

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.204 of 2018

N.Lalitha Natarajan

.. Petitioner

Vs.

C.Kondaswamy

... Respondent

Prayer: The Civil Revision petition filed under Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, to set aside the order dated 18.02.2015 made in R.C.A.No.742/12 on the file of the VII Court of Small Causes, Chennai, confirming the order in RCOP No.2126 of 2011 on the file of the XV Court of Small Causes, Chennai and allow this appeal.

For Petitioner : Mr.K.Harishankar

For Respondent : Mr.R.Abdul Mubeen

ORDER

The landlord whose application for eviction was thrown out by the Rent Controller and the Appellate authority on the ground that there was no relationship of landlord and tenant, has come up with this Civil Revision

petition.

2. The claim of the landlord was resisted by the tenant contending that the tenant is a lessee of the premises owned by the petitioner under a lease agreement dated 27.02.1998, wherein the respondent has paid an advance of Rs.1,00,000/- and was permitted to occupy the premises free of rent in lieu of interest, for a period of three years. Therefore, it is the case of the tenant that there is no relationship of landlord and tenant. What is in essence pleaded by the tenant is that there is an unregistered Usufructuary mortgage for a sum of Rs.1,00,000/- apart from certain borrowings that were alleged to have been made by the husband of the landlord during the course of the occupancy.

3. Both the Rent Controller as well as the Appellate Authority have held that in the absence of relationship of landlord and tenant, the jurisdiction of the Rent Controller cannot be invoked by the landlord for seeking eviction. The nature of the transaction shows that it is an Usufructuary Mortgage. The tenant claims under an unregistered

Usufructuary Mortgage Deed. Such a claim cannot be projected before an ordinary Civil Court. However, since the learned Rent controller as well as the Appellate Authority have concluded that there is no relationship of landlord and tenant, this revision is dismissed, leaving it open to the landlord to take appropriate proceedings seeking recovery of possession. No costs.

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vum

Index: Yes/No

Speaking order / Non speaking order

To

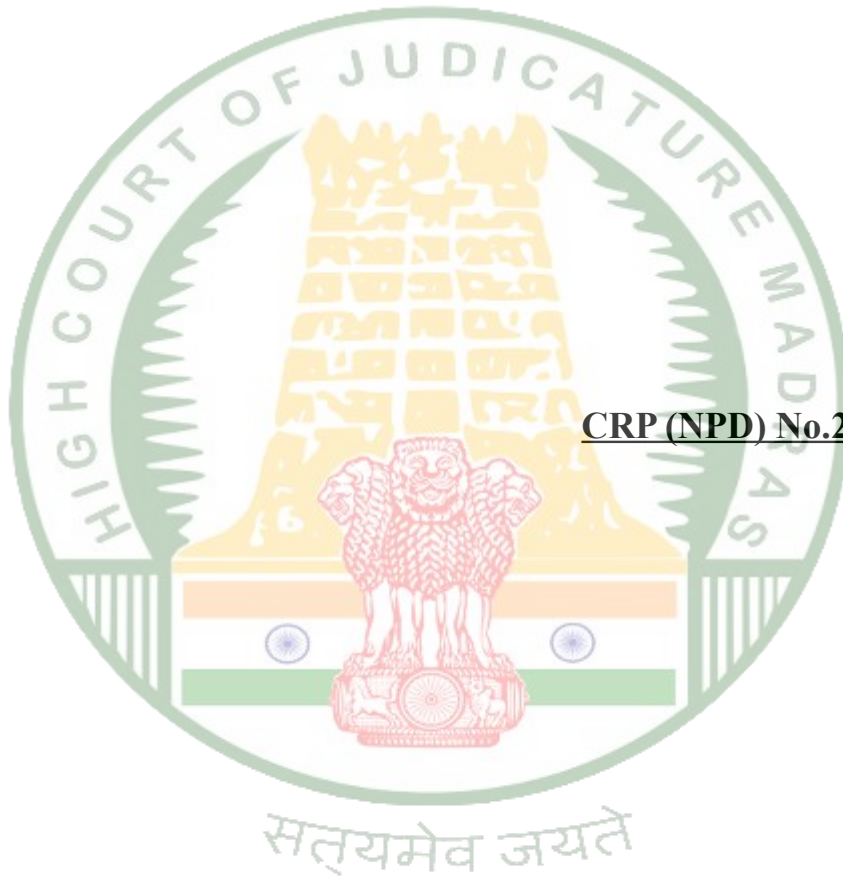
1. The VII Court of Small Causes, Chennai.
2. The XV Court of Small Causes, Chennai.



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R.SUBRAMANIAN, J.

vum



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