

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.PD.Nos.1107, 1109, 1115 and 1127 of 2021
and
C.M.P.Nos.8617, 8651, 8669 and 8741 of 2021

S.L.Sakthivel Raja

... Petitioner/Petitioner/Respondent
(in all the CRPs.)

Vs

D.Ravikumar

... Respondent / Respondent / Petitioner
(in all the CRPs.)

Prayer in CRP.No.1107 of 2021: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of the learned X Small Causes Court, Chennai dated 18.02.2021 made in M.P.No.2 of 2021 in RCOP.No.416 of 2018.

Prayer in CRP.No.1109 of 2021: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of the learned X Small Causes Court, Chennai dated 18.02.2021 made in M.P.No.1 of 2021 in RCOP.No.416 of 2018.

Prayer in CRP.No.1115 of 2021: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of the

learned X Small Causes Court, Chennai dated 18.02.2021 made in M.P.No.1 of 2021 in RCOP.No.1439 of 2017.

Prayer in CRP.No.1127 of 2021: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of the learned X Small Causes Court, Chennai dated 18.02.2021 made in M.P.No.2 of 2021 in RCOP.No.1439 of 2017.

For Petitioner

...

Mr.Ravi Raja

For Caveator

...

M/s.Rank Associates

ORDER

The tenant/respondent in RCOP.No.1439 of 2017 and RCOP No.416 of 2018 now pending on the file of the X Small Cause Court, Chennai, is the revision petitioner herein. These Rent Control Petitions have been filed seeking eviction on the ground of willful default in the payment of rent and also for bonafide occupation of the petitioner premises.

2.The Rent Control proceedings had progressed considerably with the pleadings have been settled and the parties adducing evidence. The respondent/landlord had examined himself and the petitioner/tenant had

also examined himself. Both the witnesses were also cross-examined. During the course of cross-examination of the present petitioner/tenant questions were put with respect to certain transactions which he had stated as a defense to the allegation of default in payment of rent.

3.It is the case of the petitioner/tenant that he had lent some money to the landlord/respondent and the respondent herein had further lent the said sum to two individuals namely, S.S.Sekar and Veeraraghavan Ramamurthy. Alleging that lending of the said money should be adjusted with the rent payable and that there are monies due and payable by the landlord to the present petitioner herein. The petitioner herein had originally filed C.S.No.248 of 2017 in the Original Side of this Court. Owing to pecuniary jurisdiction the suit had been transferred to the City Civil Court, Chennai and re-numbered as O.S.No.4144 of 2019 and is pending on the file of the V Additional City Civil Court, Chennai. The issue in that particular suit revolves around lending of money by the landlord to the said named individuals and whether the present petitioner herein is entitled for recovery of money. All the issues relating to that particular question will have to be decided in that particular suit.

4.The present Rent Control Proceeding is based on the issue of willful default in the payment of rent and eviction on the ground of owners occupation. The respondent/landlord will have to establish that there was a default in the payment of rent and further establish that such default was willful. The petitioner/tenant will naturally have every right to put up all his defenses. It is also seen from the order under revision that he had also marked the plaint in O.S.No.4144 of 2019 as a document. Now it is upon the learned Rent Controller to appreciate the evidence.

5.The petitioner herein had filed MP.Nos.1 and 2 of 2021 in both the Rent Control proceeding, after he had been cross-examined on behalf of the landlord to reopen the evidence and to summon the named two individuals as further witnesses. Those applications came up before the learned X Small Causes Court Judge, Chennai and by a common order dated 18.02.2021 all those applications were dismissed. This common order has given rise to the filing of the present Revision Petitions.

6.It has been very strenuously urged by Mr.Ravi Raja, learned counsel for the petitioner that necessity to file such applications arose owing to the cross-examination of the petitioner herein by the respondent and wherein, the respondent/landlord had denied the entire monetary

transactions. It had therefore been stated that a cloud of suspicion had been cast upon the transactions and unless the same is cleared, the said cloud would hover also on the Civil Suit which is pending.

