

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.2800 & 2801 of 2015
& M.P.Nos.1 and 1 of 2015

1.S.M.Allaudeen
2.S.M.Yusuf Sahib

.. Petitioners in both C.R.Ps

Vs.

1.Musavu Gani
2.Hyder Ali

.. Respondents in both C.R.Ps'

COMMON PRAYER: Civil Revision Petitions filed under Section 25 of the Tamil Nadu Building Lease and Rent Control Act 18 of 1960 against the judgments in R.C.A.Nos.486 & 485 of 2014 dated 27.02.2015 on the file of the VII Judge, Court of Small Causes, Chennai, confirming the orders dated 02.08.2014 in M.P.Nos.457 & 458 of 2013 in R.C.O.P.Nos.74 & 76 of 2013 on the file of the XVI Judge, Court of Small Causes at Chennai.

For Petitioners : Mr.C.V.Shyam Sundar

For Respondents : Mr.M.Venkatesan

COMMON ORDER

These Civil Revision Petitions are filed against the judgments in R.C.A.Nos.486 & 485 of 2014 dated 27.02.2015 on the file of the VII Judge, Court of Small Causes, Chennai, confirming the orders

dated 02.08.2014 in M.P.Nos.457 & 458 of 2013 in R.C.O.P.Nos.74 & 76 of 2013 on the file of the XVI Judge, Court of Small Causes at Chennai.

2.In both the Civil Revision Petitions, the parties are one and the same and issues are interlinked. Therefore, disposed of by this common order.

3.The petitioners & respondents in both the Civil Revision Petitions are the respondents and petitioners in R.C.O.P.Nos.74 & 76 of 2013. The respondents filed R.C.O.P.No.74 of 2013 against the petitioners for eviction of the petitioners on the ground of owners occupation. The respondents filed R.C.O.P.No.76 of 2013 for fixation of fair rent of Rs.27,750/- per month from the date of filing of the present petition. The respondents in both the Civil Revision Petitions have described the schedule mentioned property as measuring 884 sq.ft. in the first floor of the petition premises instead of 816 sq.ft. in the ground floor.

4.The petitioners filed separate counter affidavits stating that there is contradiction in the floor and the extent of the portion occupied by the petitioners. The respondents filed M.P.No.457 of

2013 in R.C.O.P.No.74 of 2013 and M.P.No.458 of 2013 in R.C.O.P.No.76 of 2013 for amendment of the schedule of the petition as 816 sq.ft. in the ground floor instead of 884 sq.ft. in the first floor. According to the respondents, due to typographical error, the mistake crept in in the schedule to the petition property.

5.The petitioner filed counter affidavit and contended that he is not the tenant of petition schedule property. The amendment can be ordered only in the body of the petition and not in the schedule to the petition. By correcting the schedule of the petition, the respondents are introducing totally a new cause of action and new case. The respondents can file fresh R.C.O.Ps and prayed for dismissal of the petitions.

6.The learned Rent Controller, considering the averments in the affidavits and counter affidavits, by the order dated 02.08.2014, allowed M.P.Nos.457 & 458 of 2013 for amendment to be carried out. Against the order dated 02.08.2014, made in M.P.No.457 of 2013 in R.C.O.P.No.74 of 2013, the petitioners filed R.C.A.No.486 of 2014 and against the order dated 02.08.2014, made in M.P.No.458 of 2013 in R.C.O.P.No.76 of 2013, the petitioners filed R.C.A.No.485 of 2014.

7.The learned Appellate Authority considering the fact and order of the learned Judge, dismissed both the R.C.A.Nos.486 & 485 of 2014.

8.Against the said orders dated 20.08.2014 made in R.C.A.Nos.486 & 485 of 2014, confirming the orders dated 02.08.2014 in M.P.Nos.457 & 458 of 2013 in R.C.O.P.Nos.74 & 76 of 2013, the present two Civil Revision Petitions are filed by the petitioners.

9.Heard the learned counsel for the petitioners as well as the respondents and perused the materials available on record.

10.From the materials available on record, it is seen that the respondents are seeking for amendment of the extent of the portion and the floor in which the petitioners are in occupation. The averments in the R.C.O.Ps and the affidavits filed in the Miscellaneous Petitions for amendment reveals that mistake has crept in due to the typographical error. Trial has not commenced and the petitioners will not be prejudiced by the amendment. Both the Courts have considered all the above facts and in the interest of

justice allowed the applications and dismissed R.C.As'. It is open to the petitioners to file additional counter statement consequent to the amendment carried out by the respondents.

11. In the result, both these Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

18.12.2017

Internet: Yes/No
Index: Yes/No
gsa

To

1. The XVI Judge,
Court of Small Causes,
Chennai.

2. The VII Judge,
Court of Small Causes,
Chennai,

V.M.VELUMANI, J.

gsa



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& M.P.Nos.1 and 1 of 2015

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