

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 04.12.2018

Pronounced on : 19.12.2018

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

**CRP.(PD).Nos.2840 & 2841 of 2017
and
C.M.P.Nos.13413 & 13414 of 2017**

M/s.Arunachalapuram Rama Nadar
Kumarar Santhana Nadar Vaarisukal
Nalasangam,
Madathu Street, Majaraa Arunachalapuram,
Ariyanayagapuram Village,
Sankarankoil Taluk,
Tirunelveli District,
rep. by its Power of Attorney Agent
Mr.I.Santhanam .. Petitioner in both the CRPs.

V.

- 1.S.Pitchandi
- 2.R.Thirunavukkarasu
- 3.S.Pachaiyappan .. Respondents in both the CRPs.

PRAYER in CRP.No.2840 of 2017: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.04.2017 made in I.A.No.6 of 2017 in HRCOP No.10 of 2014 on the file of the learned Principal District Munsif, Thiruvannamalai, Thiruvannamalai District.

PRAYER in CRP.No.2841 of 2017: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and

decreetal order dated 26.04.2017 made in I.A.No.7 of 2017 in I.A.No.6 of 2015 in HRCOP No.10 of 2014 on the file of the learned Principal District Munsif, Thiruvannamalai, Thiruvannamalai District.

For Petitioner : Mr.G.Jayachandran
in both the CRPs.

For Respondent-1 : Mrs.Lita Srinivasan
for Mr.J.Kingsly Solomon
in both the CRPs.

COMMON ORDER

Aggrieved over the orders passed by the learned Principal District Munsif, Thiruvannamalai, Thiruvannamalai District in I.A.Nos.6 & 7 of 2017 in HRCOP No.10 of 2014 dated 26.04.2017, the present revisions have been preferred.

2.Heard Mr.G.Jayachandran, learned counsel for the petitioner and Mrs.Lita Srinivasan, learned counsel appearing on behalf of the first respondent.

3.The brief facts of the cases are as follows:

The landlord, who had filed the eviction petition, is the petitioner in both the revisions. When the landlord had filed an interim application in I.A.No.6 of 2015 under Sections 11 (3) and 11 (4) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960,

the first respondent herein had filed two applications in I.A.No.6 of 2017 and I.A.No.7 of 2017 seeking to implead himself in the interim application in I.A.No.6 of 2015 as well as in the main HRCOP. No.10 of 2014. The learned Rent Controller had allowed both the applications through an order dated 26.04.2017 and thereby permitted the first respondent herein to be impleaded as a party respondent in both the petitions. Challenging the said order, the present revision petitions are filed.

4.The main ground raised by the implead petitioner is that, while the petitioner herein is the landlord of the western half of the demised premises, the eastern half of the demised premises is vested with the implead petitioner. The tenant was inducted by the petitioner herein for the western half and so far as the eastern half is concerned, he was inducted as a tenant by the ancestors of the implead petitioner in the year 1976 onwards. Since the petitioner herein is entitled to the western half of the demised premises alone and the petitioner herein representing the Kanda Nadar Vakaiyara, are the landlords of the eastern half, the eviction petition by the civil revision petitioner alone for the entire premises, is not maintainable. As such, he had filed the application to implead himself as a party respondent in the eviction proceedings.

5.The learned Rent Controller had observed that the petitioner herein is not the absolute owner of the entire premises and that the Commissioner of Thiruvannamalai Municipality had passed an order to collect property tax for both the western and eastern portions separately from the petitioner herein and the implead petitioner. In view of the dispute in the title to the demised premises, the implead petitions came to be allowed.

6.The learned counsel for the petitioner submitted that the tenant, while giving evidence, had admitted his tenancy under the petitioner herein for the entire premises. According to him, the petitioner herein is the owner of the entire demised premises of both the portions, totally measuring 4864 Sq. feet and the implead petitioner is only a stranger insofar as the property is concerned. Even otherwise, he would submit that in eviction proceedings, the learned Rent Controller cannot determine the title of the property and even assuming that the implead petitioner has any right or title over the portion of the demised premises, his impleadment in an eviction proceedings is not warranted. In support of his contention, the learned counsel for the petitioner relied on various judgments of this Court as well as the Hon'ble Apex Court.

