

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 10.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

**C.R.P.(NPD).No. 1033 of 2020
and CMP.No. 5639 of 2020**

M.Gunasekaran,
Proprietor, M/s. Guna Enterprises

...Petitioner

Vs

V.C.Thiyagarajan

...Respondent

PRAYER Civil Revision Petition filled under Section 25 of Tamilnadu Building Lease & Rent Control Act, 1969 to set aside the fair and decreetal order dated 04.01.2020 made in RCA.810 of 2018 on the file of VIII Small Causes Court (Rent Control Appellate Authority) in confirming the fair and decreetal order dated 21.08.2018 made in M.P. No. 41/2017 on the file of the XIII Small Causes Court, Chennai and consequently allow the said M.P. No. 41 of 2017 in RCOP.No. 1211 of 2016.

For Petitioner : M/s.N.S.Sivakumar

For Respondent : M/s. N.S. Manoharan
(Caveator)



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ORDER

Civil Revision Petition is filed to set aside the fair and decreetal order dated 04.01.2020 made in RCA.810 of 2018 on the file of VIII Small Causes Court (Rent Control Appellate Authority) in confirming the fair and decreetal order dated 21.08.2018 made in M.P. No. 41/2017 on the file of the XIII Small Causes Court, Chennai and consequently allow the said M.P. No. 41 of 2017 in RCOP.No. 1211 of 2016.

2. Heard both sides and perused the documents available on record.

3. The learned counsel for the revision petitioner has submitted that the respondent has filed RCOP. No. 1211 of 2016 on the file of the XIII Small Causes Court, Chennai for eviction against the revision petitioner on the ground of wilful default under Section 10(2)(1) of the Rent Control Act.

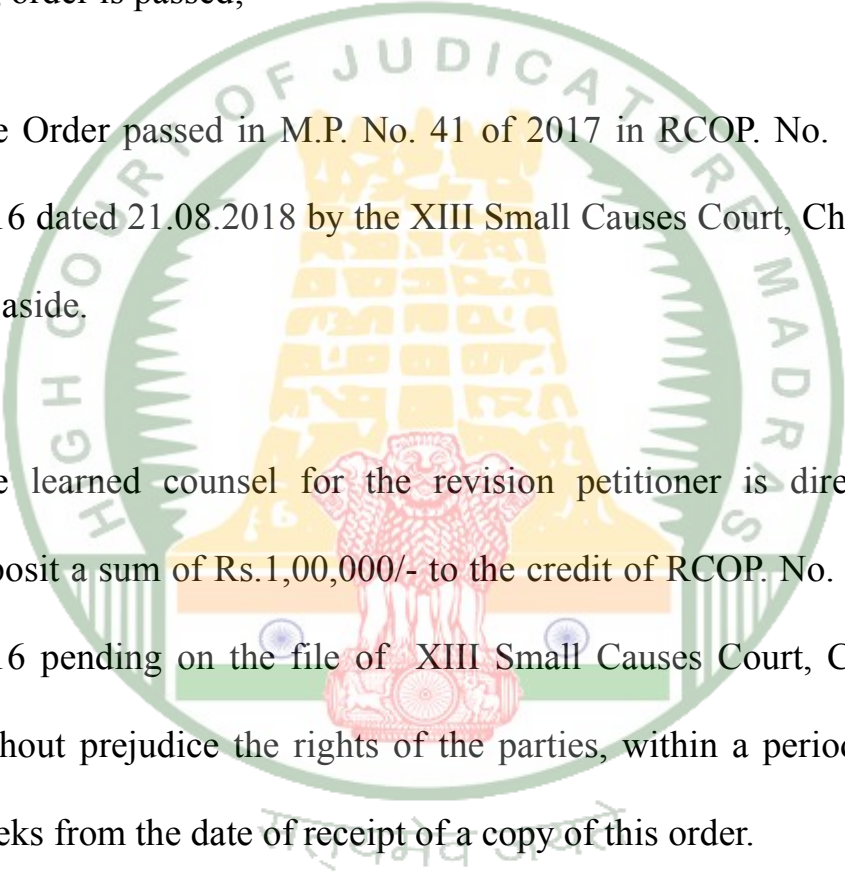
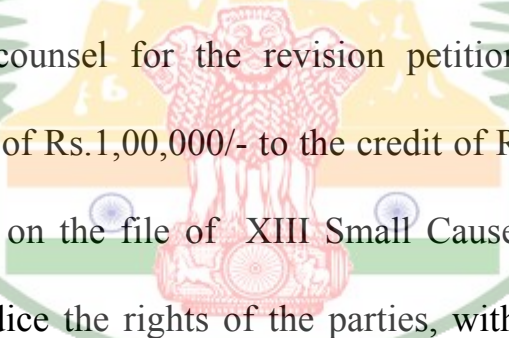
4. The learned counsel for the revision petitioner further submitted that the revision petitioner was set exparty. The revision petitioner has

filed application in M.P.No. 41 of 2017 to set aside the exparty along with the application to condone the delay of 386 days . The Court below had dismissed the said application for the reason that no proper evidence have been produced to substantiate the reasons stated by the revision petitioner. Against the said order, the revision petitioner has filed RCA No.810 of 2018, the said RCA was also dismissed by the Court below, confirming the order passed in M.P. No. 41 of 2017. Challenging the same, the present Revision Petition is filed.

