



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRP. (MD) .No.956 of 2012 (PD)

and

M.P. (MD) .No.1 of 2012

Jawahar Ali

.. Petitioner/ 2nd Respondent/
Proposed 2nd Respondent/ Tenant

Vs.

1.V.P.S.Pirmuthu Muthaliar

... 1st Respondent/ Petitioner/
Peitioner/ Owner

2.Rojammal

..2nd Respondent/ 1st Respondent/
Respondent/ Tenant

PRAYER: This Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.3 of 2011 in R.C.O.P.No.07 of 2010 dated 09.08.2011 on the file of the Principle District Munsif Court, Sankarankovil, by allowing the Civil Revision Petition.

For Petitioner : Mr.H.Arumugam

For R-1 & R-2 : No Appearance

O R D E R

This Civil Revision Petition has been filed challenging the order passed by the Court below allowing the application filed in I.A.No.3 of 2011 in R.C.O.P.NO.07 of 2010, under Order 1 Rule 10 of the Code of Civil Procedure to implead the petitioner as a party to the rent control proceedings.

2.The learned counsel appearing for the petitioner submitted that the application filed under Order 1 Rule 10 itself is not maintainable, since the Code of Civil Procedure is not strictly applicable to the rent control proceedings, which is governed by a special enactment. To substantiate his submissions, the learned counsel appearing for the petitioner relied upon the judgment of this Court reported in the case of **M.Paul Raj Vs. N.Paramasivam and another** in (2009) 6 MLJ 985.



3.The respondents have been served with the notice and their names have also been printed in the cause list and there is no representation on behalf of the respondents.

4.The facts of the present case is squarely covered by the judgment cited by learned counsel appearing for the petitioner. The relevant portion of the judgment is extracted hereunder:-

"7.At this stage, this Court recalls the decision in *Aruppukottai Dravida Munnetra Kazhagam Vs. M.Periaswami and another* (1974) TLNJ247 at 248, wherein it is held that 'admittedly, there is no provision in the Madras Buildings (Lease and Rent Control) Act or in the Rules framed under the said Act, for any of the provisions of the Code of Civil Procedure being made applicable to actions and proceedings taken or instituted under Act and that as early as in 1965, it has been held in (1965) 1 MLJ 287 that the Rent Controller is not a Court and that the Code of Civil Procedure is not applicable to proceedings taken under the Act and that the Madras Buildings (Lease and Rent Control) Act and the Rules framed thereunder themselves make provision for certain matters, such as service of summons, setting aside of ex-parte orders, proceedings by or against legal representatives etc., no part of the Code of Civil Procedure has been made applicable to the various proceedings that have to be taken in actions under the Madras Buildings (Lease and Rent Control) Act, such as impleading of parties, service of summons, setting aside the ex-parte orders, continuance of proceedings by the legal representatives of a deceased petitioner or respondent etc. and it is therefore, obvious that Order 1 Rule 10 (2) of the Code of Civil Procedure cannot also apply to any proceedings under the Act.

8.Generally, there is an exclusion of the applicability of the provisions of the Code of Civil Procedure and where it is either made applicable or even intended to apply, provision is made to that effect as per the decisions in *Devarajan V. Muniratnam* 94 LW 435 to 437. The Special Procedure of rules framed under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, provide for a procedure to be followed by the learned Rent Controller and the learned appellate authority and they deal with certain aspects of the procedure to be followed and it is quite obvious that the provisions of the Code of Civil Procedure cannot be invoked dealing with the petition under the Act as per the decision in *Krishnamoorthy V. Jagat Textiles* (1981) 1 MLJ 394."



9.In view of the fact that the ingredients of Order 1 Rule 10(2) of the Code of Civil Procedure are not applicable to any proceedings initiated under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960, this Court without going into the merits of the matter in issue between the parties, opines that the application in I.A.No.10 of 2008 filed by the revision Petitioner under Order 1 Rule 10(2) of the Code of Civil Procedure is not per se maintainable in law and resultantly, the present Civil Revision Petition fails."

5.In view of the above judgment, the Court below ought not to have entertained the application filed under Order 1 Rule 10 of the Code of Civil Procedure, since the same is not maintainable and the provisions of Code of Civil Procedure are not applicable to proceedings initiated under the Rent Control Act.

6.In the result, the order passed by the Court below in I.A.No.3 of 2011 in R.C.O.P.No.7 of 2010, dated 09.08.2011, is hereby set aside and accordingly, the Civil Revision Petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar

To
The Principle District Munsif Court,
Sankarankovil,

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The Record Keeper, VR Section,
Madurai Bench of Madras High Court,
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+1 CC to M/s.H.ARUMUGAM, Advocate (SR-89935[F] dated 27/09/2019

CRP. (MD) .No.956 of 2012 (PD)
25.09.2019

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