

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 17.02.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. (PD) No.234 of 2021

and

C.M.P.No.2200 of 2021

Philomina Vasantha
W/o.G.Yesudoss Nadar

... Petitioner/Respondent

Vs

1. P.Jayapal
S/o.Parvathi Muthu Nadar
2. S.P.Manickam
S/o.Periyasamy Nadar
3. N.Ramasamy
S/o.Nallazhagu Nadar

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 14.12.2020 on the file of X Small Causes Court, Chennai, by rejecting the application in M.P.Sr.No.24822 of 2020 in M.P.No.148 of 2019 in R.C.O.P.No.211 of 2019.

For Petitioner : Mr.R.Dhanasekar

O R D E R

The present revision petition has been filed against the order passed in MP SR No.24822 of 2020 in M.P.No.148 of 2019 in R.C.O.P.No.211 of 2019, on the file of the X Small Causes Court, Chennai, in and by which the court below dismissed the said miscellaneous petition at the SR stage on the question of maintainability.

2. Initially, R.C.O.P.No.211 of 2019 was filed by the landlords/respondents herein against the petitioner herein and for rejection of the said RCOP, the petitioner herein filed MP No.148 of 2019. However, in view of the fact that the petitioner herein was diligent in prosecuting the petition, the said M.P.No.148 of 19 was dismissed for default on 17.12.2019. To restore the said miscellaneous petition, the petitioner herein filed M.P.No.1 of 2020 on 13.01.2020, but still the petitioner herein did not display diligence in prosecuting the

said petition and the said petition also met with the same fate of dismissal on 19.11.2020. to restore the said M.P.No.1 of 2020, the present petition has been filed.

3. The petition was listed before the court below on the question of maintainability and the court below, taking into consideration the attitude of the petitioner herein and the fact that the petitioner herein was not inclined to diligently prosecute the petitions and there being no provision in law for entertaining the said petition, dismissed the petition, assailing which the present civil revision is filed.

4. Learned counsel appearing for the petitioner submitted that the court below has not adverted to the provision of law as found under the Tamil Nadu Buildings (Lease & Rent Control) Act and the finding recorded by the court below is patently erroneous and the same deserves to be set aside.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. A perusal of the order reveals that initially the petition for rejection was dismissed for default against which miscellaneous petition was filed for restoration, which was also dismissed for default, which entailed the filing of the present miscellaneous petition. However, when a query was raised as to the provision of law under which the second miscellaneous petition for restoration has been filed, the same did not evoke any response, as is evident from the order passed by the court below. Further, even before this Court, the exact provision of law on the basis of which the said petition is maintainable, has not been placed. In such circumstances, this Court is of the considered view that the finding recorded by the court below does not require any interference. Had the petitioner participated in the proceedings, the main proceedings would have by now reached finality. In such a backdrop, this Court is of the considered view that the present petition is devoid of merits and it is liable to be dismissed.

7. This petition is accordingly dismissed granting liberty to the petitioner to raise all the points, which he seeks to raise in the present miscellaneous petition at the time of hearing of the main RCOP.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

SBN

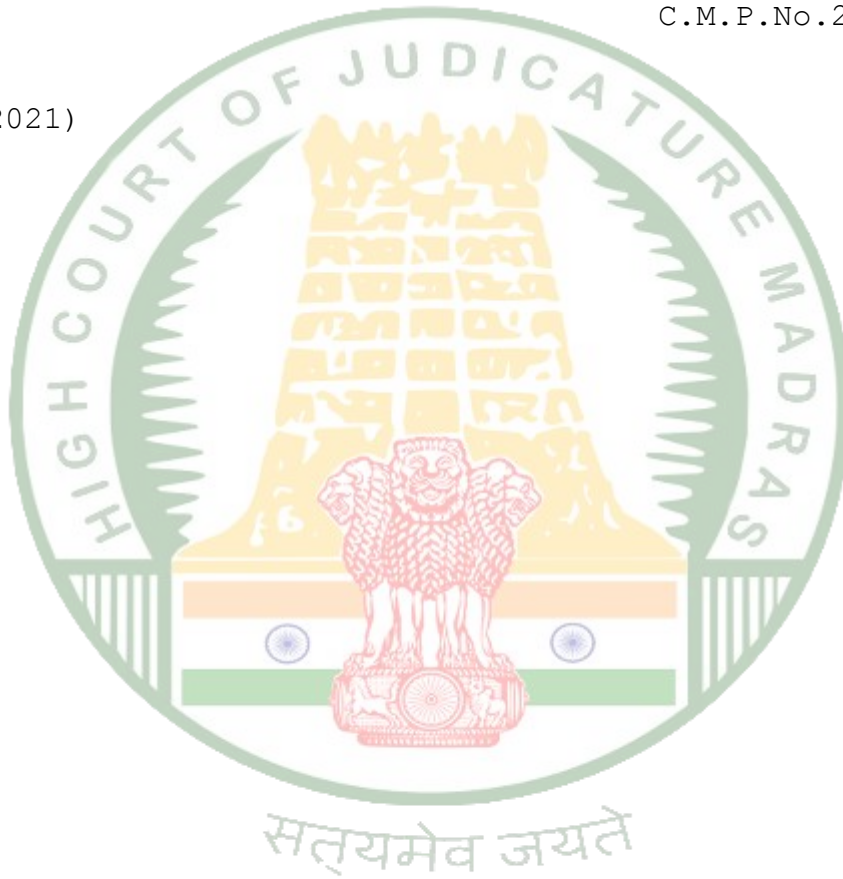
To

The X Small Causes Court,
Chennai.

+lcc to Mr.R.Rajesh Kumar, Advocate, S.R.No.9272

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