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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 11.10.2018

PRONOUNCED ON : 14.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

C.R.P.No.2965 of 2018

and

C.M.P.No.17328 of 2018

Raji ... Petitioner / Respondent / Tenant

-vs-

Jayaraman ... Respondent / Petitioner / Landlord

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, praying to set aside the fair and decreetal order dated 07.09.2018 made in E.P.No.24 of 2017 in R.C.O.P.No.38 of 2011 on the file of the learned Rent Controller cum District Munsif, Ambattur.

For Petitioner : Mr.C.Sivanesan

ORDER

The tenant is the revision petitioner herein. The landlord is the respondent herein.

2.This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 07.09.2018 made in E.P.No.24 of 2017 in R.C.O.P.No.38 of 2011 on the file of the learned Rent Controller cum District Munsif, Ambattur.

3.The learned counsel appearing for the revision petitioner would submit that the respondent / landlord has not proved that the petitioner / tenant is a wilful defaulter towards monthly rent for rental premises. The fair and decreetal order passed in favour of the respondent / landlord to evict the tenant premises situated in "Santhanam Colony" instead of "Santham Colony". The learned Judge, while considering the execution petition without making correction in the fair and decreetal order in R.C.O.P.No.38 of 2011 had corrected the order made in E.P.No.24 of 2017, dated 07.09.2018, citing Section 151 of C.P.C., is not valid in the eye of law.



4. Heard the learned counsel appearing for the revision petitioner herein and perused the materials available on record carefully.

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5. It appears that the respondent / landlord has filed R.C.O.P.No.38 of 2011 for delivery of possession of the petition premises and the same was decreed on 19.07.2017. Though the plea was raised before the learned Rent Controller cum District Munsif that he has preferred an appeal against the judgment and decree in the above said rental proceedings, no number has been furnished before the Execution Court. The learned Rent Controller cum District Munsif, taking note of the fact that "Santham Colony and Santhanam Colony does not affect the identity of the property, has allowed E.P.No.24 of 2017 and ordered for eviction. Hence, the tenant has preferred this Civil Revision Petition before this Court.

6. Even during the argument in this Civil Revision Petition, the learned counsel appearing for the revision petitioner / tenant could not able to furnish the details about the alleged appeal said to have been pending before the Appellate Authority. With regard to the typographical error in the petition property mentioned in the decree, namely Santhanam Colony instead of Santham Colony, the learned District Munsif cum Rent Controller has taken note of the averment made in the counter filed by the judgment debtor in R.C.O.P.No.38 of 2011, wherein, he has not averred any single averment denying the identity of the property as projected now. P.W.1 in the cross-examination has categorically deposed that the petition premises is located at Santham Colony, Anna Nagar West. At that time, the judgment debtor has not raised any objection with regard to the wrong description.

7. Taking note of the typographical error, it appears that the learned District Munsif cum Rent Controller has exercised his power under Section 151 C.P.C. and amended the decree. As such, the order passed by the learned Rent Controller / District Munsif, being well considered and well merited, does not suffer from any infirmity or impropriety, warranting interference by this Court.

8. In this view of the matter, I find no grounds to interfere with the well considered order dated 07.09.2018, passed by the Rent Controller Cum District Munsif, Ambattur in E.P.No.24 of 2017 in R.C.O.P.No.38 of 2011 and the same is hereby confirmed.



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9. Accordingly, this Civil Revision Petition is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

Myr

To

1. The Rent Controller cum District Munsif,
Ambattur.

+1 cc to Mr.M.Baskaran, Advocate, S.R.No.86507

Order made in
C.R.P.No.2965 of 2018

SSD(CO)
SSM(21/01/2019)