7.The learned counsel for the implead petitioner on the other hand submitted that the Commissioner of the Thiruvannamalai Municipality has already determined to collect property tax for the eastern portion of the demised premises from them through his proceedings. According to the learned counsel, they are the landlords of the eastern portion of the demised premises wherein the tenant was inducted by his ancestors. Since there exists a landlord-tenant relationship between the parties for the eastern portion of the demised premises, they are the proper and necessary party to the eviction proceeding. The learned counsel also relied upon three decisions of the Hon'ble Apex Court and submitted that the implead petitioner herein is not a co-owner along with the petitioner herein and since he is the landlord of the eastern portion of the property, the decisions cited by the learned counsel for the petitioner are not applicable since those decisions relates to the legal position of impleading a co-owner in eviction proceedings.

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8.I have given careful consideration to the submissions made by the respective counsels.

9.The only issue that arise for consideration is as to whether the implead petitioner, who claims exclusive right over the eastern

portion of the demised premises is a necessary and proper party to the eviction proceedings.

10. Before analysing the legal position and the decision relied upon by the respective counsels, it would be appropriate to refer to a decision taken by me in an almost identical situation in a recent order dated 22.11.2018 passed in **CRP (NPD).Nos.2291 & 2292 of 2018 [1.Parvathi, 2.S.Kannagi & 3.D.Murugesan V. Gowri Ammal & S.Selvaraj]**. The issue that arose in the aforesaid case is as to whether a party, who had proved his title before the Civil Court and which decree is under consideration in an appeal, could implead himself as a respondent in an eviction proceedings initiated by his rival landlord. I had taken a decision therein that the inter-se dispute of title between the parties cannot be determined in a rent control proceedings and that the option available to the rival claimant is only through independent proceedings. In support of such a decision, I had placed reliance on a few decisions of the Hon'ble Apex Court. The relevant portion of the said order reads as follows:

"10.The main ground on which the petitioners canvass their proposition is that they are necessary parties to the eviction proceedings as they were already made as party respondents before this Court in the proceedings in

CRP.No.2692 of 2008 and that in view of the final decree passed in their favour determining their title over the demised premises, they can only be deemed to be necessary parties to the execution proceedings. In support of such submissions, the decision of the Hon'ble Apex Court reported in **1981 SCR (3) 367** was relied upon. In the aforesaid decision before the Hon'ble Apex Court, the case therein arose in an eviction proceedings under the provisions of the Bihar Buildings (Lease, Rent and Eviction) Control Act of 1947 [herein after referred to as Bihar Rent Control Act]. While, discussing the scope and meaning of term "landlord" for the purpose of the eviction proceedings, the Hon'ble Apex Court held that the person in whose favour the subject properties were allotted would be deemed to be the "landlord" for the purpose of conducting the eviction proceedings. Section 11 of the Bihar Rent Control Act deals with the procedure for eviction of tenants and the explanation to Section 11 excludes an agent from the definition of landlord. When the term "landlord" was sought to be explained in reference to the procedure for eviction of tenants, the Hon'ble Apex Court had taken into consideration the explanation to Section 11, which curtails the wide amplitude of the expression "landlord" and thereby held that when the property in question is allotted to a sharer upon a partition amongst co-sharers, as

an exclusive owner, such a co-sharer would be entitled to evict the tenant through an eviction proceedings. The relevant portion of the said order reads as follows:-

"Have the first appellate court and the High Court acted in accordance with law in ignoring this subsequent event of vital importance ? The first appellate court, as pointed out earlier, proceeded to examine the contention on merits and rejected it on the ground that this being an event subsequent to the passing of the decree by the trial court, no notice could be taken of it, a view contrary to the law laid down by this Court. Same is true of the High Court when it said that even if the landlord who commenced action lost all interest in the property subsequent to the passing of the decree, the decree does not become a nullity and at any rate no note of the subsequent events can be taken in the absence of a proper application under order 41, rule 27, C.P.C. But the next observation of the High Court that where the plaintiff landlord's interest in the property is extinguished subsequent to the decree by the trial court, he does not lose his right to maintain and continue the action, is opposed to the very scheme of the [Rent Act](#) and the provisions contained in [ss. 11\(1\)\(c\)](#) and [12](#). Both the courts were, therefore, clearly in error in ignoring this vital piece of evidence which goes to the root of the matter and would surely non-

suit the plaintiffs.

