

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.06.2019

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRP (PD) No.4632 of 2013 and
M.P.No.1 of 2013

Azmathunnisha ... Petitioner

Vs.

Aziz Baig @ Mushtaq ... Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act against the orders dated 08.11.2013 passed in RCA No.293 of 2013 by the VIII Judge, Court of Small Causes, Madras reversing the orders dated 23.04.2013 passed in M.P.No.96 of 2013 in RCOP No.1929 of 2005 by the XI Judge, Court of Small Causes, Chennai.

For Petitioner : Mr.Perumbulavil Radhakrishnan
For Respondent : Mr.D.Moses Jayakaran

ORDER

The civil revision petition is filed by the petitioners/land lord in RCOP No.1929 of 2005 on the file of the XI Judge, Court of Small Causes, Chennai. The civil revision petitioner filed the above RCOP No.1929 of 2005

for eviction of the respondent. During the pendency of the said RCOP, he filed a petition in M.P.No.96 of 2013 for amending the name of the respondent, door number and the address of the petition premises.

2. The learned XI Judge, Court of Small Causes, Chennai, after full contest, allowed the said application and aggrieved over the same, the respondent/tenant filed an appeal in RCA No.293 of 2013 before the VIII Judge, Court of Small Causes, Chennai. The learned VIII Judge, Court of Small Causes vide his order dated 08.11.2013, allowed the appeal by holding that since the amendment sought for by the petitioner is to amend the name of the respondent and address of the petition premises, it would affect the basic structure of the RCOP and the right of the tenant. Therefore present civil revision petition has been filed by the petitioner in RCOP No.1929 of 2005.

3. The main contention of the revision petitioner is that she has mentioned the name of the respondent as Aziz Baig instead of Azeezullah baig and also wrongly indicated the door number and address petition premises as 13/1, Dimmasami Darga 1st Street, Chennai-82 instead of Door No.13/4, Dimmasami Darga Lane, Chennai-82. According to her, she has wrongly indicated the name and address of the petition premises while

drafting the affidavit and therefore, sought for amendment of the Rent Control Original Petition.

4. In the counter affidavit, the respondent did not specifically deny that his name is not Azeezullaha Baig and that the address of the petition premises is door No.13/4, Dimmasami Darga Lane, Chennai-82. His only contention is that the property is a wakf Board property and that the petitioner has filed the amendment petition with considerable delay. While the Rent Controller allowed the amendment application, the first appellate court dismissed the amendment petition on the ground that the amendment sought for by the civil revision petitioner/ land lord would affect the basic structure of the rent control original petition.

5. It is to be pointed out that the amendment is sought for on the ground of inadvertent and typographical error. When the respondent did not deny the correctness of the door number of the petition mentioned premises and also his name, the first appellate court has definitely erred in reversing the findings of the learned XI Judge, Court of Small Causes.

6. The order in M.P.No.96 of 2013 in RCOP No.1929 of 2005 permitting the land lord to correct the door number of the petition

premises in question is procedural and it cannot be said to be a final order coming within the definition of an order under Section 23(1) of the Rent Control Act. Further more, if the land lord is not permitted to amend the pleadings with regard to the change of door number of the premises and the name of the respondent, there will be multiplicity proceedings. It is also not shown as to how the respondent is prejudiced by permitting the landlord to amend the petition. In the said circumstances, the Civil Revision petition has to be allowed.

7. In the result, the civil revision petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed. The orders passed by the first appellate court is set aside. Since the Rent Control Original petition is of the year 2005, the XI Judge, Court of Small Causes, Chennai is directed to dispose the RCOP within a period of one month from the date of receipt of a copy of this order.

19.06.2019

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

To

1. The XI Judge, Court of Small Causes, Chennai.

R.HEMALATHA,J.
mst



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