5. The submissions made by the learned counsel for the revision petitioner and the reasons adduced in the affidavit that the revision petitioner came to know about the exparte decree passed against him only at the time of receiving notice in the execution proceedings and that he suffered from age ailments and that his counsel's inability to attend the court due to the accident, have been considered by this Court.

6. The learned counsel for the respondent has agreed to proceed with RCOP on depositing the arrears amount in the court. The learned

counsel for the revision petitioner on instruction, has agreed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh Only) . Hence, by consent of the both the learned counsels appearing for the parties concerned, the following order is passed;

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- i. The Order passed in M.P. No. 41 of 2017 in RCOP. No. 1211 of 2016 dated 21.08.2018 by the XIII Small Causes Court, Chennai is set aside.
- ii. The learned counsel for the revision petitioner is directed to deposit a sum of Rs.1,00,000/- to the credit of RCOP. No. 1211 of 2016 pending on the file of XIII Small Causes Court, Chennai, without prejudice the rights of the parties, within a period of six weeks from the date of receipt of a copy of this order.
- iii. After such deposit is being made, the VIII Judge, Court of Small Causes shall take up the application filed by the revision petitioner to set aside the exparte order and pass appropriate orders.

iv. XIII Judge, Court of Small Causes, Chennai is also directed to conclude the proceedings in RCOP. No. 1211 of 2016 and pass orders as expeditiously as possible, within a period of four (4) months thereafter.

v. Both the parties and the learned counsels appearing for the parties concerned shall co-operate for the enquiry.

In the result, the Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

10.03.2020

Index: Yes/No
Internet: Yes
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Note: Registry is directed to issue a copy of this order on 17.03.2020.

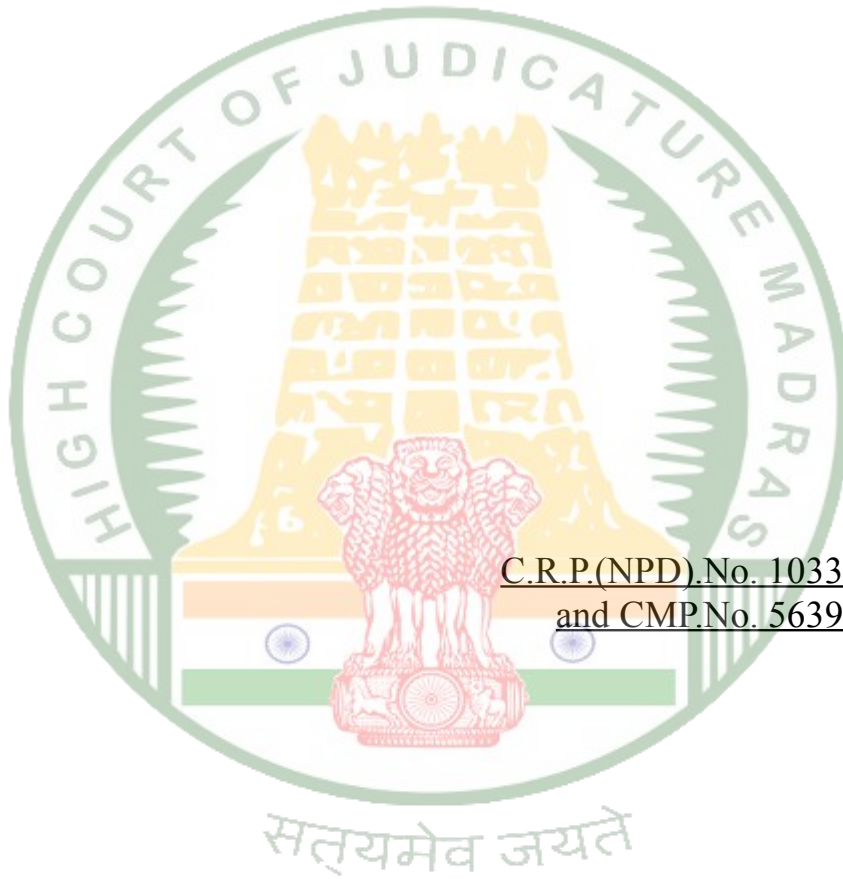
To
1. The VIII Judge,
Court of Small Causes,
Chennai,

2. The XIII Judge,

Court of Small Causes, (Rent Controller)
Chennai.

D.KRISHNAKUMAR,J.

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