Once this subsequent event of landlord's interest in the property getting extinguished as the property in question is allotted as an exclusive owner to a sharer upon a partition amongst co-sharers, is properly evaluated, unless some proper explanation is offered by the landlords who are parties to the proceedings, the plaintiffs are liable to be non-suited. This does not require much of a discussion because plaintiffs sought possession for personal requirement of respondent 1 Manohar Lal Sharma. Manohar Lal Sharma wanted to start his clinic, as he is a qualified medical practitioner, in the suit premises. Manohar Lal Sharma is neither an owner nor a co-owner nor he has any interest in the suit property since the date of partition effected by compromise between the co-sharers in Suit No. 4/75. If action were to start today a or day after the decree for partition, could Manohar Lal Sharma ever file a suit for evicting the present appellant from the suit shop on the ground that he wanted to start his clinic in the suit shop? If Manoharlal Sharma can bring such an action he can as well evict any tenant from any premises with which he has no connection. Even if at the commencement of the action Manoharlal Sharma was a co-owner alongwith his brother and uncle and, therefore, he had a

semblance of title to commence action for eviction, once the co-owner parted company, partitioned property by metes and bounds and the suit property came to be allotted to Pyarelal as an exclusive owner. Manoharlal Sharma cannot claim eviction of the tenant from such property in which he has no subsisting interest. And even if this event occurred subsequent to the passing of the decree by the trial court, this subsequent event should have been noticed at the appellate stage because the appeal is nothing else but a continuation of the suit and in a proceeding under the Rent Act the relief has to be moulded according to the situation on the date of the decree; the decree would mean the decree which is final and not correctible by any judicial proceeding. Manoharlal Sharma, therefore, cannot seek to evict the tenant for his personal requirement. Therefore, the suit for eviction under s.11(1)(c) would ordinarily fail on this ground. However, as the fresh evidence is being taken into consideration and as both the appellate courts and the High Court, have erred in approaching the matter by ignoring the subsequent event, it would be presently pointed out that in order to do justice between the parties the matter will have to be remanded to the first appellate court.

11. But, as pointed out by the learned counsel for the first respondent, the explanation

to the provision for eviction of tenants under Section 11 of the Bihar Rent Control Act is conspicuously absent in the provision for eviction under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. The observation of the Hon'ble Apex Court in the aforesaid decision came to be made in lieu of the explanation clause in Section 11 of the Bihar Rent Control Act. If such an explanation has not been incorporated in Section 11 of the Bihar Rent Control Act, the Hon'ble Apex Court would not have rendered such a finding to include the subsequent allottees of the subject properties as a party entitled to initiate eviction proceedings. The justification of such a finding by the Hon'ble Apex Court by laying emphasis on the explanation clause in Section 11 could be comprehended through the following observations in the same decision:

"The inclusive definition is couched in very wide language. However this wide amplitude of the expression has been cut down by the explanation appended to sub-clause (c) of sub-section (1) of [s. 11](#) which reads as under:

"11. Eviction of tenants:

(a) Notwithstanding anything contained in any contract or law to the contrary but subject to the provisions of the Industrial Dispute Act, 1947 and to those of [section 12](#), where a tenant is in possession of any building, he shall not be liable to eviction there-from except in execution of a

decree passed by the Court on one or more of the following grounds;-

... ..

(c) Where the building is reasonably and in good faith required by the landlord for his own occupation or for the occupation of any person for whose benefit the building is held by the landlord;

Provided that where the Court thinks that the reasonable requirement of such occupation may be substantially satisfied by evicting the tenant from a part only of the building and allowing the tenant to continue occupation of the rest and the tenant agrees to such occupation the Court shall pass a decree accordingly, and fix proportionately fair rent for the portion in occupation of the tenant, which portion shall thenceforth constitute the building within the meaning of clause (aa) of [section 2](#), and the rent so fixed shall be deemed to be the fair rent fixed under [section 5](#);

Explanation: In this clause the word "landlord" shall not include an agent referred to in clause (d) of [section 2](#)."

