

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(PD)No.2902 of 2019 and
C.M.P.No.18815 of 2019

M.A.Rua

... Petitioner

Vs.

Y.J.Shamsuddin
S/o.Yousuf Ali
Old No.163, New No.4,
Santhome High Road,
Mylapore, Chennai – 600 004.
Rep. By its Power Agent
Mr.S.J.Mohammed

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India praying to struck off the R.C.O.P.No.82 of 2017 on the file of the Court of the XV Small Causes Judge, Chennai filed by the respondent as not maintainable.

For Petitioner : Mr.B.Janaki Ram

ORDER

This revision petition has been filed invoking Article 227 of the Constitution of India, that is the superintending power of this Court over the Subordinate Courts.

2.The petitioner is the tenant under the respondent, who filed R.C.O.P.No.82 of 2017 on the file of the XV Small Causes Court, Chennai under Section 10(2)(i) and 10(3)(a)(iii) of the Tamil Nadu Building (Lease and Rent Control) Act, 1960.

3.In this context, it is the grievance of the revision petitioner that the revision petitioner was the tenant under the original owner, who subsequently seems to have sold the property to the present owner one Y.J.Shamsuddin and who only filed the RCOP through a Power of Attorney, S.J.Mohammed, who is none other than the son of Y.J.Shamsuddin, who is the present owner of the property. However, the original owner of the property, seems to have executed yet another Power of Attorney to and in favour of one Kaleel Rahuman, who is noway connected with the property.

4.In this context, it is the point to be urged by the learned counsel appearing for the revision petitioner that, even though there is a Power executed in favour of S.J.Mohammed and still the said power is subsisting, the original owner i.e. Y.J.Shamsuddin cannot execute yet another Power of Attorney to one Kaleel Rahuman and who steps

into the shoes of the owner of the property, who is the respondent herein and he wanted to persuade the RCOP and therefore, according to the learned counsel for the petitioner, in respect of one property, there cannot be two Power of Attorney Holders and therefore, on that ground, the RCOP cannot be maintained by the present Power of Attorney Holder, unless and until, the earlier Power of Attorney is cancelled or terminated by the Principal.

5.In this context, it is the further grievance of the petitioner, as projected by the learned counsel for the revision petitioner that, though this has been raised as an objection before the Rent Controller, the said objection has not been considered and in fact, the learned Rent Controller has not even taken into account such objection, by rejecting the memo filed by the revision petitioner orally. Therefore, only in that context, the present revision has been filed to strike off the plaint, by exercising the power of Article 227 of the Constitution of India.

WEB COPY

6.I have gone through the materials placed before this Court and heard Mr.B.Janaki Ram, learned counsel for the petitioner.

7.Insofar as the ground urged by the learned counsel for the petitioner that, while the earlier Power of Attorney is still subsisting, there cannot be any second Power to be executed by the land owner and therefore, on that ground, the present RCOP, pending before the Court below cannot be maintained, is concerned, if any memo is filed by the revision petitioner, who is the tenant, before the Court below, the same shall be taken on file and to be decided as a preliminary issue by the Rent Controller.

8.Once the said issue to be raised by the revision petitioner is decided on merits as a preliminary issue before going into the merits of the RCOP that will suffice, that the grievance of the petitioner would be addressed and met. In that view of the matter, this Court is inclined to dispose of this civil revision petition, with the following order:

That by rejecting the plea of strike off the RCOP, as has been claimed in this revision petition, this Court is inclined to give a direction to the learned Rent Controller i.e., XV Small Causes Judge, Chennai to decide the issue to be raised by the revision petitioner, who is the tenant

therein, as to the validity of the Power of Attorney given to the 3rd party one Kaleel Rahman, during the subsistence of earlier Power of Attorney given by the land owner to his son one S.J.Mohammed, as a preliminary issue, without going into the merits of the RCOP, within a period of 30 days from the date of receipt of a copy of this order.

