

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2018

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

CRP.(PD).Nos.2173 & 2174 of 2017

and

CMP.Nos.10450 & 10451 of 2017

P.Mohanraj

.. Petitioner in both CRP's

Vs.

S.Geetha

.. Respondent in both CRP's

PRAYER IN CRP.(PD).No.2173 of 2017:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair order and decreetal order in M.P.No.341/2016 in RCOP.No.797/2015 dated 28.03.2017 on the file of XV Small Causes Judge at Chennai.

PRAYER IN CRP.(PD).No.2174 of 2017:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair order and decreetal order

in M.P.No.342/2016 in RCOP.No.798/2015 dated 28.03.2017 on the file of XV Small Causes Judge at Chennai.

For petitioner : Mr.G.Appavu
(in both CRP's)

For Respondent : Mr.P.S.Vasantha Kumar
(in both CRP's)

COMMON ORDER

The revision petitioner has filed the present Civil Revision Petitions before this Court challenging the dismissal order passed in the stay applications in MP.Nos.341 & 342 of 2016 in RCOP.Nos.797 & 798 of 2015. According to the revision petitioner, the landlords have filed a suit in OS.No.6215 of 2015 before the City Civil Court, Chennai to declare the sale deed dated 29.10.1998 as null and void, and the same is pending. Therefore, the revision petitioner filed applications in MP.Nos.341 & 342 of 2016 to stay the further proceedings in RCOP.Nos.797 & 798 of 2015. But the same were dismissed by the court below. According to the revision petitioner, unless stay is granted, the revision petitioner will be put to irreparable loss and hardships. Therefore, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. Per contra, the learned counsel for the respondent

would submit that challenging the orders in MP.Nos.341 & 342 of 2016 in the aforesaid RCOP's, filing the Civil Revision Petitions before this Court is not maintainable. The impugned orders passed by the court below are appealable only before the Appellate authority under the provisions of Section 23 (1) (a) (b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. The learned counsel for the respondent has relied upon the decision of this Court in the case of *N.Chellapandi Vs. C.Kaathan* reported in *CDJ 2008 MHC 002*, wherein it is held as follows:

"14. The discussion made above will clearly establish that when an order passed by the Rent Controller does not affect the rights of the parties finally, an Appeal under Section of the Act need not be filed and the aggrieved party can straight away approach the High Court under Article 227 of the Constitution of India. Furthermore, if the order of the Rent Controller is not in accordance with the provisions of law, then it can be said that the order need not be canvassed in Appeal before the Rent Control Appellate Authority, but can be canvassed before the High Court under Article 227

of the Constitution of India. But, as discussed above, the learned Rent Controller has found that the reason stated by the petitioner to condone the delay of 1246 days in preferring the Application to set aside the ex parte order is not convincing and dismissed the said Application. The said order cannot be said to be an order not finally deciding the rights of the parties or the learned Rent Controller failed to follow the mandatory provisions or procedures contemplated in the said Act. Hence, without preferring an Appeal under Section 23 of the said Act challenging the order of the Rent Controller, the petitioner cannot invoke Article 227 of the Constitution of India by preferring the Civil Revision Petition before this Court.

15. In the result, the Civil Revision Petition stands dismissed. There is no order as to costs. However, it is open to the petitioner to canvass the correctness or otherwise of the order passed by the learned Rent Controller (Principal District Munsif), Madurai Town dated 21.12.2004

made in IA.No.207 of 2004 in RCOP.No.174 of 2000 by preferring an Appeal under Section 23 of the said Act. I have not expressed any opinion with regard to the merits or otherwise of the averments made in the affidavit in support of the Application in LA.No.207 of 2004 or expressed any opinion about the orders passed by the learned Rent Controller in the said Application. It is for the petitioner to canvass the correctness or otherwise of the said order in case if he prefers an Appeal against the said order. As and when such an Appeal is filed, the Rent Control Appellate Authority has to decide the matter on merits in accordance with law. The time taken for preferring the present revision by the petitioner shall be leniently considered by the learned Rent Control Appellate Authority."

