

IN THE HIGH COURT OF JUDICATURE AT MADRAS

[ORDERS RESERVED ON : 07.01.2020]

[ORDERS PRONOUNCED ON : 24.02.2020]

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.[NPD] No.1488 of 2014

C.Ramachandran Petitioner

.. Vs ..

1. Ezhilarasan

2. Mani

3.Miss Jansi Rani

... Respondents

Prayer:- Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act,1960 as amended by Act 23 of 1973 against the order and decretal order dated 04.11.2013 made in R.C.A.No.526 of 2006 on the file of the learned VII Judge, Small Causes Court, Chennai, confirming the order and decretal order dated 22.06.2005 made in R.C.O.P.No.1188 of 2003 on the file of the learned XV Judge, Small Causes Court, Chennai.

For Petitioner : Mr.V.V.Sairam

For RR-1 & 2 : No Appearance

For R-3 : Mr.P.Paul Selvam

- - - - -

ORDER

The unsuccessful landlord is the revision petitioner herein.

2. The revision petitioner herein has filed a petition in R.C.O.P.No.1188 of 2003 before the learned XV Judge, Small Causes Court, Chennai, seeking eviction of the first respondent on the ground of wilful default and owners occupation while the second respondent is the erstwhile owner of the building and the third respondent is the agreement holder and also seeking possession of unregistered sale deed in his favour.

3. The revision petitioner has filed the above petition in R.C.O.P.No.1188 of 2003 on the premise that he has purchased the petition premises for a sum of Rs.50,000/- which was duly registered before the Sub-Registrar, Periamet, on 26.09.2002 and the first respondent herein was tenant under his vendor Mani (second respondent herein) and was paying monthly rent of Rs.450/-. There was a wilful default of payment of eight months and hence, he has filed the above petition. Further, he wanted to set up a new family

along with the members and hence, on the ground of wilful default and for owners occupation, he has preferred the above R.C.O.P.No.1188 of 2003 under Section 10 (2) (i) & 10 (3) (a) (i) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 18 of 1960 as amended Act 23 of 1973.

4. In the counter, the first respondent/tenant has stated that he is not a tenancy under the petitioner/landlord and there is no landlord and tenant relationship between the first respondent and the petitioner and as per the instruction of the second respondent herein, he is regularly paying the rent to the third respondent herein namely, Jansi Rani.

5. The third respondent herein has filed a separate counter claiming that she is the owner of the petition premises and had purchased the same from the second respondent herein namely, Mani on 16.06.2001 for a sale consideration of Rs.2,45,000/-. However, the Sale Deed dated 16.06.2001 could not be registered pursuant to the Government Order in G.O.(Ms) No.150, dated 22.09.2000, whereby, the Government has stated that the properties belonging to the

Corporation cannot be conveyed and such conveyance is opposed to public policy and hence, the unregistered sale deed will have to be registered and she alleged that the petitioner fraudulently obtained the Sale Deed from the second respondent herein. The third respondent has stated that she has also filed a title suit in O.S.No.2556 of 2003 on the file of the learned V Assistant Judge, City Civil Court, Chennai, against the revision petitioner and the second respondent herein to declare her title to the suit property and also to declare the Sale Deed dated 26.09.2002 executed by the second respondent in favour of the petitioner as null and void.

6. Before the learned Rent Controller, on the side of the petitioner, four witnesses were examined as P.Ws.1 to 4 and 21 documents were marked as Exs.P.1 to P.21. On the side of the respondents, two witnesses were examined as R.Ws.1 and 2 and seven documents were marked as Exs.R.1 to R.7.

7. The revision petitioner/landlord is seeking to get the relief of eviction on the ground of wilful default and owners occupation. Both R.C.O.P.No.1188 of 2003 and R.C.A.No.526 of 2006 were

dismissed on the ground that since the jural relationship of the revision petitioner/landlord and the first respondent/tenant is being disputed and the title suit is pending before the Civil Court. Accordingly, the learned rent controller/XV Judge, Small Causes Court, Chennai, has dismissed the R.C.O.P. as the rent control Court has no jurisdiction. As against the said order, the landlord has preferred R.C.A. and the same was also dismissed by the learned Rent Control Appellate Authority/VII Judge, Small Causes Court, Chennai. Hence, the present civil revision petition is filed before this Court.

8. Heard the learned counsel for the petitioner and the learned counsel appearing for the third respondent and perused the records.

9. On a perusal of records, it is seen that the first respondent herein has committed wilful default in payment of rent from November 2002 to June 2003. But the first respondent herein denied the petitioner's claim stating that he is not a tenant under the revision petitioner herein/landlord as there is no landlord and tenant

relationship between the petitioner and the first respondent and further, he is a tenant under third respondent and as such, he is regularly paying rent to the third respondent in respect of the petition premises. Since the first respondent is paying rent regularly to the third respondent, the question of wilful default will not arise. Similarly, third respondent is also stating the same line of the first respondent.

