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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 09-08-2018

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THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

REVIEW APPLICATION Nos.28 & 29 OF 2018

Syed Meeran Mohammed Hussainy

... Applicant in both applications/
Petitioner

-vs-

1.S.Babu ... 1st Respondent/Petitioner

2.G.Selvaraj (deceased)
... 2nd Respondents in both applications/
Respondents

Review Application No.28 of 2018 is filed against the order dated 10.01.2018, passed in C.R.P.PD.No.2935 of 2017, on the file of this Court.

CRP.2935 of 2017 Civil Revision Petition praying to revise and set aside the order and decree dated 23/03/2017 passed in M.P.No. 426 of 2016 in RCOP.No. 1618 of 2013 by the Learned XVI Judge, Small Causes Court, Chennai.

CRP.2948 of 2017 : Civil Revision Petition praying to revise and set aside th order and Decree date 23/03/2017 passed in MP. 427 of 2016 in RCOP.1868 of 2013 by the Learned XVI Judge, Small Causes Court, Chennai.

Review Application No.29 of 2018 is filed against the order dated 10.01.2018, passed in C.R.P.PD.No.2948 of 2017, on the file of this Court.

For applicant : Mr.S.Sathiaseelan

For respondent 1 : Mr.S.S.Swaminathan



COMMON ORDER

These Review Applications are filed to review the common order, dated 10.01.2018, passed by this Court in C.R.P.PD.Nos.2935 and 2948 of 2017.

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2. During the pendency of the Rent Control Original Petitions before the Rent Controller, the original tenant, who is the second respondent herein, against whom eviction of the premises is sought for, has died. Pursuant to the said demise of the original tenant, the landlord, namely, the review applicant herein, has filed a petition on the file of the Rent Controller, for impleading the son of the original tenant, namely, the first respondent as the legal representative of the deceased in the proceedings. The Rent Controller, considering that the first respondent herein is the son and sole legal representative of the deceased second respondent, allowed the application for impleading the first respondent. It is against the said order, the Civil Revision Petition Nos.2935 and 2948 of 2017 have been filed on the file of this Court by the first respondent herein.

3. Admittedly, the petition premises, whereupon eviction is sought for, is non-residential. In other words, it is a commercial building. That apart, the first respondent-revision petitioner, is the son of the deceased second respondent. As per Section 2 (8) (ii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, the tenant, in case of non-residential building, is the person, who is in continuous association with the tenant for the purpose of carrying on the business of the tenant up to the death of the tenant and continues to carry on such business. To put it differently, in respect of non-residential building, neither son nor daughter or any other legal representative is to be treated as a tenant automatically.

4. In the case on hand, the first respondent, as already stated, is the son of the deceased, and he was not in continuous association with the tenant for the purpose of carrying on the business of the tenant up to the death of the tenant nor did he continue to carry on such business. This point was not taken into consideration by the Rent Controller. Instead, the first respondent was simply impleaded on the ground that the revision petitioner has admitted himself as the son of the second respondent, which cannot be sustained in law. It shall be done following the procedure laid down under Section 2 (8) (ii) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. It is always open to the applicant to adopt such a course. These aspects were clearly dealt with by me in my order dated, 10.01.2018, passed in Civil Revision Petitions. Therefore, I do not find any error apparent on the face of the



record. At the same time, learned counsel for the applicant has also not made out any case for reviewing the order under challenge.

5. Review Applications are dismissed accordingly. No costs. Consequently, the connected C.M.P.Nos.2874 and 2875 of 2018 are also dismissed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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TO

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

+1cc to Mr.S.S.Swaminathan, Advocate, S.R.No. 54859

REV.APPLN.Nos.28 & 29 OF 2018

CA(CO)
GN(12/09/2018)