

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2019

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(NPD).Nos.590, 593, 651 & 652 of 2019

&

C.M.P.Nos.3959, 3967, 4324 & 4327 of 2019

C.R.P.(NPD).No.590 of 2019

Mrs.Rathika Devi

...Petitioner

Vs

Mr.S.Thangavel

... Respondent

Prayer in C.R.P.(NPD).No.590 of 2019: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 against the fair and decretal order dated 04.12.2018 passed on the re-call petition in M.P.Sr.No.84007 of 2018 in R.C.A.No.745 of 2014 pending on the file of the VII Small Causes Court, Chennai.

C.R.P.(NPD).No.593 of 2019

Mr.Shyam Narayan Singh

...Petitioner

Vs

Mr.S.Thangavel

... Respondent

Prayer in C.R.P.(NPD).No.593 of 2019: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 against the fair and decreetal order dated 04.12.2018 passed on the re-call petition in M.P.Sr.No.84008 of 2018 in R.C.A.No.747 of 2014 pending on the file of the VII Small Causes Court, Chennai.

C.R.P.(NPD).No.651 of 2019

Moideenkutty

...Petitioner

Vs

Mr.S.Thangavel

... Respondent

Prayer in C.R.P.(NPD).No.651 of 2019: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 against the fair and decreetal order dated

06.12.2018 passed in M.P.Sr.No.84906 of 2018 in R.C.A.No.741 of 2014 by the VII Small Causes Court, Chennai.

C.R.P.(NPD).No.652 of 2019

Gangadharan

...Petitioner

Vs

Mr.S.Thangavel

... Respondent

Prayer in C.R.P.(NPD).No.652 of 2019: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 against the fair and decreetal order dated 06.12.2018 passed in M.P.Sr.No.84908 of 2018 in R.C.A.No.742 of 2014 by the VII Small Causes Court, Chennai.

For Petitioners : Mr.L.Gavaskar

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ORDER

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A common order is being pronounced by this Court considering the fact that the issue involved in all the

revision petitions are one and the same. The respective revision petitioners are the tenants.

2.The respondent/landlord had filed Rent Control Proceedings against the four tenants for eviction on the ground of demolition and reconstruction. The said R.C.O.Ps have been filed in the year 2009, the counter statement was filed in November 2009 itself and the additional counter statement was filed in January 2014 wherein they had contended that the land stands in the name of the Temple, M/s.Thiruvatteswaranpet Temple.

3.The learned Rent Controller after an elaborate consideration of the evidence on record allowed the respective Rent Control Petitions. Challenging the same each of the tenants have filed Rent Control Appeal before the Appellate Authority namely the VII Judge, Small Causes

Court, Chennai (Rent Control Appellate Authority, Chennai).

4. Pending the said Rent Control Appeals, the tenants had taken out the applications to implead the temple Authorities as parties to the proceedings. The implead applications were dismissed and thereafter each of the revision petitioners have filed a Civil Revision Petitions before this Court in C.R.P.No.2669, 2670, 3031 and 3102 of 2017. This Court by an order dated 11.12.2017 was pleased to dismissed the said Civil Revision Petitions with liberty given to the petitioners to examine the Temple Authorities as witnesses in the said proceedings.

5. Thereafter, the tenants filed an interlocutory applications to examine the Executive Officer of the M/s.Thiruvatteswaranpet Temple. The authorities were asked to produce the necessary documents.

6.The Appellate Authority considering the orders of the Court was pleased to allow the respective Miscellaneous Petitions and the matter was posted for the examination of the Executive Officer to 02.11.2018. The respondent had examined the Executive Officer, when the cross examination of the Executive Officer was being done the counsel was not present and thereafter the petitioner had come forward with an application to re-call the Executive Officer to re-examine him. These petitions were not allowed by the Appellate Authority who in her order dated 04.12.2018 has stated as follows:

"The main RCA is of the year 2014. This Petitioner is the Appellant/Tenant and on 26.03.2015 this Appeal was dismissed for default. Then restored. Then she filed impleading petition and it was dismissed. Against which she preferred Revision and as per the direction in the

Revision order, again she filed Petition to examine the witness on his side and it was allowed and the witness was examined and at the time of cross examination of her own witness the Petitioner's counsel purposely remained absent and the Appeal was posted for arguments. She was not ready and Respondent's counsel argued and even after posted for Appellant's argument as last chance on 30.11.2018, her counsel did not argue but wants to adjourn the Appeal. Hence the Appeal is posted on 18.12.2018 for Judgment with permission to argue on any date before Judgment and today she filed this Petition. All these activities clearly established that only to delay the proceedings, she had filed this Petition. She had already given sufficient opportunities. Hence this Petition is rejected."