10. The petitioner is claiming rent from the first respondent in view of the Sale Deed dated 26.09.2002 relating to the petition premises. On the other hand, third respondent is also taking defence stating that she is the owner of the petition premises, under a unregistered Sale Deed executed prior to the sale deed dated 26.09.2002.

11. The Sale Deed in favour of the petitioner is under challenge before the Civil Court in O.S.No.2556 of 2003. So also the injunction suit filed by the tenant against the third respondent is also pending before the Civil Court, as could be seen from the documents filed herein and thus, there is a dispute relating to the title of the

petition premises. Admittedly, the civil suits in O.S.No.441 of 2003 and O.S.No.2556 of 2003 wherein dispute relating to the title is pending and A.S.Nos.198 and 199 of 2009 are also disposed of on 30.04.2013 and the second appeal Nos.1032 and 1033 of 2013 were pending before this Court. The evidence of R.W.1 is that he is paying rent to the third respondent, who has filed the title suit challenging the Sale Deed in favour of the revision petitioner herein assumes significance. Since the second appeal is pending as to the correctness of the decree passed in the suit filed by the third respondent, I am not expressing any view as to the title as the matter relating to the dispute of title. As the first respondent herein was paying rent to the third respondent herein, the learned Rent Controller has rightly dismissed the R.C.O.P. as pre-matured and the finding rendered by both the learned Rent Controller and the learned Rent Control Appellate Authority that in view of the dispute as to the title between the third respondent and the petitioner and civil decrees obtained in the above suits are subject matter of the Second Appeal and the jural relationship between the petitioner and the first respondent is disputed and hence, the order passed by the learned Rent Controller stating that the R.C.O.P. is not maintainable is just and proper and

therefore, this civil revision petition is liable to be dismissed.

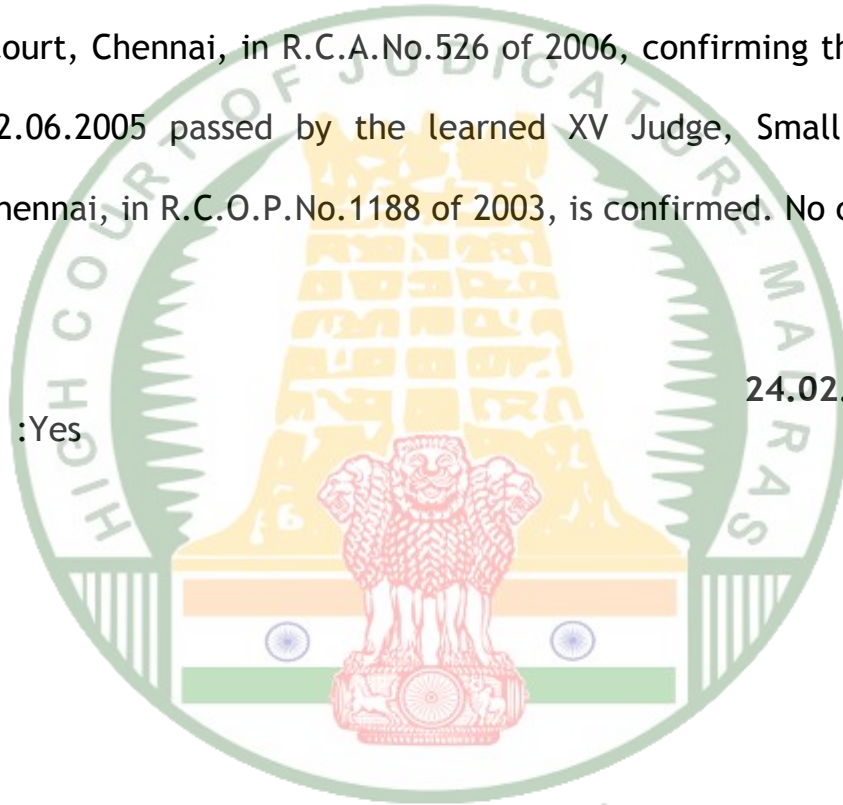
12. In the result, this Civil Revision Petition is dismissed and the order dated 04.11.2013 passed by the learned VII Judge, Small Causes Court, Chennai, in R.C.A.No.526 of 2006, confirming the order dated 22.06.2005 passed by the learned XV Judge, Small Causes Court, Chennai, in R.C.O.P.No.1188 of 2003, is confirmed. No costs.

