

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(PD)No.569 of 2021
and
CMP.No.4810 of 2021

Mrs.Mohana

... Petitioner / Respondent

Vs.

1.Mrs.Rameesa Beevi

2.Mrs.Wadoodiya Begum

3.Mrs.Hyrun Marliya

4.Mr.Mohammed Hussain ul Asif

5.Mr.Fouzil Ameen

6.Mr.Aysath Barika

... Respondents 1 to 6 / Petitioners

7.Mr.M.Babu

... 7th respondent / 2nd respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 11.02.2021, passed in M.P.No.1 of 2021 in RLTOP No.3 of 2020 on the file of the learned XII Judge Small Causes Court, Chennai.

For Petitioner : M/s.M.Revathi

For Respondents : Mr.P.B.Balaji

ORDER

(This case has been heard through video conference)

The Revision Petition has been filed by the respondent in RLTOP No.3 of 2020, which is now pending on the file of the XII Small Causes Court at Chennai.

2.Originally, the respondents herein had filed RCOP No.286 of 2018 for eviction of the present petitioner on the ground of wilful default. That was dismissed for default on 05.09.2010. Subsequently, the Tamil Nadu Regulations of Rights and Responsibilities of Landlords and Tenants Act, 2017 came to be introduced and it was also notified. The respondents thereafter taking advantage of the said enactment filed RLTOP No.3 of 2020 seeking eviction. The Revision Petitioner herein had filed MP (SR) No.12574 of 2020 questioning maintainability. It is their claim that necessary permission should have been obtained before filing RLTOP No.3 of 2020.

3.I am not entering into any discussion whether that contention is correct or incorrect or whether permission should have been granted or whether permission should have been sought or whether permission was not required. I am on a very very narrow point.

4.The MP (SR) No.12574 of 2020 which had been filed by the revision petitioner questioning maintainability came up for consideration before the learned XII Judge, Small Causes Court Chennai and by an order dated 11.02.2021 he had permitted the said MP (SR) No.12574 of 2020 to be assigned a number and had taken it on file as MP.No.1 of 2021 and on the same day had rejected the same. That, in my opinion, may not be the right procedure.

5.It is necessary on the part of this Court to call upon trial Courts to abjure such procedure because this would lead, if encouraged, to an arbitrary exercise of discretion, by which any miscellaneous petition at the SR stage could be taken on file and without affording an opportunity to the respondents to file a counter, any order could be passed either allowing it or rejecting it.

6.Incidentally, in the present case has been rejected.

7.It would only be advisable that the learned Rent Controller takes a decision to assign a number to the said MP (SR) No, only if it is deemed maintainable and requires further adjudication.

8.By further adjudication it would also mean issuance of notice and hearing the other side and thereafter passing a judicial order either dismissing it or allowing it. That is the procedure which is sacrocent to the very nature of procedure before any Court.

9.I really hope that it is always followed. Short-circuiting the entire procedures by taking on record the petition filed on the SR stage and assigning it a number and then rejecting it, in my opinion, may not be proper, and if encouraged would percolate to proceedings pending in practically every Court.

10.Therefore, without going into the merits of the case since, the learned Rent Controller had taken a decision to assign MP No.1 of 2021 the order dated 11.02.2021 is set aside and I would request the learned Rent Controller to go through the normal procedure of issuing the notice to the respondents herein and thereafter, hear both sides and then adjudicate the issue and pass an order on merits.

9.The Civil Revision Petition is allowed and liberty is granted to the learned XII Judge, Small Causes Court, Chennai to take the petition in MP.No.1 of 2021 on record, which was formerly MP (SR) No.12574 of 2020

in RLTOP No.3 of 2020 and move in accordance with procedure, as approved and thereafter pass a Judicial order. I am conscious of the fact that the learned Rent Controller had already applied his mind to the submissions made in MP (SR) No.12574 of 2020 but I am more confident that the learned Rent Controller would re-examine and re-appreciate the issues after hearing arguments advanced by the learned counsels for the petitioner and the respondents.

10. With the said observations, the Civil Revision Petition is allowed with a direction to restore MP.No.1 of 2021 and re-hear it. Consequently, the connected miscellaneous petition stands closed. No order as to cost.

26.04.2021

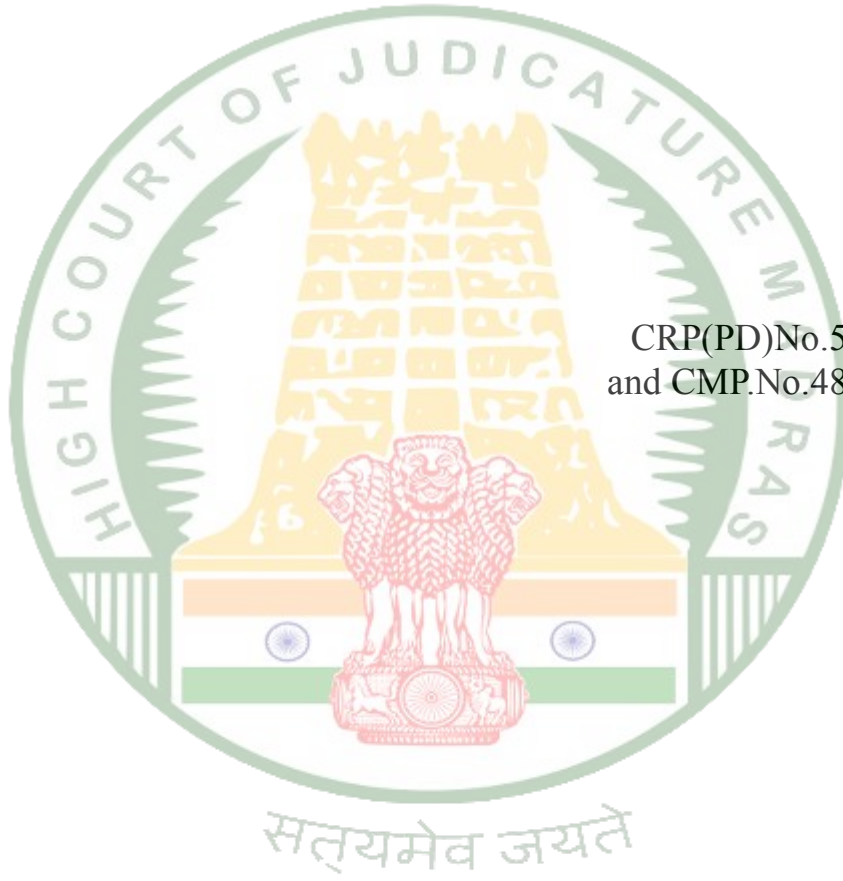
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To

The XII Judge Small Causes Court, Chennai.

C.V.KARTHIKEYAN, J.,

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