

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

Coram

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

C.R.P.NPD.No.2722 of 2019
and
C.M.P.No.17959 of 2019

D.S.Nagarajan

... Petitioner/Petitioner/Judgment Debtor/Respondent
Vs

Kishore

... Respondent/Respondent/Decree Holder/Petitioner

Civil Revision Petition filed under Section 115 of CPC., to set aside the Judgment and Decree passed in E.A.SR.No.44564 of 2019 in E.P.No.17 of 2018 in RCOP.No.1243 of 2017 dated 09.07.2019 on the file of the X Small Causes Court, Chennai.

For Petitioner

..

Dr.P.Vasudevan

For Respondent

..

Mr.M.Arvind Kumar

ORDER

This Civil Revision Petition arises from an order dated 09.07.2019 in E.A.S.R.No.44563 of 2019 and E.A.S.R.No.44564 of 2019 in E.P.No.17 of 2018 in R.C.O.P.No.1243 of 2017 pending on the file of the X Small Causes Court, Chennai.

2.The said unnumbered Execution Applications had been filed by the revision petitioner herein. The revision petitioner is the husband of the respondent in the Rent Control Proceedings. The claim of the revision petitioner is that though the Rent Control Proceedings had been filed against his wife, he had not been individually impleaded as a tenant and therefore, the entire proceedings stands vitiated.

3.The learned Rent Controller in the course of the order dismissing the application and refusing to take them on file had stated that the records revealed that in an earlier M.P.Nos.62 and 63 of 2018, the wife had never claimed that she was not a tenant and that only the husband was the tenant. I hold this reason to be correct.

4.Both the husband and wife are living in the very same premises. Claiming that only one of them is a tenant and the order of eviction will not bind the other cannot be accepted.

5.The scope of a Rent Control Petition is to seek possession of a property from the possession of a tenant under various ground as set out in the Act and any order of eviction will bind all those persons occupying the said premises and who are aware of the proceedings. Specifically, each of the spouses are directly bound by an order of eviction.

6.My attention is drawn to an order of a learned Single Judge of this Court dated 12.09.2018 in CRP (MD) Nos.1571 of 2018 and 1861 of 2018, J.Sarulatha Vs. P.R.Ramakrishnan (died) and three others, wherein, the it is claimed by Dr.P.Vasudevan, learned counsel for the petitioner the learned Single Judge had observed as follows:

“A fusion of the personality of the wife with that of the husband is a relic pre-modern law. The ideal of Arthanareeswara is not to be involved in this case.”

7.The said observations are the personal observations of the learned Single Judge and I have no hesitation in rejecting the said observations. They are per incuriam so far as the facts of this case are concerned.

8.The Civil Revision Petition has been filed as against a tenant who denied the relationship of landlord / tenant and later when the decree was put to execution, the husband has entered the picture claiming that he is the tenant. The contention is rejected. Costs of Rs.25,000/- are imposed and the onus is placed on the learned Rent Controller to ensure that the costs of Rs.25,000/- are paid.

9.With the above observation, the Civil Revision Petition is dismissed, with costs. The learned Rent Controller is directed to proceed further with the Execution Petition and at any rate terminate the same by a judicial order on or before 31.07.2021.

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Internet: Yes/No

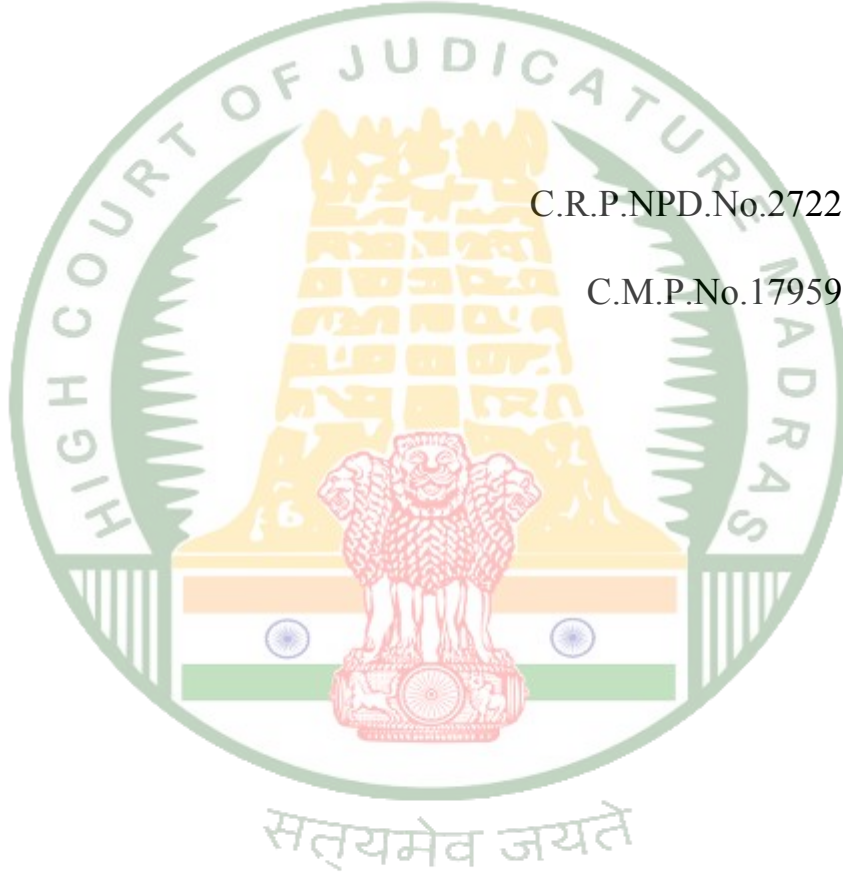
Index: Yes/No

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To

The X Small Causes Court, Chennai.

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