

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.No.1019 of 2019

and

C.M.P.No.6731 of 2019

M.Gagan Bothra

... Petitioner

Vs.

1.Balamananian

2.S.Mukanchand Bothra

3.M.Sandeep Bothra

.... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the impugned docket order dated 26.02.2019 passed by the XIV Judge, Court of Small Causes, Chennai in M.P.No.420 of 2018 in R.C.O.P.No.927 of 2017.

For Petitioner : Party in Person

O R D E R

This petition is filed by the petitioner seeking to set aside the docket order dated 26.02.2019 passed by the XIV Judge, Court of Small Causes, Chennai in M.P.No.420 of 2018 in R.C.O.P.No.927 of 2017. The docket order reads as under:

"Petitioner counsel present. Petitioner side enquiry heard and exhibits P1 P2 marked. No representation for the respondent till 4.30 P.M. Respondent side enquiry by 12.03.2019."

2. The petitioner appeared in person and submitted under Rule 12 (2) of Tamil Nadu Buildings (Lease and rent control Act, 1922) which specify that the Rent controller shall give the parties an opportunity to state their case. He shall also record the brief note of eviction of the parties and witness, if any, examined on either side and upon evidences recorded and after consideration of any documentary evidence pass orders on the application. According to him, the petitioner side without presence of the witness has marked Ex.P1 and P2 thereby depriving him an opportunity of cross examining the witness. Therefore, the procedure adopted by the rent controller is contrary to law and rely on the judgment of this Court in C.R.P. (NPD).No.3717 of 2009 dated 20.08.2018.

3. Heard both sides.

4. The miscellaneous petition filed by the first respondent / landlord is under Section 11(4) Tamil Nadu Buildings (Lease and Rent Control) Act, in which he filed rental receipts and bank statement in support of his case. The rental receipt issued to the bank and the bank statement of the first respondent / landlord proves the default.

5. The learned counsel for the petitioner would contend that it shall be marked only through witness and not directly. Rule 12(2) pertains to rent control petitions filed by the parties under the said Act. This procedure will not apply to the miscellaneous proceedings, where the documents are marked by the parties. Therefore, the contention of the petitioner to mark only through witness through chief examination and that he shall be given opportunity to cross examination is not sustainable.

6. I do not find any merit in the civil revision petition and accordingly dismissed. The rent controller is directed to dispose of the I.A. Within a period of thirty days from the date of a receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

bkn

To

The XIV Judge, Court of Small Causes, Chennai.

+1cc to Mr.P.B.Ramanujam, Advocate, SR.No.48334.

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C.R.P.No.1019 of 2019
and
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PA(CO)
CSR: 31.01.2020