

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.R.P.(PD)No.3092 of 2014
and M.P.No.1 of 2014

B.Zaheer Hussain

... Petitioner

Vs

1.Zahidha Begum

2.Paciappan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decretal orders of the learned District Munsif of Krishnagiri District, dated 13.06.2014 in I.A.No.1 of 2014 in R.C.O.P.No.6 of 2012.

For Petitioner : Mr.J.Hariharan

for Mr.V.Nicholas

For Respondents : Mr.P.Mani for R1

R2 - served – no appearance

ORDER

The instant Civil Revision Petition has been filed challenging the order dated 13.06.2014, passed by the learned District Munsif, (Rent Controller) Krishnagiri in I.A.No.1 of 2014 in RCOP.No.6 of 2012.

Brief facts leading to the filing of the instant Civil Revision Petition filed under Article 227 of the Constitution of India:

2.The petitioner is the landlord and the second respondent is the alleged tenant. The petitioner filed RCOP.No.6 of 2012 against the second respondent seeking to evict him from the rented premises on the ground of wilful default and owner's occupation. During the pendency of RCOP.No.6 of 2012, the first respondent filed I.A.No.1 of 2014 in RCOP.No.6 of 2012 under Order 1 Rule 10 CPC seeking to implead herself as a party to RCOP.No.6 of 2012 since according to her, she is the absolute owner of the petition schedule property and the second respondent is the tenant. A counter affidavit was also filed by the petitioner in I.A.No.1 of 2014 in RCOP.No.6 of 2012 denying the allegations contained in the affidavit filed by the first respondent in I.A.No.1 of 2014.

3.By order dated 13.06.2014, the Rent Controller, namely, the learned District Munsif, Krishnagiri allowed I.A.No.1 of 2014 in RCOP.No.6 of 2012.

4.Aggrieved by the same, the instant Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India.

5.Heard Mr.J.Hariharan, learned counsel for the petitioner and Mr.P.Mani, learned counsel for the first respondent. Despite service of notice on the second respondent in this Civil Revision Petition, there is no appearance on his side.

6.The learned counsel for the petitioner drew the attention of this Court to the following authorities, namely:

(a)A Single Bench judgment of this Court in the case of ***Aruppukottai Dravida Munnetra Kazhagam vs. M.Periaswami and another*** reported in **1974 TNLJ 247**

(b)A Single Bench judgment of this Court in the case of ***M.Paul Raj vs. N.Paramasivam and Another*** reported in

2009(6) MLJ 985 and submitted that the Order 1 Rule 10 (2) CPC is not applicable to the proceedings initiated under the Tamil Nadu Buildings (Lease and Rent Control) Act and therefore, according to him, I.A.No.1 of 2014 filed by the first respondent seeking to implead himself as a party to RCOP.No.6 of 2012 ought to have been dismissed by the Rent Controller.

7.Per contra, the learned counsel for the first respondent would submit that the first respondent is the real landlord and not the petitioner and therefore, he is a necessary party for the effective adjudication of RCOP.No.6 of 2012 filed by the petitioner claiming to be the landlord.

8.He drew the attention of this Court to the pleadings contained in the counter statement filed by the second respondent/tenant as well as the affidavit filed by the first respondent in support of I.A.No.1 of 2014 and submitted that since there is a denial of title, the first respondent is a necessary party for the effective adjudication of RCOP.No.6 of 2012.

Discussion:

9.This Court has perused and examined the decisions cited by the learned counsel for the petitioner and is in agreement with the view taken therein that Order 1 Rule 10 (2) CPC is not applicable for the proceedings initiated under the Tamil Nadu Buildings (Lease and Rent Control) Act. Despite the settled law, the Rent Controller has entertained the application filed by the third party seeking to implead himself as a party to rent control proceedings under the impugned order. The first respondent, who claims to be the real landlord can very well be examined as a witness to support the case of the second respondent, who is the tenant in RCOP.No.6 of 2012 as according to him, as on date, there is no dispute between him and the second respondent/tenant. Instead of choosing that option, the first respondent has chosen to file I.A.No.1 of 2014 in RCOP.No.6 of 2012 under Order 1 Rule 10(2) CPC, which is not maintainable in law in view of the settled position. The Rent Controller ought to have dismissed the application, but, instead by an erroneous order has allowed the same.

10.For the foregoing reasons, there is merit in this Civil Revision Petition. Accordingly, the impugned order dated 13.06.2014, passed in I.A.No.1 of 2014 in RCOP.No.6 of 2012 by the learned District Munsif (Rent Controller), Krishnagiri, is set aside and the Civil Revision Petition is allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.08.2019

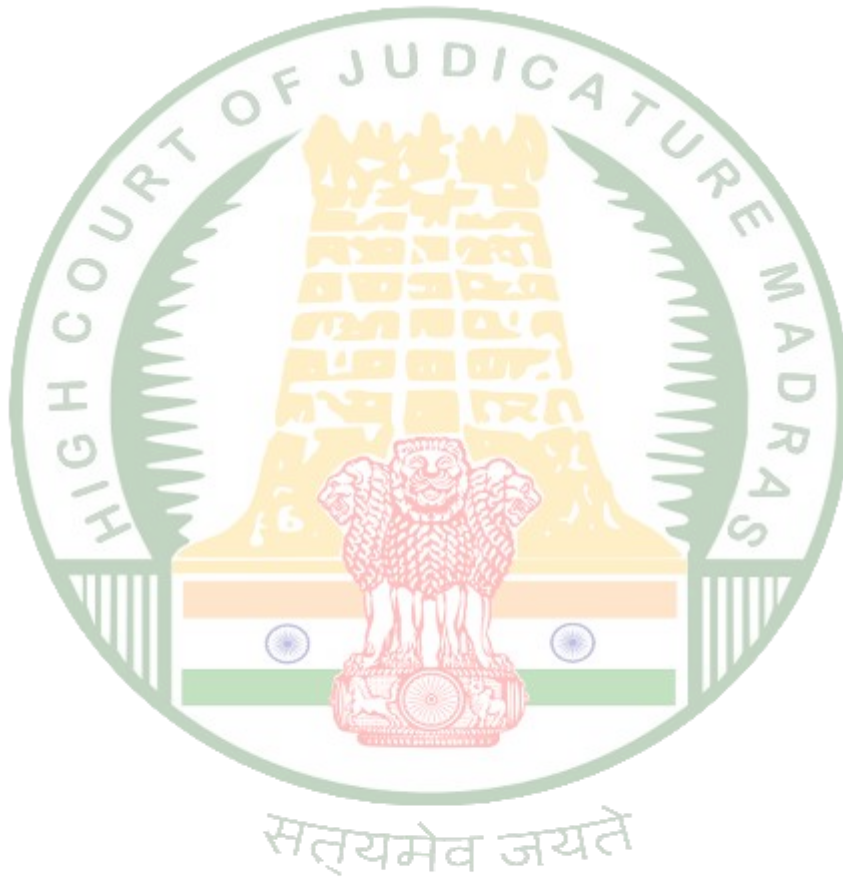
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To

The District Munsif (Rent Controller), Krishnagiri.



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ABDUL QUDDHOSE, J.

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