

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.No.4340 of 2017

and

C.M.P.No.20427 of 2017

N.Jaganmohan

... Petitioner/Appellant/Petitioner

-vs-

C.Arun

... Respondent/Respondent/Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Building (Lease & Rent Control) Act against the Fair and Decreetal order dated 27.10.2017 passed by VII Small Cause Court, Chennai in RCA.No.349 of 2015 against the fair and decreetal order passed by X Small Causes Court in R.C.O.P.No.1758 of 2012 dated 13.11.2013.

For Petitioner : Mr.S.Devanathan

For Respondent : No appearance

O R D E R

The present Civil Revision Petition has been filed challenging the order passed by the Rent Control Appellate Authority namely, the VII Small Cause Court, Chennai in R.C.A.No.349 of 2015, in setting aside the order passed by the Rent Controller (X Small Causes Court, Chennai) in R.C.O.P.No.1758 of 2012 and remitting the same back to the Rent Controller for fresh enquiry.

2. The appellant is only aggrieved by the remand of the entire proceedings to the Rent Controller, without restricting the order to inviting findings on the issues raised in the appeal namely, the issue of additional accommodation as well as relative hardship from the Rent Controller as they have not been considered by the Rent Controller.

3. The learned counsel for the petitioner would also rely on the Judgement reported in [1990] 2 LW 385, Govindasamy V. Parasuraman, where his Lordship Justice Mr. Srinivasan, as he then was, had an occasion to consider a similar issue. The issue in revision therein was, that the Appellate Authority ought to have remitted the matter in entirety to the Rent Controller for fresh disposal, after setting aside the order of the Rent Controller, instead of inviting findings which was a reverse case to the instant case. The learned Judge had dismissed the said revision, holding that it was well within the right of Appellate Authority to retain the appeal and call for a finding from the Rent Controller.

4. Section 23(3) of the Tamil Nadu Building (Lease and Rent Control) Act, 1960 reads as follows:

"The Appellate Authority shall call for the records of the case from the Controller and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as he thinks fit either personally or through the Controller, shall decide the appeal."

5. Rule 16(2) of the said act further forfeits, this as it reads as follows:

"If the Appellate Authority decided to make further inquiry he may take additional evidence or require such evidence to be taken by the Controller."

6. Therefore, from a conjoint reading of the provisions of law and the records, it is clearly evident that the Rent Control Appellate Authority need not remand the matter in entirety but could just call for fresh findings from the Rent Controller keeping the appeal pending.

7. In the result, the order in R.C.A.No.349 of 2015, is modified by stating that the Rent Control Appellate Authority shall retain the appeal on file and invite the findings from the Rent Controller namely, X Small Causes Court, Chennai, with reference to relative hardship and additional accommodation. The said exercise shall be done by the Appellate Authority by issuing necessary instructions to the X Small Causes Court, Chennai in R.C.O.P.No.1758 of 2012, within a period of three weeks from the date of receipt of a copy of this order.

8.The Civil Revision Petition is allowed and the order is modified, as stated supra. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

smv/hvk

To

1. The VII Small Causes Court,
Chennai.

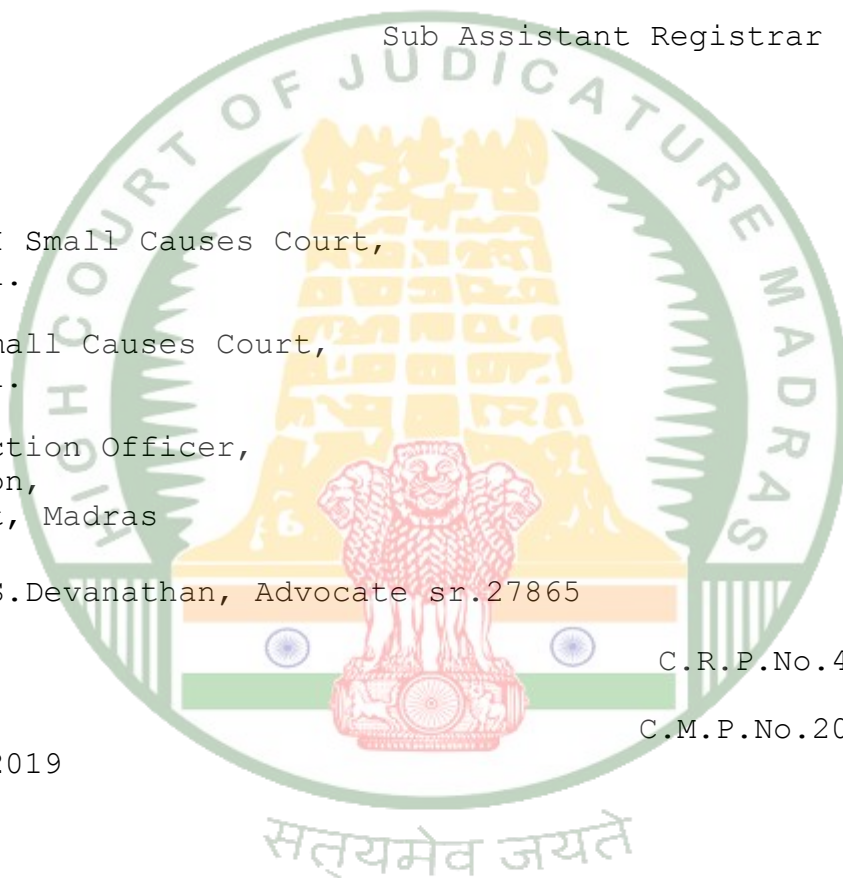
2.The X Small Causes Court,
Chennai.

3. The Section Officer,
V.R Section,
High Court, Madras

+2ccs to Mr.S.Devanathan, Advocate sr.27865

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nr 04/06/2019



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