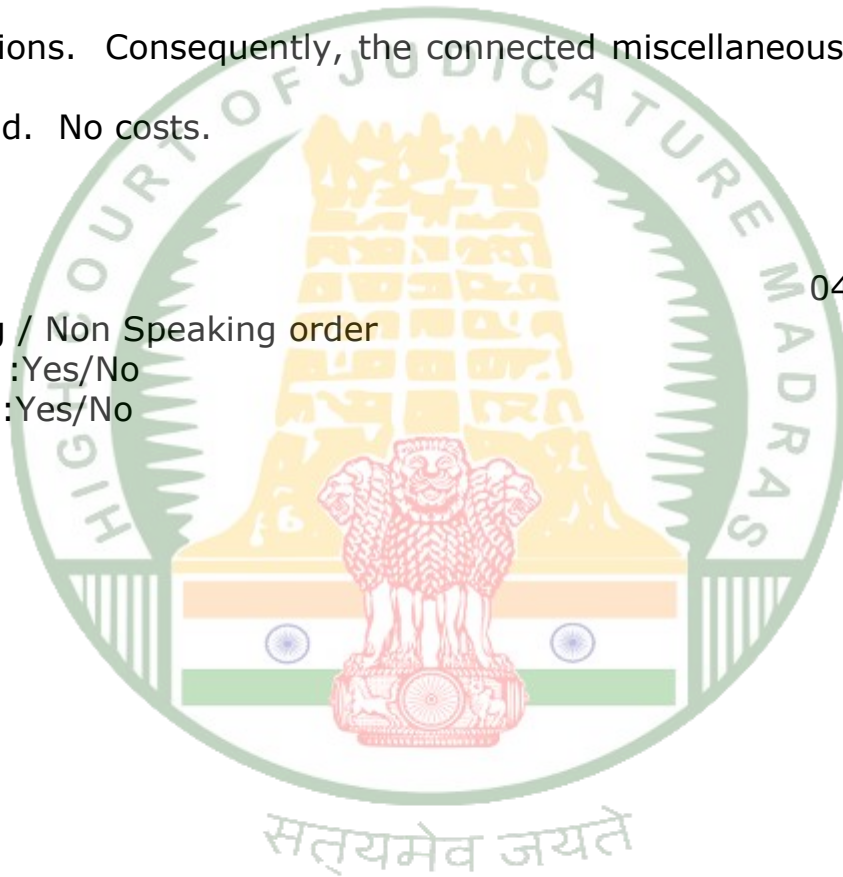
3. In the light of the decision cited supra and in view of the Section 23 (1) (a) (b) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, the present Civil Revision Petitions are not maintainable and the same are liable to be dismissed. However, it is open to the revision petitioner to file an appeal before the

Appellate court, if so advised. The time taken for preferring the present revisions by the revision petitioner shall be leniently considered by the learned Rent Control Appellate Authority.

4. The Civil Revision Petitions are dismissed with above observations. Consequently, the connected miscellaneous petitions are closed. No costs.