Therefore, while taking advantage of the enabling provision enacted in s.11 (1) (c), the person claiming possession on the ground of his reasonable requirement of the leased building must show that he is a landlord in the sense that

he is owner of the building and has a right to occupy the same in his own right. A mere rent collector, though may be included in the expression landlord in its wide amplitude cannot be treated as a landlord for the purposes of s. 11 (1) (c). This becomes manifestly clear from the explanation appended to the sub-section. By restricting the meaning of expression landlord for the purpose of section 11(1)(c), the legislature manifested its intention namely that landlord alone can seek eviction on the ground of his personal requirement if he is one who has a right against the whole world to occupy the building himself and exclude any one holding a title lesser than his own. Such landlord who is an owner and who would have a right to occupy the building in his own right, can seek possession for his own use. The latter part of the section envisages a situation where the landlord is holding the buildings for the benefit of some other person but in that case landlord can seek to evict tenant not for his personal use but for the personal requirement of that person for whose benefit he holds the building. The second clause contemplates a situation of trustees and cesti que trust but when the case is governed by the first part of sub clause (c) of sub-section (1) of s.11, the person claiming possession for personal requirement must be such a landlord who wants possession for his own occupation and this would

imply that he must be a person who has a right to remain in occupation against the whole world and not someone who has no subsisting interest in the property and is merely a rent collector such as an agent, executor, administrator or a receiver of the property. For the purposes of s. 11(1)(c) the expression landlord could, therefore, mean a person who is the owner of the building and who has a right to remain in occupation and actual possession of the building to the exclusion of everyone else. It is such a person who can seek to evict the tenant on the ground that he requires possession in good faith for his own occupation. A rent collector or an agent is not entitled to occupy the house in his own right. Even if such a person be a lessor and, therefore, a landlord within the expanded inclusive definition of the expression landlord, nonetheless he cannot seek to evict the tenant on the ground that he wants to personally occupy the house. He cannot claim such a right against the real owner and as a necessary corollary he cannot seek to evict the tenant on the ground that he wants possession of the premises for his own occupation. That can be the only reasonable interpretation one can put on the ingredients of sub-clause (c) of s. 11(1) which reads:

"Where building is reasonably and in good faith required by the landlord for his own occupation.. "

Assuming that the expression 'landlord' has to be understood with the same connotation as is spelt out by the definition clause, even a rent collector or a receiver of the property appointed by the Court in bankruptcy proceedings would be able to evict the tenant alleging that wants the building for his own occupation, a right which he could not have claimed against the real owner. Therefore, the explanation to clause (d) which cuts down the wide amplitude of the expression 'landlord' would unmistakably show that for the purposes of clause (c) such landlord who in the sense in which the word 'owner' is understood can claim as of right to the exclusion of everyone, to occupy the house, would be entitled to evict the tenant for his own occupation."

Thus, it is seen that it is only because of the explanation clause in Bihar Rent Control Act that the Hon'ble Apex Court had held as above, which explanation is not available under the Tamil Nadu Buildings (Lease and Rent Control) Act and as such, the aforesaid decision may not be applicable to the facts of the petitioner's case.

12. This leads us to the next question as to, what could be the remedy available to the petitioners herein, who have the benefit of a decree establishing their title over the said properties.

13. It is seen that as against the final decree passed in the partition suit, the respondents herein has also filed an appeal which is said to be pending. The dispute with regard to the allotment of share is now the subject matter of the Appeal Suit and the demur between the parties therein requires to be determined. In the decision cited by the learned counsel for the first respondent in **2018 (4) CTC 547 [Kanaklata Das and others V. Naba Kumar Das and others]**, the Hon'ble Apex Court had held that such a inter-se dispute between the parties of the civil suit cannot be decided in a rent control proceedings and that, such claims can only be made through an independent civil suit. The relevant portion of the decision reads as hereunder:

"11. There are some well-settled principles of law on the question involved in this appeal, which need to be taken into consideration while deciding the question arose in this appeal. These principles are mentioned infra.

12. First, in an eviction suit filed by the plaintiff (Landlord) against the defendant (Tenant) under the State Rent Act, the landlord and tenant are the only necessary parties.

13. In other words, in a tenancy suit, only two persons are necessary parties for the decision of the suit, namely, the landlord and the tenant.

14. Second, the landlord (plaintiff) in such suit is required to plead and prove only two things to enable him to claim a decree for eviction against his tenant from the tenanted suit premises. First, there exists a relationship of the landlord and tenant between the plaintiff and the defendant and second, the ground(s) on which the plaintiff-landlord has sought defendant's-tenant's eviction under the [Rent Act](#) exists. When these two things are proved, eviction suit succeeds.

15. Third, the question of title to the suit premises is not germane for the decision of the eviction suit. The reason being, if the landlord fails to prove his title to the suit premises but proves the existence of relationship of the landlord and tenant in relation to the suit premises and further proves existence of any ground on which the eviction is sought under the Tenancy Act, the eviction suit succeeds.

