

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2021

CORAM

THE HON'BLE MR. JUSTICE A.D. JAGADISH CHANDIRA

**C.R.P. (PD) Nos. 1352 and 1353 of 2021
and
C.M.P. No. 10482 of 2021**

K.A. Pandian

... Petitioner in both C.R.P.s

-VS-

1. A.P.Govindasamynathan

2. A.P.Arunkumar

... Respondents in both C.R.P.s

Prayer in C.R.P. (PD) No. 1352 of 2021:- Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the order and decretal order dated 19.03.2021 in M.P. No. 3 of 2021 in R.C.O.P. No. 522 of 2017 and to allow the said M.P.

Prayer in C.R.P. (PD) No. 1353 of 2021:- Civil Revision Petition filed under Article 227 of the Constitution of India, 1950, praying to set aside the order and decretal order dated 19.03.2021 in M.P. No. 2 of 2021 in R.C.O.P. No. 522 of 2017 passed by XI Judge, Small Causes Court, Chennai.

For Petitioner : Mr. J.Kalidas
(in both C.R.P.s)

ORDER
(The case has been heard through video conference)

These Civil Revision Petitions have been filed to set aside the orders dated 19.03.2021 in M.P. Nos. 3 and 2 of 2021 in R.C.O.P. No. 522 of 2017 passed by the Learned XI Court of Small Causes, Chennai respectively.

2. The Learned Counsel for the Petitioner would submit that the Petitioner is the Tenant. He would further submit that the Petitioner had filed petitions in M.P. No. 2 and 3 of 2021 before the Learned XI Court of Small Causes, Chennai to re-open the Petitioner side witnesses and re-call P.W.1. The Trial Court, while dismissing the petitions on 19.03.2021, had imposed costs of Rs.10,000/- in each petitions. He would further submit that he is not going to argue the case on merits. He would further submit that as per Section 35-A of the Code of Civil Procedure, 1908, the Court of Small Causes cannot impose costs more than Rs.250/-, whereas even without allowing the petitions, the Trial Court had imposed costs of Rs.10,000/- in each petitions, under Section 35-B of the Code of Civil Procedure, 1908, which is not applicable to the Petitioner. He would further submit that in the event of the petitions being allowed, the Trial Court is entitled to impose costs more than Rs.250/- for condoning the delay and thereby, he would seek to set aside the orders dated 19.03.2021 in

respect of imposition of costs alone by partly allowing these Civil Revision Petitions.

3. Heard the Learned Counsel for the Petitioner and perused the materials placed on record.

4. A perusal of the records shows that the Petitioner had wantonly delayed the proceedings. The Trial Court rightly finding that the attitude of the Petitioner was only to delay the proceedings, had imposed costs of Rs.10,000/- in each petitions. Viewed from that perspective, there does not appear to be any infirmity in the orders dated 19.03.2021 dismissing the petitions to re-open and re-call P.W.1 in M.P. Nos. 2 and 3 of 2021 in R.C.O.P. No. 522 of 2017 warranting any interference by this Court in the exercise of discretionary process under Article 227 of the Constitution. However, in view of the above submissions, costs imposed on the Petitioner in the orders dated 19.03.2021 in M.P. Nos. 2 and 3 of 2021 in R.C.O.P. No. 522 of 2017 alone is modified is modified to the effect that the Petitioner is directed to pay costs of Rs.2,000/- for each petitions to the Respondents. All other aspects of the impugned orders shall remain intact.

5. In the result, these Civil Revision Petitions are dismissed with the aforesaid modification. Consequently, the connected Miscellaneous Petition is closed. No costs.

15.07.2021

vjt

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-speaking Order

To

1. The XI Court of Small Causes,
Chennai.



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A.D. JAGADISH CHANDIRA, J.

vjt



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