

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(PD).No.3445 of 2017
and C.M.P.No.15979 of 2017

N.Rajaji

..Petitioner

Vs.

B.Chithambaram

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair order and decretal order dated 06.02.2017 passed in RCA.SR.No.15487 of 2014 on the file of the VII Court of Small Causes, Chennai - Appellate Authority under the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 through which the learned Rent Control Appellate Authority has rejected the appeal preferred by the petitioner herein as not maintainable.

For petitioner : Mr.T.I.Ramanathan

For respondent : Mr.K.P.Ashok

ORDER

The respondent has filed RCOP.No.2384 of 2012 against the revision petitioner for fixation of fair rent. In the aforesaid RCOP, the revision petitioner has filed an application in MP.No.269 of 2013 to decide the maintainability of the RCOP. The trial court has come to conclusion that the maintainability of the RCOP will be decided only after trial and closed the application. Challenging the said order, the revision petitioner has filed an appeal in RCA.SR.No.15487 of 2014 before the Appellate court. The Appellate court dismissed the same as not maintainable. Challenging the said order, the petitioner has filed the present Civil Revision Petition before this Court.

2. The learned counsel for the revision petitioner would submit that even the respondent / landlord himself admitted that the revision petitioner is not a tenant and is only a trespasser in the aforesaid property. Therefore, the RCOP is not maintainable. Hence, the revision petitioner has filed the present the application in MP.No.269 of 2013 before the Court below, which was erroneously dismissed by the court below. According to the revision

petitioner, the present RCOP has been filed in the year 2012 and the same is still pending before the court below. Pleadings have been completed. The counter statement has also been filed. Trial was also commenced. Therefore, at this stage, this Court may pass appropriate orders for the disposal of the RCOP within the time frame as may be fixed by this Court.

3. Heard, the learned counsel for the revision petitioner and the learned counsel for the respondent and perused the materials available on record.

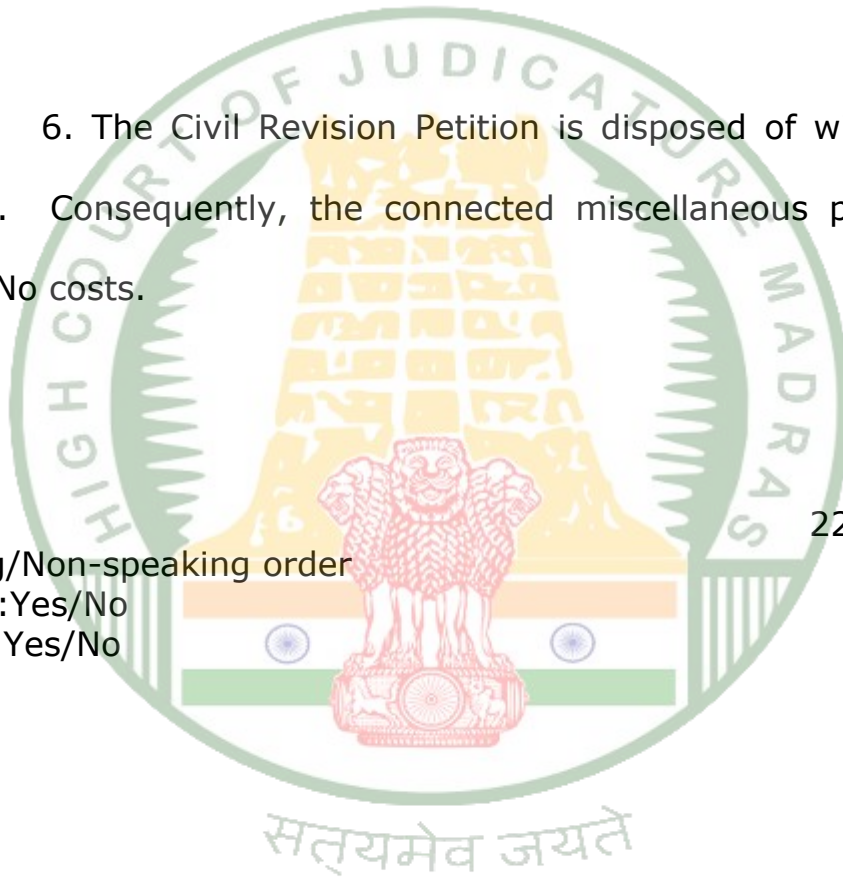
4. The revision petitioner has filed the instant application for the only reason that the said RCOP is not maintainable as the respondent / landlord himself admitted that the revision petitioner is not a tenant. The revision petitioner has also filed counter statement and trial is also commenced in the said RCOP. At this stage, the revision petitioner has filed the present application and the same has been dismissed by the trial court and confirmed by the Rent Control Appellate Authority. At this stage, this Court is not inclined to entertain the Civil Revision Petition. However, it is open to the revision petitioner to raise all these objections before the court below at the time of hearing of the RCOP.

5. Hence, without expressing any opinion on merits, this Court is inclined to direct the Rent Controller to dispose of the RCOP.No.2384 of 2012 in accordance with law as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this Order.

6. The Civil Revision Petition is disposed of with above direction. Consequently, the connected miscellaneous petition is closed. No costs.