16. Conversely, if the landlord proves his title to the suit premises but fails to prove the existence of relationship of the landlord and tenant in relation to the suit premises, the eviction suit fails. ([See-Dr. Ranbir Singh vs. Asharfi Lal](#), 1995(6) SCC 580).

17. Fourth, the plaintiff being a dominus litis cannot be compelled to make any third person a party to the suit, be that a plaintiff or the defendant, against his wish unless such

person is able to prove that he is a necessary party to the suit and without his presence, the suit cannot proceed and nor can be decided effectively.

18. In other words, no person can compel the plaintiff to allow such person to become the co-plaintiff or defendant in the suit. It is more so when such person is unable to show as to how he is a necessary or proper party to the suit and how without his presence, the suit can neither proceed and nor it can be decided or how his presence is necessary for the effective decision of the suit. (*See-Ruma Chakraborty vs. Sudha Rani Banerjee & Anr.*, 2005(8) SCC 140)

19. Fifth, a necessary party is one without whom, no order can be made effectively, a proper party is one in whose absence an effective order can be made but whose presence is necessary for a complete and final decision on the question involved in the proceeding. (*See-Udit Narain Singh Malpaharia vs. Additional Member Board of Revenue, Bihar & Anr.*, AIR 1963 786)

20. Sixth, if there are co-owners or co-landlords of the suit premises then any co-owner or co-landlord can file a suit for eviction against the tenant. In other words, it is not necessary that all the owners/landlords should join in filing the eviction suit against the tenant. (*See-*

Kasthuri Radhakrishnan & Ors. vs. M. Chinniyan & Anr., 2016(3) SCC 296)

21. Keeping in mind the aforementioned well settled principles of law and on examining the legality of the impugned order, we find that the impugned order is not legally sustainable and hence deserves to be set aside.

22. In our considered opinion, respondent No. 1, who claims to be the co-sharer or/and co-owner with the plaintiffs (appellants herein) of the suit property is neither a necessary and nor a proper party in the eviction suit of the appellants against respondent Nos. 2 to 5. In other words, such eviction suit can be decreed or dismissed on merits even without the impleadment of respondent No.1.

23. In the eviction suit, the question of title or the extent of the shares held by the appellants and respondent No. 1 against each other in the suit premises cannot be decided and nor can be made the subject matter for its determination.

24. The reason being that this is not a suit between the appellants (plaintiffs) and respondent No.1 where their inter se rights relating to the suit premises can be gone into but rather is an ejectment suit filed by the appellants against respondent Nos. 2 to 5 for their eviction from the suit premises.

25. Therefore, the Lis in the suit is between the appellants on the one hand and respondent

Nos. 2 to 5 on the other hand and the decision in the suit would depend upon the question as to whether there exists any relationship of landlord and tenant between the appellants and respondent Nos. 2 to 5 in relation to the suit premises and, if so, whether the grounds pleaded in the plaint for claiming eviction of respondent Nos. 2 to 5 are established or not. For deciding these two main questions, the presence of respondent No. 1 is not necessary.

26. For these reasons, we are of the considered opinion that respondent No. 1 is neither a necessary and nor a proper party in the suit.

27. We, however, make it clear that any finding whether directly or indirectly, if recorded by the Trial Court touching the question of title over the suit property, would not be binding on respondent No.1 regardless of the outcome of the suit and respondent No. 1 would be free to file an independent civil suit against the appellants for a declaration of his right, title and interest in the suit premises and in any other properties, if so, and claim partition and separate possession of his share by metes and bounds in all such properties."

14. Likewise, in the decision reported in **2002 (3) SCC 98 [J.J. Lal Pvt. Ltd., and others V. M.R.Murali and another]**, a similar proposition was also held as follows:

"I.A. Nos.33-36 of 2001

26.Hemlata Mohan, the applicant in these IAs seeks her impleadment in these proceedings submitting that on the basis of the Will dated 30.1.1935 executed by her grand-father she is one of the landlords entitled to apportionment of rent. A suit for establishment of her title and share in the property is pending in Madras High Court registered as Civil Suit No.452 of 1988.

I.A. Nos. 41 to 44 of 2001

27.These applications are filed by Municipal Corporation of Chennai seeking its impleadment in the proceedings alleging that the two premises, Door Nos.244 and 264, subject-matter of litigation in these proceedings are owned by it and therefore it needs to be impleaded as party in these appeals.