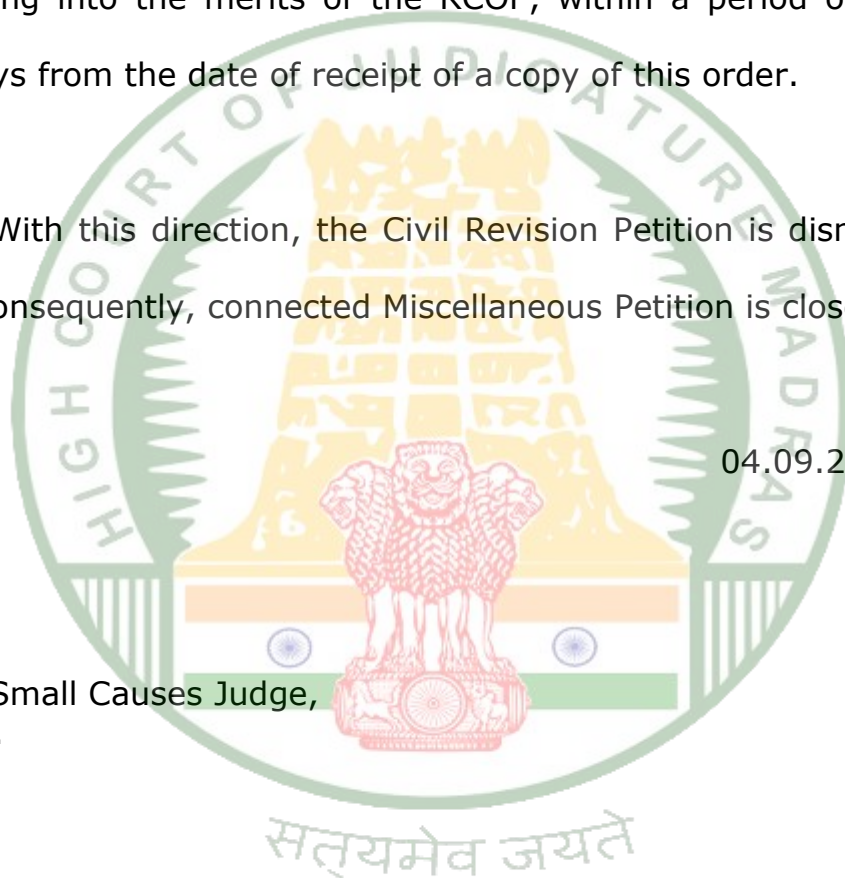
9. With this direction, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

04.09.2019

Sgl

To

The XV Small Causes Judge,
Chennai.

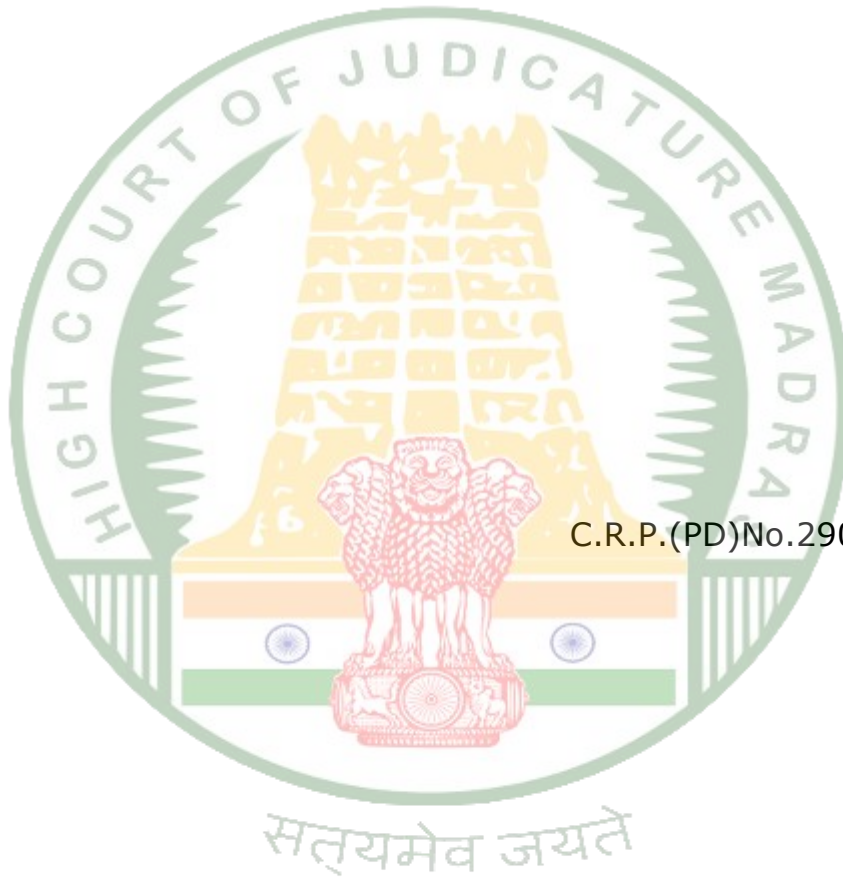


WEB COPY

C.R.P.PD.No.2902 of 2019

R.SURESH KUMAR, J.

Sgl



C.R.P.(PD)No.2902 of 2019

WEB COPY

04.09.2019