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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (NPD) Nos.1059, 1062, 1063, 1070 and 1065 of 2021
and C.M.P. No.8447 of 2021

M/s.Madarasa Jamalia Wakf Trust
Represented by its Mutthavalli,
M.J.S.Sultan,
No.30, Perambur High Road,
Chennai - 600 012.

...

Petitioner
(in all CRPS)

versus

1.L.Jebaraj

2.Sithy Saffitha

...

Respondents
(in all CRPS)

COMMON PRAYER: Civil Revision Petitions have been filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act XVII of 1960, to set aside the judgments and decrees dated 16.02.2021 and passed in R.C.A.Nos. 5, 8, 9, 6 and 7 of 2020 respectively on the file of VIII Court of Small Causes, Chennai, confirming the orders and decrees dated 26.11.2019 passed in M.P.Nos.246, 244, 245, 247 and 243 of 2019 in R.C.O.P.No.1351 of 2018, 740 of 2018, 1150 of 2018, 140 of 2019 and 739 of 2018 respectively, on the file of the XI Court of Small Causes, Chennai.



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For Petitioner : Mr.P.B.Balaji
(in all CRPS)
For Respondent No.1 : Mr.Vikram Veerasamy
(in all CRPS)
For Respondent No.2 : Mr.S.Vijay Ganesh
(in all CRPS)

COMMON ORDER

These Civil Revision Petitions are filed to set aside the judgments of the learned VIII Judge, Court of Small Causes, Chennai, in R.C.A.Nos. 5, 8, 9, 6 and 7 of 2020 dated 16.02.2021, confirming the orders of the learned XI Judge, Court of Small Causes, Chennai, in M.P.Nos.246, 244, 245, 247 and 243 of 2019 in R.C.O.P.No.1351 of 2018, 740 of 2018, 1150 of 2018, 140 of 2019 and 739 of 2018 respectively, dated 26.11.2019.

2. The matter involved in all these Civil Revision Petitions are on the limited scope as to whether in the proceedings initiated under Section 10(1) of the Tamil Nadu Buildings (Lease and Rent Control) Act, by a tenant against the sub tenant, the owner of the building is a proper and necessary party.



3. The learned counsel for the petitioner submitted that, the petitioner is the owner of the property concerned in these Civil Revision Petitions. In this regard, the petitioner filed the suit in O.S.No.3146 of 2004 for ejectment and the tenant filed petition under Section 9 of the City Tenancy Protection Act. This suit was partly decreed. Two appeals in A.S.Nos.453 of 2011 and 47 of 2013 were preferred and that were also dismissed. Against which, the Second Appeal filed in S.A.No.286 of 2016 and that is pending.

4. Both the Courts found that, the petitioner is the owner of the land and superstructure. Meanwhile, the first respondent, who is the tenant under petitioner had sublet the premises to the second respondent, without the knowledge and consent of the petitioner. Not only that, the first respondent filed R.C.O.P.Nos.140 of 2019, 740 of 2018, 1150 of 2018, 140 of 2019 and 739 of 2018 against the sub-tenant for eviction. In those R.C.O.Ps, the petitioner filed M.P.Nos.247, 244, 245, 247 and 243 of 2019 for impleading him, as proper and necessary party for the effective adjudication of the matter in dispute. The learned Rent Controller has



dismissed the impleading petitions and that was confirmed by the learned Rent Control Appellate Authority. Against the said orders, these Civil Revision Petitions are preferred.

5. The learned counsel for the petitioner submitted that, already two Civil Courts found that, the petitioner is the owner of the land and building in respect of the properties covered under the Rent Control proceedings. Admittedly, when the first respondent is the tenant under the petitioner, the first respondent has no authority to sub-lease the premises to the second respondent without the leave and consent of the petitioner. Therefore, filing the Eviction Petition against the second respondent, is not correct. If the proceeding is allowed to go without the petitioner being impleaded, the petitioner's interest would be seriously prejudiced. Supposing the first respondent file a petition for demolition and reconstruction of the building against the sub tenant, if he gets an order in favour of him, the ultimate sufferer would be the petitioner. So, saying, the learned counsel for the petitioner prays for setting aside the orders of the learned trial Judge and for allowing these petitions.



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6. In response, the learned counsel for the respondents opposed these petitions on the ground that, the petitioner is not a proper and necessary party in the Rent Control proceedings. The petitioner remedy lies elsewhere, in the sense that he has to institute separate proceedings against the respondents. He cannot seek to implead himself in the proceedings between the main tenant and sub tenant. The petitioner is not a proper and necessary party. When proceedings are pending between the main tenant and sub tenant, as per Section 2(6) of the Tamil Nadu Buildings (Lease and Rent Control) Act, he, as the chief tenant, is entitled to receive the rent from the sub tenant.

7. Considered the rival submissions and perused the records.

8. It is gathered from the submissions made by the learned counsel for the parties that, there is no dispute with regard to the fact that, the petitioner is the owner of the land and building in respect of the suit



property. Of course, there are litigations pending in the form of Second Appeal. As of now, the petitioner is the owner of the land and building. The first respondent is the tenant under the petitioner. It is the specific case of the petitioner that, the first respondent, without the knowledge and consent of the petitioner had sublet the premises to the second respondent and filed the Eviction Petition. In the nature of the dispute between the parties, this Court is in agreement with the submissions made by the learned counsel for the petitioner that, if the main tenant and sub tenant get some adverse order against the owner of the building, it is the owner of the building, who is going to be affected at times beyond repair. Therefore, as the owner of the building, this Court is of the considered view that, the petitioner must be given an opportunity to contest the Rent Control Original Petitions filed by the first respondent against the second respondent.

9. In such view of the matter, the orders passed by the learned VIII Judge, Court of Small Causes, Chennai, in R.C.A.Nos. 5, 8, 9, 6 and 7 of 2020 respectively dated 16.02.2021 are set aside and M.P.Nos.246, 244, 245, 247 and 243 of 2019 in R.C.O.P.No.1351 of 2018,



740 of 2018, 1150 of 2018, 140 of 2019 and 739 of 2018 respectively, are allowed.

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10. Accordingly, these Civil Revision Petitions are allowed.

Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

23.09.2021

Speaking order / Non-speaking order

Index : Yes / No

psa/sri

To

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

2.The XI Judge,
Court of Small Causes,
Chennai.

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G.CHANDRASEKHARAN, J.

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