28.Both the sets of applications raise such controversies as are beyond the scope of these proceedings. This is a simple landlord- tenant suit. The relationship of Municipal Corporation with the respondents and their mutual rights and obligations are not germane to the present proceedings. Similarly, the question of title between Hemlata Mohan and the respondents cannot be decided in these proceedings. The impleadment of any of the two applicants would change the complexion of litigation and raise such controversies as are beyond the scope of

this litigation. The presence of either of the applicants is neither necessary for the decision of the question involved in these proceedings nor their presence is necessary to enable the court effectually and completely to adjudicate upon and settle the questions involved in these proceedings. They are neither necessary nor proper parties. Any decision in these proceedings would govern and bind the parties herein. Each of the two applicants is free to establish its own claims and title whatever it may be in any independent proceedings before a competent forum. The applications for impleadment are dismissed."

15. In the light of the above decisions and the findings of this Court, it can only be observed that the rights of the petitioners herein over the suit property are protected, since such a right to seek for possession of the demised premises is always available to them by a separate independent proceedings and as such, their impleadment in the present execution proceedings is not warranted. While that being so, I do not find any infirmity in the order of the Execution Court, rejecting the prayers for impleading the petitioners herein as necessary parties in the execution proceedings and for staying the execution proceedings. In result of such a finding, both the Civil Revision Petitions

stand dismissed. Consequently, connected Miscellaneous Petition is closed. No costs."

11.The learned counsel for the petitioner had precisely placed his arguments in line with the facts in the aforesaid decision. On the other hand, the learned counsel for the first respondent attempted to distinguish the aforesaid proposition on a single ground. According to her, the legal position with regard to co-sharer of a property is different from that of an exclusive owner over a portion of the property and who claims landlord-tenant relationship for his exclusive portion. Therefore, she would submit that the implead-petitioner is a proper and necessary party to the eviction proceedings.

12.Though such submissions sounds logical, I am unable to accept the same in view of the various legal propositions established by the Hon'ble Apex Court which have been extracted in the above orders in CRP.Nos.2291 & 2292 of 2018 dated 22.11.2018. As a matter of fact, in the above order rendered by me, the facts remains that the implead petitioner therein had raised a ground stating that the demised premises has been declared by the trial court in his favour and the said judgment and decree. Since the settled proposition of law was that the learned Rent Controller

cannot determine the rights or title over the property in question and the limited issue before the learned Rent Controller is as to whether there was any landlord-tenant relationship, the impleadment was found to be improper and unnecessary.

13. In the instant case also, the implead petitioner alleges certain rights over the eastern portion of the demised premises and thereby claims to be a proper and necessary party in the eviction proceedings. If such a proposition is put forth before the learned Rent Controller in the eviction proceedings, it would become for the learned Rent Controller to take the issue of title over a portion of the demised premises and determine the same. In view of my aforesaid decisions, such an issue cannot be adjudicated by the learned Rent Controller and therefore, the implead petitioner can only be regarded as a person, who is not a proper and necessary party to the eviction proceedings.

14. Incidentally, it is brought to the notice of this Court that when the Commissioner of Thiruvannamalai Municipality vide order dated 16.11.2016, had directed both the parties i.e., the petitioner herein to pay the property tax for the first half year and the implead petitioner for the second half year and when the same was challenged in W.P.No.6316 of 2017, the learned Judge of this Court

by an order dated 27.07.2017 had taken a view that the dispute could be resolved if both the parties approach the Civil Court seeking for declaration of their rights over the property in question and had asserted that it is only the Civil Court which can determine the title. Pursuant to the said observation, the civil revision petitioner had filed a suit with a declaratory relief in O.S.No.10 of 2018 before the learned Principal District and Sessions Judge, Thiruvannamalai and the same is pending. It is said that the implead petitioner herein has not filed any suit, till date.

15. When the civil revision petitioner had already approached the Civil Court seeking for declaration of title over the entire demised premises, the learned Rent Controller may not be justified in parallelly rendering a decision with regard to the implead petitioner's entitlement or title or right over the same property. Even otherwise, the powers of the learned Rent Controller to determine the right or title over the property is not available under the Rent Control Act and the limited scope of adjudication would be with regard to the landlord-tenant relationship between the parties. The rights available to implead-petitioner to seek for possession is always protected through independent proceedings and as such by impleading himself in the present eviction proceedings, no fruitful orders could be passed by the learned Rent Controller to determine his rights.

