

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

CRP (PD) No.4235 of 2017
and
C.M.P. No.19860 of 2017

M.Sankaran (Deceased)

1.Logambal

2.Meenalakshmi

3.Indra

4.Gurubalan

5.Sudha

6.Manjula

..Petitioners

Vs.

1.Abdul Hameed

S/o.Adbul Majid

Represented by his power agent

M.A. Farooq Ali, S/o. Mohammed Ali.

2.Sri Sattanadha Swami Devasthanam,
Sirkali, Rep. by its Hereditary Trustee

Sri-la-Sri Shanmuga Desika

Gnanasambanda Paramacharia Swamigal,

Adheenakartha Dharmapuram Adheenam,

Dharmapuram Mayiladuthurai Taluk & Munsif.

3.Arulmigu Nageswaramudaiyar Thirukovil,

Sirkali, Rep. by its Executive Officer,

Office at, Sirkali Town & Taluk.

..Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair order and decreetal order dated 31.10.2017 made in Unnumbered I.A. of 2017 in R.C.O.P. No. 1 of 2006 on the file of District Munsif, Sirkali and allow the present revision.

For Petitioners : Mr. M.V.Venkataseshan

For Respondents : Mr. A. Muthukumar for R1/ Caveator

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 31.10.2017 made in Un Numbered I.A. in R.C.O.P. No. 1 of 2006 on the file of District Munsif, Sirkali.

2. The revision petitioner filed an Interlocutory Application in R.C.O.P. No.1 of 2016 under Section 151 of Code of Civil Procedure, before the Rent Control Authority, staying all further proceedings in the suit, till a final decision is taken in the Suit in O.S. No.82 of 2014.

The Court below, in the un-numbered stage, returned the application stating that the Rent Control Authority has no provision to decide a petition filed under Code of Civil Procedure. According to the petitioners, in the light of the decision of this Court in the case of

G.P.Vanitha vs.Thanasekar and others reported in (2016) 5 CTC

<http://www.judis.nic.in> 329, the court below cannot dismiss the application on merits,

without numbering the application. Therefore, the present Revision Petition is filed before this Court.

3. The learned counsel for the 1st respondent would submit that in the light of the decision cited above, the Court below ought to have numbered the Application and thereafter decided the issues on merits. However, in the event of setting aside the order passed by the Court below, this Court may fix a time frame to dispose of the said Application, if it is otherwise in order.

4. In the light of the decisions of this Court in the case of *K.Venkatesan & Ors. vs. E. Hemantharaj* reported in CDJ 2016 MHC 5629 and the case of *G.V. Vanitha & Ors. vs. K. Dhanasekaran & Ors. reported in 2016 (5) CTC 329* and considering the submission made of the learned counsel for the parties, this Court is inclined to pass the following order :

1. The order dated 31.10.2017 passed in the unnumbered I.A... in R.C.O.P. 1 of 2006, is set aside.
2. The Trial Court is directed to number the said Interlocutory Application, if it is otherwise in order, within a period of two weeks from the date of receipt of a copy of this order, subject

to the maintainability of the said Application.

3. At the time of hearing the Application, the trial court is directed to consider the objections made by the respondents including maintainability of the said Application and then decide the matter on merits, in accordance with law.

5. The Civil Revision Petition is allowed, on the above terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

20.11.2017

Index :Yes/No

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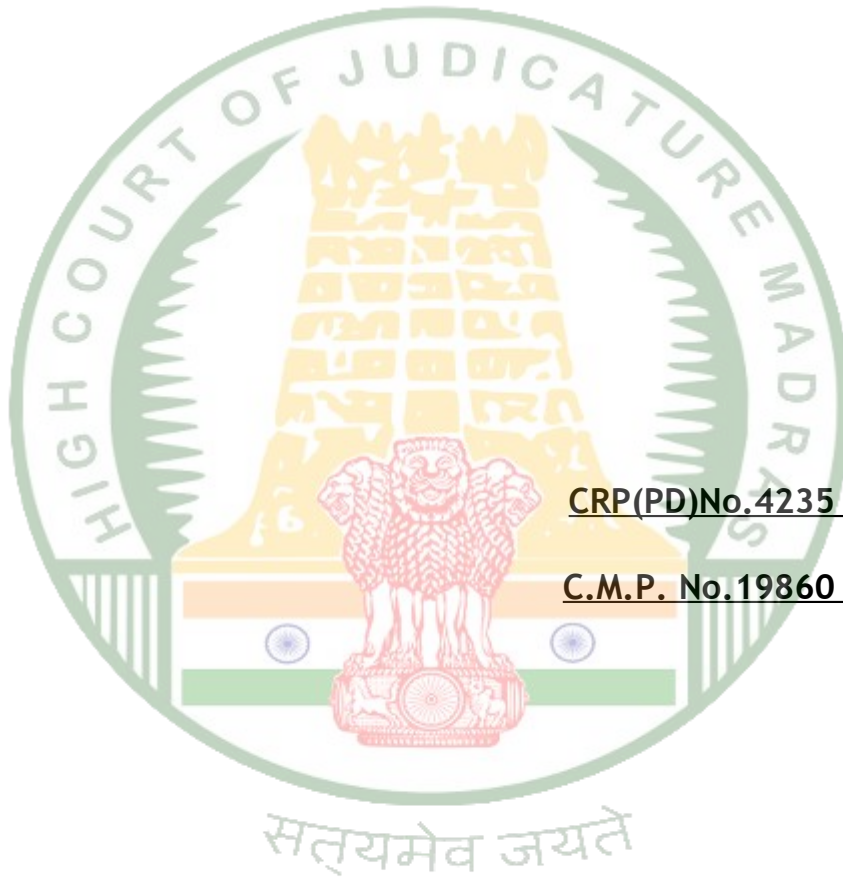
To

The District Munsif Court,
Rent Controller
Sirkali.

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D.KRISHNAKUMAR,J.

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