

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.4048 to 4053 of 2015
& M.P.Nos.1 to 1 (6 Mps.) of 2015

Manmohanchand Jain .. Petitioner in C.R.P.No.4048 of 2015
Chandra .. Petitioner in C.R.P.No.4049 of 2015
Gansham Bhatija .. Petitioner in C.R.P.No.4050 of 2015
1.Mahendra Seth
2.Mukesh F.Seth .. Petitioners in C.R.P.No.4051 of 2015
Lalitha M.Shah .. Petitioner in C.R.P.No.4052 of 2015
Kanthilal Jain .. Petitioner in C.R.P.No.4053 of 2015
Vs.
Goutham Raj .. Respondent
in all the six CRPs.

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the order dated 15.04.2015 made in M.P.Nos. 118, 120, 122, 124, 126 and 128 of 2014 in R.C.O.P.Nos.935, 936, 937, 939, 940, 942 of 2011 on the file of the XIII Small Causes Court, Chennai.

For Petitioners : Mr.G.Jermiah
in all the CRPs.
For Respondent : Mr.D.Saikumaran
in all the CRPs.

COMMON ORDER

Civil Revision Petitions are filed against the order dated 15.04.2015 made in M.P.Nos. 118, 120, 122, 124, 126 and 128 of 2014 in R.C.O.P.Nos.935, 936, 937, 939, 940, 942 of 2011 on the file of the XIII Small Causes Court, Chennai.

2. In all the six Civil Revision Petitions, the issues are inter linked and hence, they are disposed of by this common order.

3. The petitioners in all the six Civil Revision Petitions are tenants and respondent is the landlord. The respondent filed R.C.O.P.Nos.935, 936, 937, 939, 940, 942 of 2011 for eviction of the petitioners on the ground of demolition and reconstruction. The petitioners filed counter statements. Trial commenced and respondent examined in chief was cross-examined partly and R.C.O.Ps. were posted to 08.10.2013 for further cross-examination. The respondent did not appear on that day. The evidence on behalf of the respondent was closed. The respondent filed M.P.Nos. 118,

120, 122, 124, 126 and 128 of 2014 under Sections 11 and 12 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, to reopen the case and recall the evidence of P.W.1.

4. According to the respondent, respondent and his counsel noted the date of hearing as 21.10.2013 instead of 08.10.2013. On 21.10.2013, the respondent and his counsel appeared before the learned Rent Controller and found that the case was not listed. On verification, they came to know that the R.C.O.Ps. were called on 08.10.2013 and respondent's evidence was closed for his non appearance. In the circumstances, the respondent filed the above Miscellaneous Petitions for reopen the case and recall P.W.1. The petitioners in all the Civil Revision Petitions filed counter affidavits and denied the averments made in the said Miscellaneous Petitions.

5. The learned Rent Controller considering the averments made in the affidavit, counter affidavit and materials available on record, held that technicality should not stand in the way for dispensation of justice to the parties and allowed the petitions in the interest of justice to avoid multiplicity of proceedings.

6. Against the said order dated 15.04.2015 made in M.P.Nos. 118, 120, 122, 124, 126 and 128 of 2014, the present Civil Revision Petitions are filed by the petitioners/tenants.

7. Heard the learned counsel for the petitioners as well as the respondent and perused the materials available on record.

8. The learned counsel for the petitioners contended that the respondent filed the Miscellaneous Petitions for reopen the case and recall the evidence of P.W.1. The learned Rent Controller failed to take note that the two reliefs were prayed for in the same affidavit filed in support of the petitions. The learned Rent Controller erred in allowing the petitions without there being any separate supporting affidavit. When certain things to be done in a particular manner, it should be done in that manner. The procedure is hand maid of law and it should not be bypassed, which would amount to rewriting the law.

9. The above contentions are untenable. From the impugned order of the learned Judge, it is seen that in the Miscellaneous

Petitions, respondent has sought for two reliefs i.e., to reopen the case and recall the evidence of P.W.1. But in the affidavit filed in support of the Miscellaneous Petitions, only reopen the evidence of P.W.1 is mentioned. The learned Judge held that technicality should not stand in the way for dispensation of justice to the parties and allowed the petitions in the interest of justice to avoid multiplicity of proceedings. The learned Judge allowed the petitions to provide a fair chance to the respondent to put forth his case on merits. In the circumstances, there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 15.04.2015.

10. In the result, the Civil Revision Petitions are dismissed. The learned XIII Judge, Small Causes Court, Chennai, is directed to dispose R.C.O.P.Nos.935, 936, 937, 939, 940, 942 of 2011, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

12.12.2017

Index : Yes/No

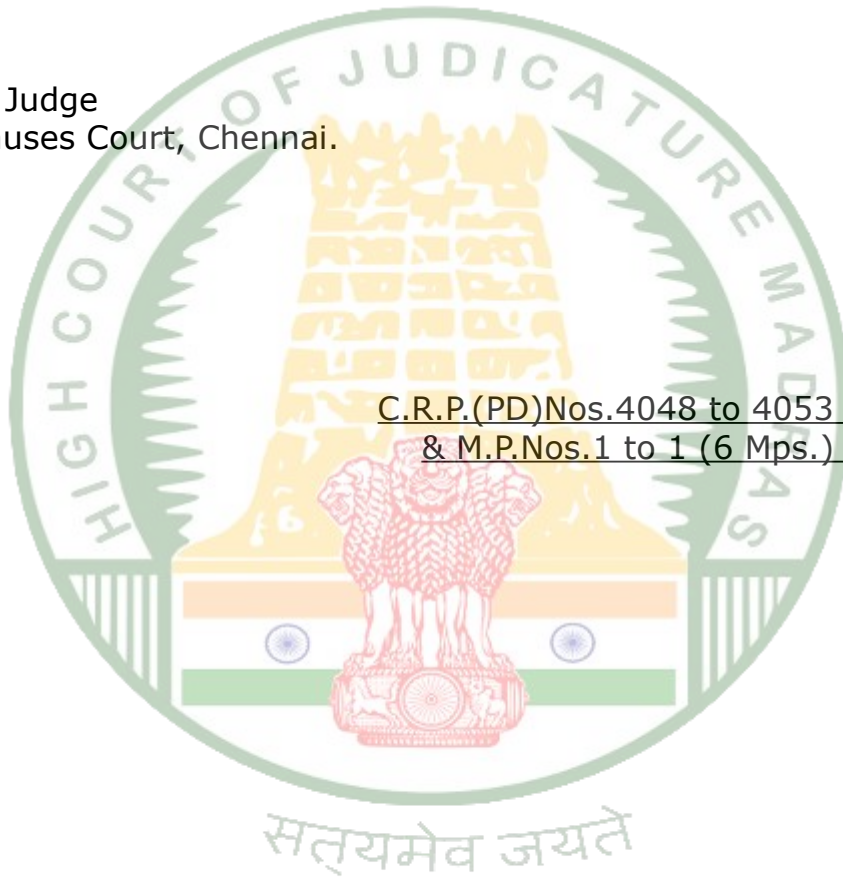
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V.M.VELUMANI, J.

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To

The XIII Judge
Small Causes Court, Chennai.



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& M.P.Nos.1 to 1 (6 Mps.) of 2015

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