16.The learned counsel for the respondent relied upon a decision of the Hon'ble Apex Court in ***Pal Singh Vs. Sunder Singh (dead) by LRs and others*** reported in **1989 (1) SCC 444** to substantiate that he was a necessary and proper party to the eviction proceedings. The said decision may not help the implead petitioner since the Hon'ble Supreme Court in the said decision had come to the conclusion that the landlord alone, as a co-owner, can maintain an eviction proceedings. Likewise, the decision in ***Sri Ram Pasricha Vs. Jagannath and others*** reported in **1976 (4) SCC page 184**, relied upon by the learned counsel for the respondent is also to the same effect that one of the co-owners can maintain an eviction proceedings and that such an owner need not be an absolute owner of the entire premises. The last decision relied by the learned counsel for the respondent in ***Kanta Goel Vs. B.P.Pathak and others*** reported in **1977 (2) SCC 814** also reiterates that each of the co-owners need not join in the eviction proceedings. As such, all the three decisions relied upon may not be of any help to the first respondent herein.

17.In the light of the decisions taken by this Court in CRP.Nos.2291 and 2292 of 2018 dated 22.11.2018, I am of the affirmed view that the implead petitioner/first respondent is neither

a proper party nor a necessary party to the eviction proceedings and that his right over his claim would be only through an independent and appropriate proceedings.

18.In view of the aforesaid reasonings, the fair and decreetal order passed by the learned Principal District Munsif, Thiruvannamalai, Tiruvannamalai District in I.A.Nos.6 & 7 of 2017 both dated 26.04.2017 are hereby set aside. Consequently, both the civil revision petitions stand allowed. Connected Miscellaneous Petition is also closed. No costs.

19.12.2018

Index : Yes/No

Order :Speaking/Non speaking

DP

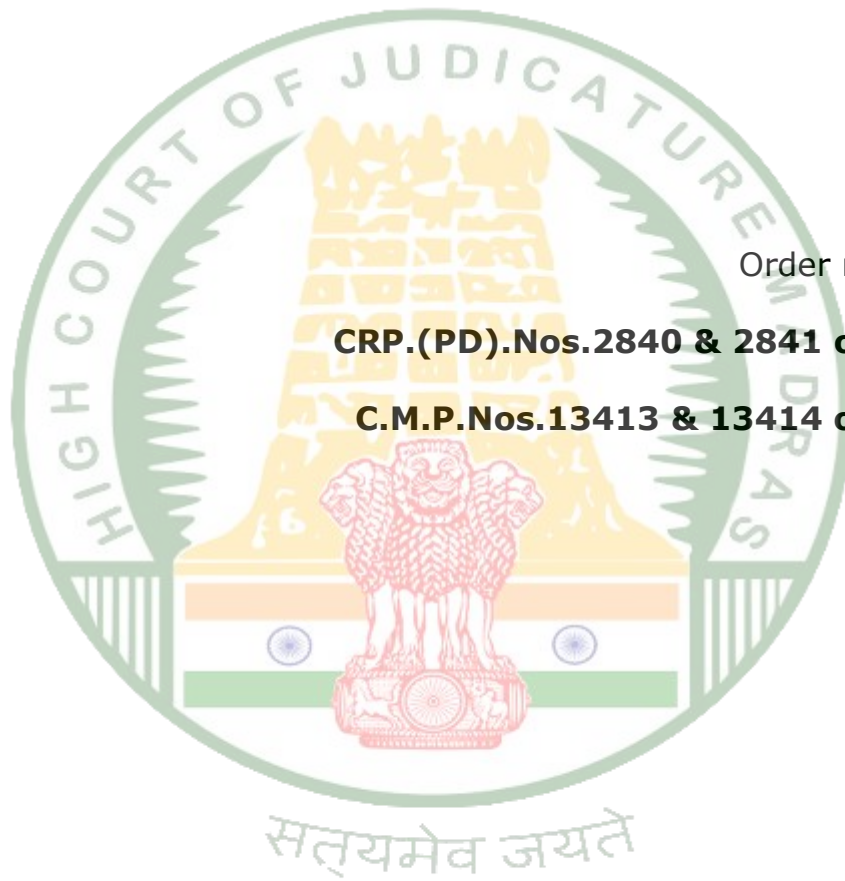
To

The Principal District Munsif,
Thiruvannamalai,
Thiruvannamalai District

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M.S.RAMESH, J.

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Order made in

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