7. Therefore it is seen that the counsel for the tenant was deliberately absent and after the matter was posted for arguments on 30.11.2018 the counsel refused to argue but sought an adjournment. The appeal was posted on 18.12.2018 for Judgement and permission was given to the counsel to argue the matter, on the said day the Judgement was pronounced. The learned Judge has clearly held that the tenant/revision petitioners were adopting Dilatory tactics.

8. Challenging the said order the revision petitioners are before this Court. The only argument that has been put forward by the counsel for the revision petitioners is that the other side has not been served notice, the learned Judge has passed the order without even numbering the Miscellaneous Petitions.

9. Apart from this no arguments have been put forward. It is seen that, as early as in the year 2017 this Court had dismissed the revisions filed by the tenants seeking to implead the Temple Authorities with a prayer to examine the Executive Officer of the Temple. Pursuant to this prayer the application has also been moved, the cross examination and the chief examination of the Executive Officer has taken place.

10. The non-appearance of the counsel cannot be the ground for seeking a re-call. It is the duty of the counsel to ensure his presence when the cross examination of the witness takes place. There is no valid reason given in the affidavit filed in support of the petition for re-calling and re-examining the Executive Officer of the Temple Authority.

I find no infirmity in the order passed by the learned Appellate Authority. The Civil Revision Petitions are dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petitions are also closed.

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Index : Yes/No
Speaking order/non-speaking order

To

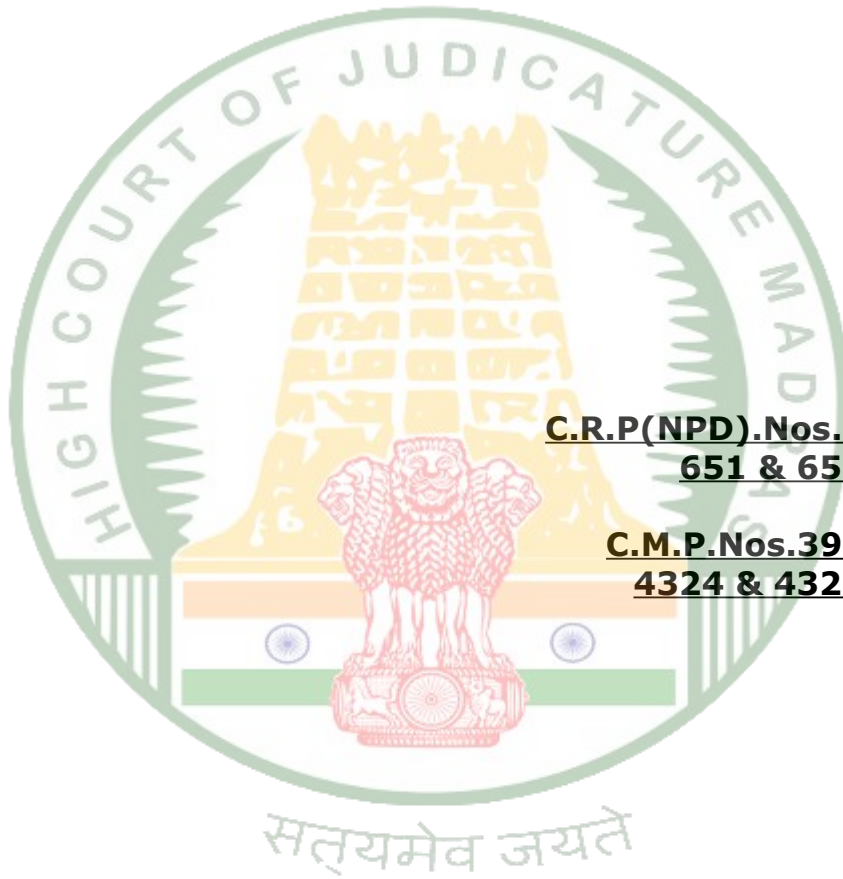
The VII Small Causes Judge,
Chennai



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P.T.ASHA, J.,

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