

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)No.2159 OF 2019

and

C.M.P.No.13897 OF 2019

T.K.Ravichandra Mouli (Deceased)

Vijayasamundeeswari

... Petitioner

Vs.

A.Vijayaraghunathan

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 30.04.2019 passed in E.A.Sr.No.32343 of 2019 in E.P.No.582 of 2018 in R.C.O.P.No.2107 of 2013 by XIV Small Causes Court, Chennai.

For Petitioner : Mr.P.Thiagarajan

For Respondent : Mr.L.Ramkumar

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ORDER

This petition is filed by the petitioner seeking to set aside the fair and decreetal order dated 30.04.2019 passed E.A.Sr.No.32343 of 2019 in

E.P.No.582 of 2018 in R.C.O.P.No.2107 of 2013 by XIV Small Causes Court, Chennai.

2. The petitioner is the tenant and the respondent is the landlord. The Eviction order was passed against the petitioner by the Rent Controller in R.C.O.P.No.2107 of 2013 on the grounds of willful default and own use and occupation. Against which the petitioner filed an appeal before the Rent Control Appellate Authority vide R.C.A.No.701 of 2018. She also filed a petition for stay in M.P.No.313 of 2018 in R.C.A.No.701 of 2018 in which the Rent control Appellate Authority vide order dated 03.10.2018, granted interim stay on condition that the petitioner deposit a sum of Rs.3,50,000/- on or before 22.10.2018. Since the petitioner failed to comply with the conditional order, the interim stay granted was vacated on 23.10.2018.

3. The respondent / landlord filed an Execution Petition in E.P.No.582 of 2018 seeking delivery of vacant possession, against which, the petitioner / tenant filed an Execution Application in E.A.SR.No.32343 of 2019 under Section 47 CPC, wherein the entire issue raised in the appeal has been re-agitated before the Execution Court. After considering the same in E.A.SR.No.32343 of 2019 in E.P.No.582 of 2018 in R.C.O.P.No.2107 of 2013, the Execution Court has held it cannot re-appreciate the evidence and the findings rendered in R.C.O.P.No.2107 of 2013 and dismissed the same on 30.04.2019. Aggrieved over the same, the petitioner is before the Court.

4. On considering the factual aspects, it is seen that the eviction order passed by the Rent Controller was stayed by the Rent control Appellate authority, on condition of deposit of 50% of the rental arrears. Since the petitioner failed to comply

with the conditional order, the stay was vacated. It is open to the petitioner to prosecute the appeal filed by him which will not stand in the way of the decree being executed. The petition in E.A.SR.No.32343 of 2019 is nothing but an attempt by the petitioner to re-agitate against the eviction order passed by the Rent Controller which course can be opened in an appeal and it cannot be entertained under Section 47 CPC.

5. In fine, the Civil Revision Petition merits no consideration and accordingly dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

09.07.2019

Index: Yes / No

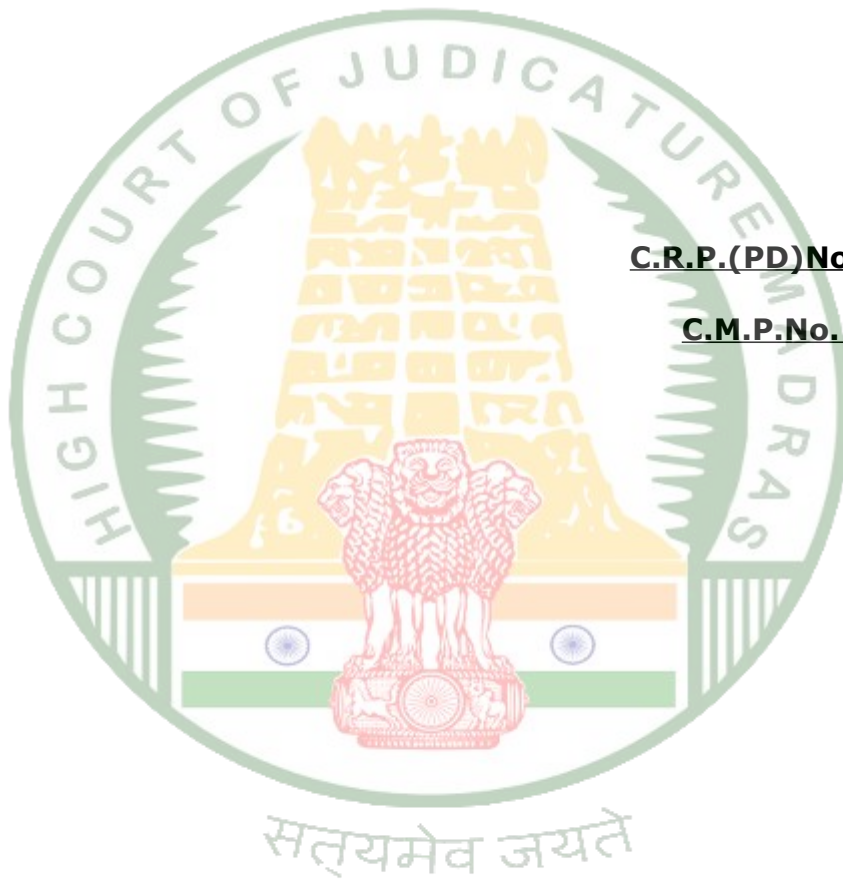
Speaking Order / Non Speaking Order

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To

The XIV Small Causes Court, Chennai.

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