filed by the 1st respondent is clear abuse of process of law and the learned Judge did not exercise the power properly when he directed the registry to number the MP and ordered notice to be issued to the parties. The power under Article 227 of Constitution of India is an extraordinary discretionary power which can be exercised by this Court cautiously and sparingly. This power is both judicial as well as administrative power. This Court, under Article 227 of Constitution of India has over all supervisory power on the Courts subordinate to his jurisdiction.

20. The judgments relied on by the learned Senior Counsel for the first respondent do not hold that power of this Court under Article 227 of Constitution of India is completely barred when alternative remedy is available to petitioners. Even if alternative remedy is available and petitioners have not availed the same, this Court can exercise its power under Article 227 of Constitution of India in the facts and circumstances of the case. In the facts and circumstances of the present case, I hold that this is a fit case to exercise the extraordinary discretionary power as MP No.83 of 2017 filed by the first respondent is clear abuse of process of court. The judgments

relied on by the learned Senior Counsel for the first respondent are not applicable to the facts of the present case and do not advance the case of first respondent.

21. Considering the above facts and considering the order of the Hon'ble Apex Court dated 05.01.2015 wherein first respondent was directed to deposit the entire arrears within four weeks from that date failing which it would be viewed seriously, it is a fit case for this Court to exercise power under Article 227 of the Constitution of India to strike off MP No.83 of 2017.

22. In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

07.06.2017

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jv/rgr

V.M.VELUMANI, J.

jv/rgr

To

The XV Judge,
Small Cause Court
Chennai.

C.R.P.(PD)No.1236 of 2017
and C.M.P.No.5847 of 2017

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