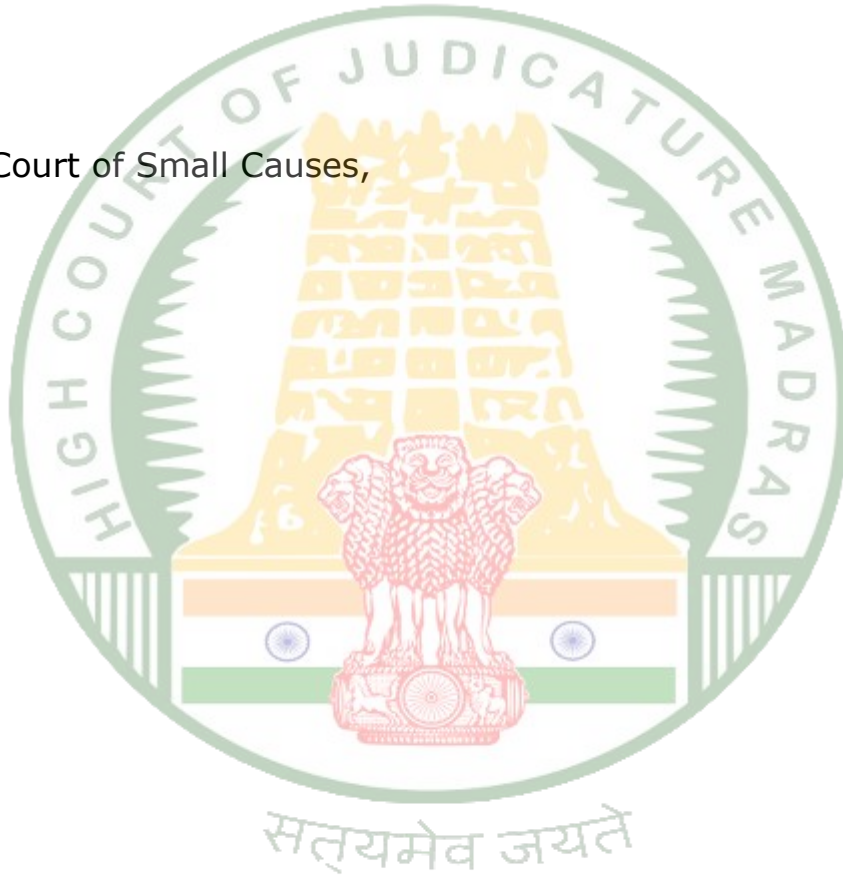
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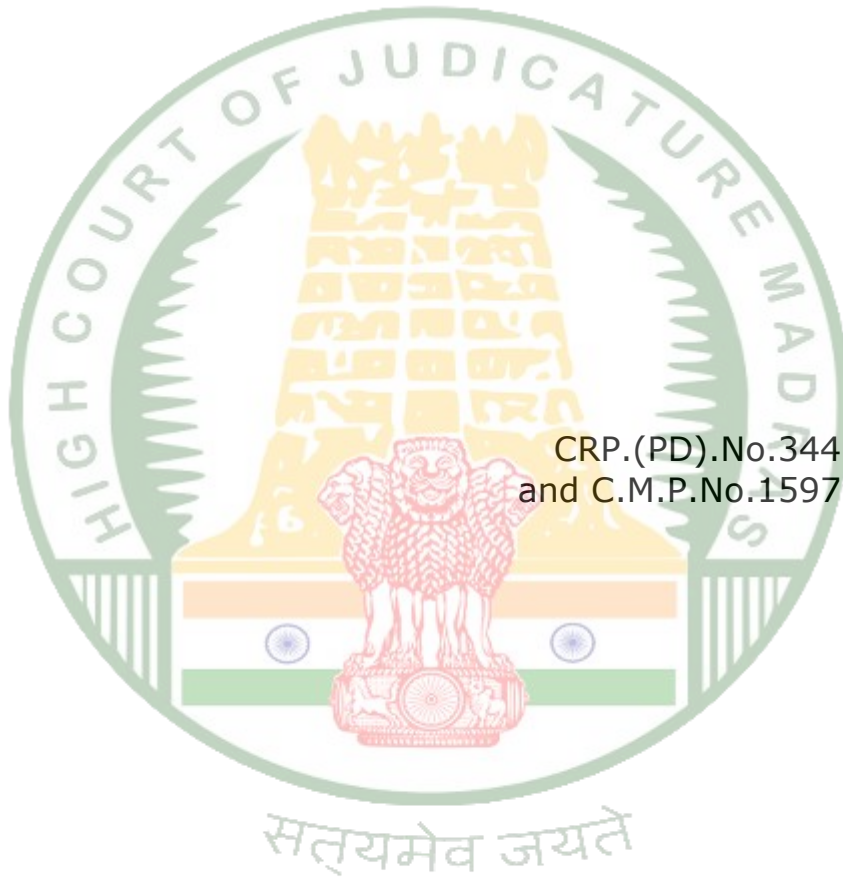
To
The VII Court of Small Causes,
Chennai



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D.KRISHNAKUMAR. J,

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