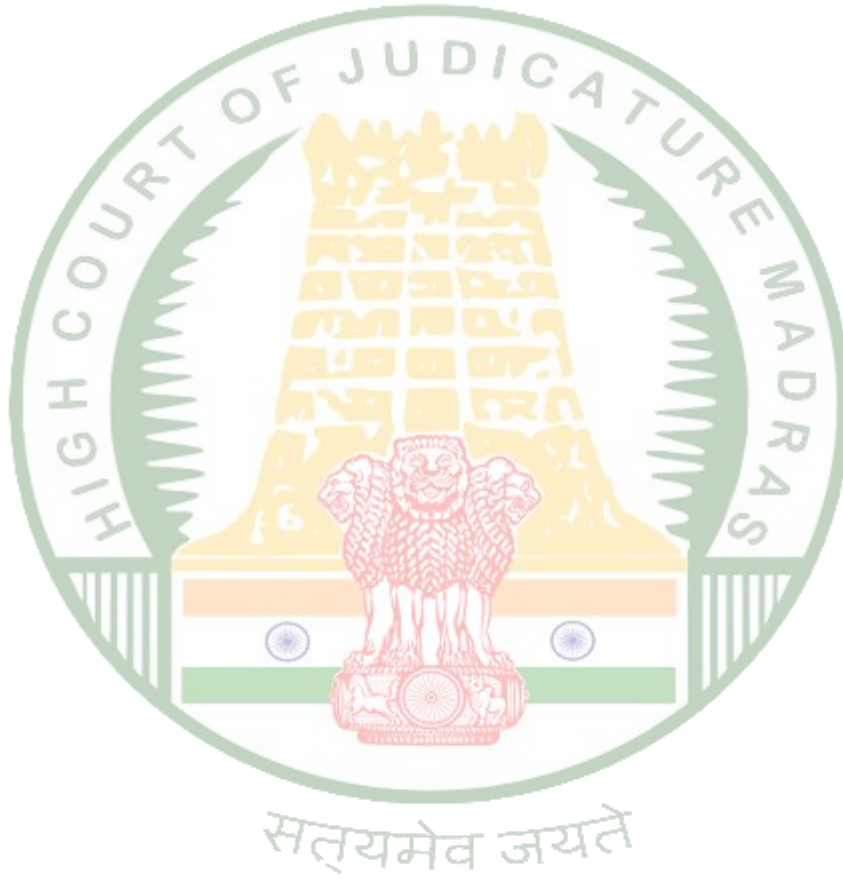
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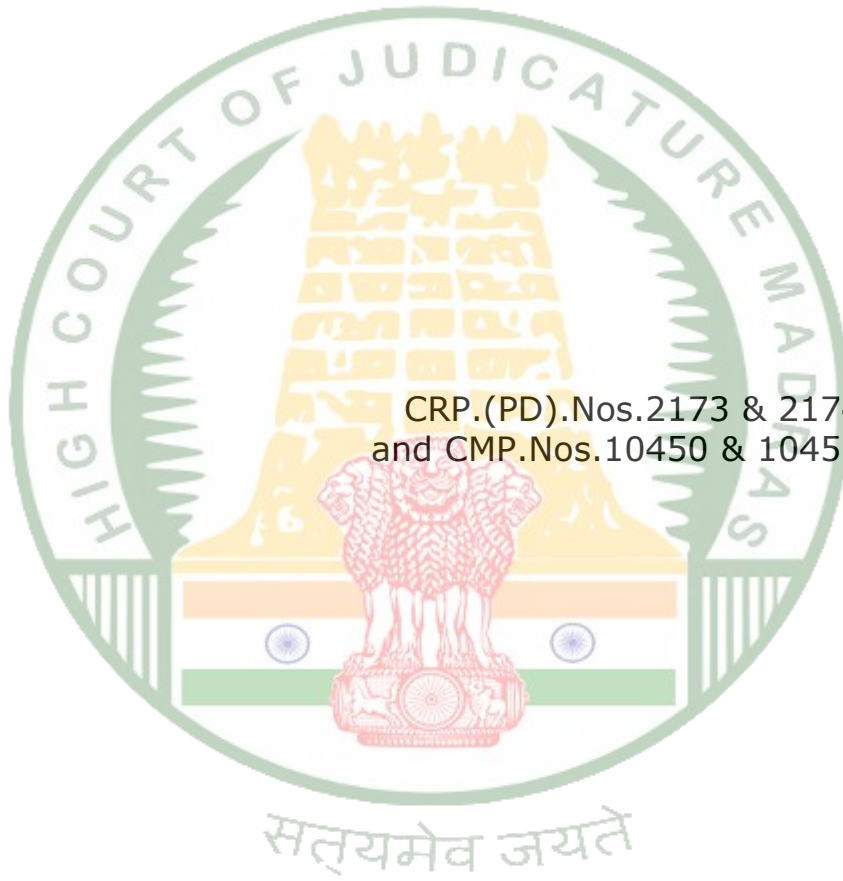
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To
The XV Small Causes Court,
Chennai.



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