7.Naturally, with that aspect in mind, applications have been filed to summon the said two individuals to determine whether the landlord had lent the monies further to them.

8.However, these are not issues which will have any bearing on the mind of the learned Rent Controller while deciding whether there has been default in payment of rent. I am confident, the learned Rent Controller will certainly analyze the evidence already on record. He will have to analyze the evidence already let in by the landlord/tenant and balance that with the documents filed by the present petitioner herein and also with his probable defense that the Civil Suit has been filed asserting a right to recover the money from the respondent/landlord. These are all issues which the learned Rent Controller will naturally weigh and thereafter give a considered judgment whether there is a default and whether such default is willful or not. The examination of the said two individuals and reopening of the matter for that particular purpose would not be of any help.

9.Let the learned Rent Controller deliver a judgment in the Rent Control Petitions on the evidence already available on file. It is stated that the matter is posted for arguments. It would only be appropriate, that the learned Rent Controller is permitted to address the issues before him in a considered manner. I am confident that no prejudice would be caused.

10.Seeking reopening of the evidence after being cross-examined on a particular aspect would only lead to an inference that the petitioner is trying to cover up any admission or lacuna in his evidence. That is not permissible and cannot be encouraged by this Court. This Court is not inclined to keep these Revision Petitions further on the file of this Court and the said Revision Petitions are dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition are closed.

11.Let the learned Rent Controller be not influenced by any of observations made in the course of this particular order.

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Internet: Yes/No

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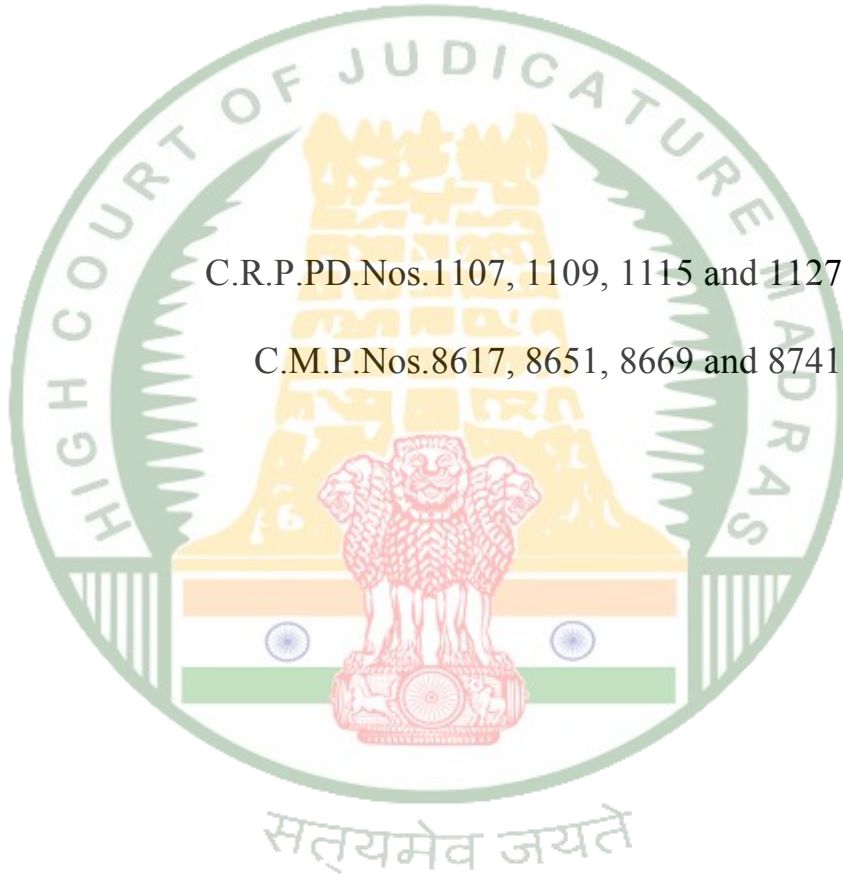
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To

The X Small Causes Court, Chennai.

C.V.KARTHIKEYAN,J.

smv



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