

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(PD).No.3847 of 2018

&

C.M.P.No.21421 of 2018

S.Vijayalakshmi

...Petitioner

Vs

A.M.Shanmugam, (Deceased)

1.Leelavathi

2.Nirmala

3.Sumathy

4.Vijayakumari

... Respondents

Prayer: Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 against the fair and decretal order dated 09.10.2018 in M.P.No.282 of 2018 in R.C.A.No.734 of 2012 by the learned VIII Small Causes Court,

Chennai.

For Petitioner : Mr.A.K.Kumarasamy
Senior Counsel
for Mr.T.Surendran

For Respondents : Mr.V.Chanakya

ORDER

The above Civil Revision Petition is filed challenging the order passed by the learned Rent Control Appellate Authority (VIII Small Causes), Chennai in partly rejecting the petition filed by the revision petitioner for making amendments to the grounds of appeal and for marking documents. The facts in brief are as follows:

2.The respondent/landlord had filed R.C.O.P.No.455 of 2009 against the revision petitioner for eviction on the ground of demolition and reconstruction. The said R.C.O.P was allowed and challenging the same revision petitioner had come forward with an appeal in R.C.A.No.734 of 2012 on the file of the learned Rent

Control Appellate Authority (VIII Small Causes, Chennai). Pending the said appeal the revision petitioner/tenant has come forward with the impugned petition. In the affidavit filed in support of the said petition she would contend that they had come to know that the respondent/landlord is not the owner of the suit schedule property and that the same had been partitioned between him and his sister one Karpagambal as early as on 12.03.2003 and thereafter, the said Karpagambal had settled the property in favour of her son on 15.12.2004. Therefore, she sought to amend the grounds of appeal and also mark these two documents.

3.The learned Appellate Authority after hearing parties has partly allowed the petition relating to the amendment of the grounds of appeal but rejected the same with reference to the marking of documents stating that a separate application had to be moved and the same will be heard along with the appeal.

4.Challenging the said order the revision petitioner/tenant is before this Court. Mr.A.K.Kumarasamy, Senior Counsel appearing on behalf of Mr.T.Surendran would contend that the Rent Control Petition filed by the respondent is not maintainable since he is not the landlord and it is to establish these facts that the revision petitioner wanted to have the document marked and the observation of the learned Judge that the separate application has to be moved on the filing of the said application and the same has to be heard along with an appeal is erroneous. The tenant has not given a chance for bringing to the notice of the Court the fact that the respondent/landlord is not the owner of the premises.

5.Mr.V.Chanakya, learned counsel for the respondents would contend that no prejudice has been caused to the revision petitioner.

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6. Heard the counsels and perused the papers. It is an axiomatic principle of law in the case of the Rent Control Proceedings, ownership of the property is not the point for consideration but the factor to be considered is the person who is receiving the rents. The landlord under the Tamil Nadu Buildings (lease and rent Control) Act, would read as follows:

"(6) "landlord" includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the building were let to a tenant."

From a reading of the above it is clear that whether the person is the owner of the property or not he still has the right as the landlord subject to his proving that it was he who had leased out the property and receiving the rents.

The learned Appellate Authority was right in rejecting the request of the revision petitioner/tenant to mark documents and directing him to file a separate application. Two reliefs cannot be clubbed in a single petition. It is also seen that the landlord has not denied the execution of the sale deed. I therefore find no infirmity in the order passed by the learned Appellate Authority (VIII Small Causes Judge) Chennai. The Civil Revision Petition therefore stand dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is also closed.

04.03.2019

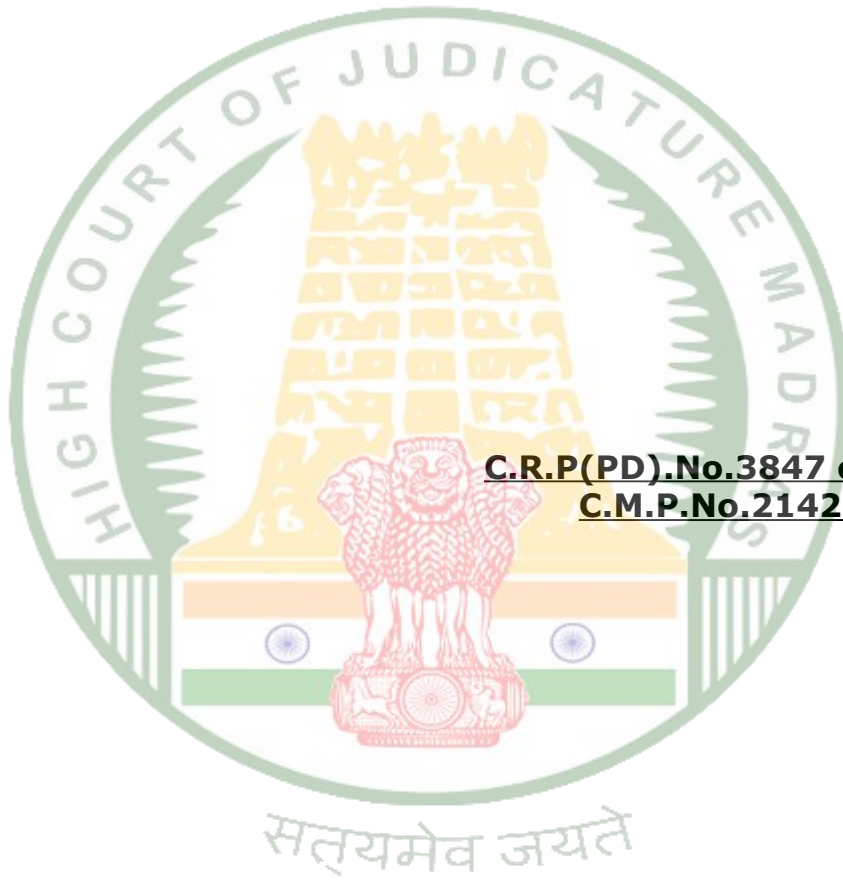
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Index : Yes/No
Speaking order/non-speaking order

To,
The VIII Small Causes Judge,
Chennai.

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P.T.ASHA, J.,

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