24.02.2020

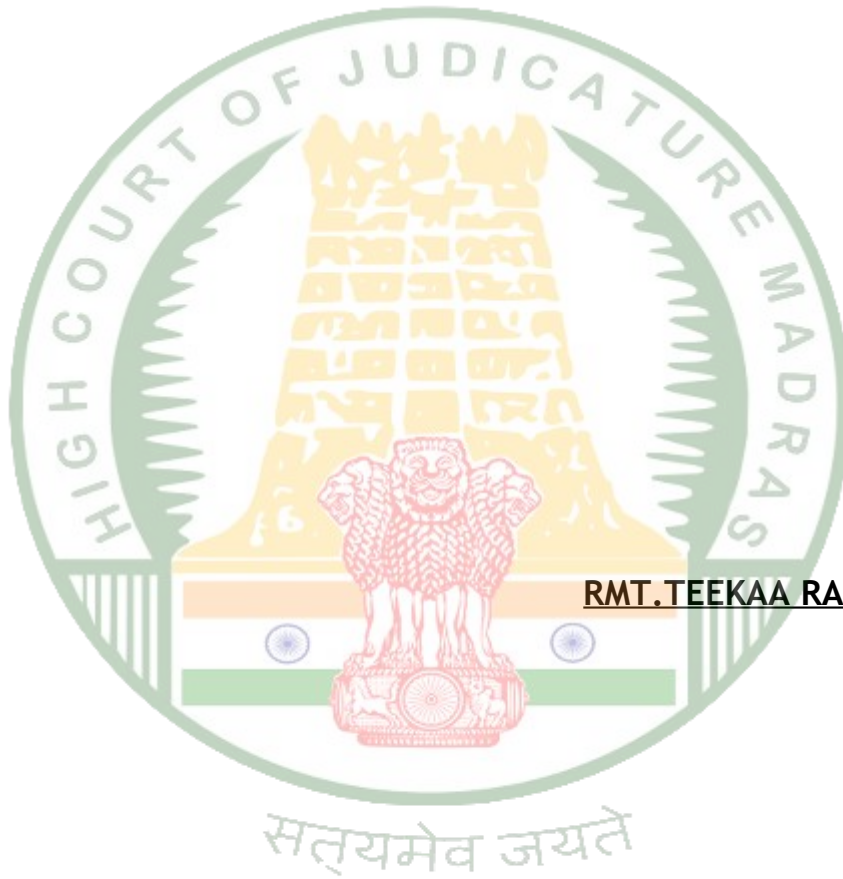
Internet :Yes
Jrl

To

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



WEB COPY

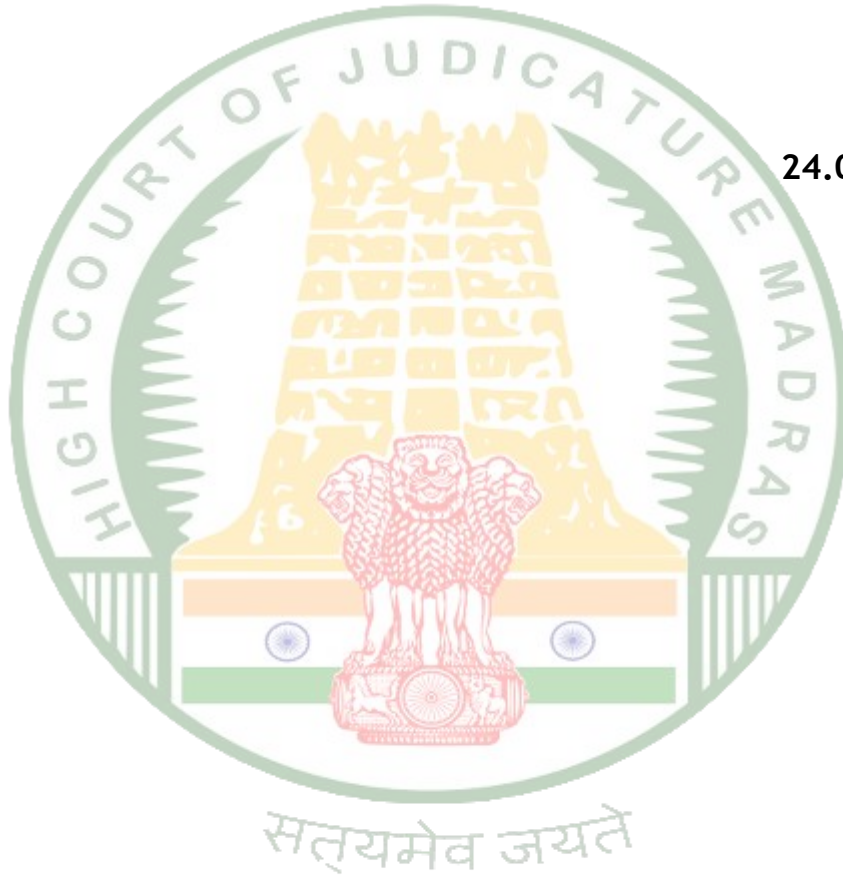


RMT.TEEKAA RAMAN, J.

Jrl

WEB COPY

Order made in
C.R.P.[NPD] No.1488 of 2014



24.02.2020

WEB COPY