

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.1100 of 2017 and C.M.P.No.5320 of 2017
& C.R.P.(P.D).No.1101 of 2017

Malliga

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

Vs

Lakshmi

...Respondent
in both the C.R.P's.

Common Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to allow the Civil Revision Petition in M.P.Nos.405 of 2016 and 406 of 2016 in R.C.O.P.No.1493 of 2012 pending on the file of the Hon'ble XIII Small Causes Court, Chennai and set aside the order dated 14.02.2017.

For both the C.R.P's:-

For Petitioner : Mr.T.Easwaradhas

For Respondent : Mr.G.Poonkundran

COMMON ORDER

The Civil Revision Petitions have been filed to allow the Civil Revision Petition in M.P.Nos.405 of 2016 and 406 of 2016 in R.C.O.P.No.1493 of 2012 pending on the file of the Hon'ble XIII Small Causes Court, Chennai and set aside the order dated 14.02.2017.

2.The petitioner in both the Civil Revision Petitions, is the respondent in the petitions filed by the respondent herein to reopen the respondent side evidence for letting in further evidence and for marking of documents.

3.The petitioner herein filed a petition for eviction alleging that the petition premises is owned by her and leased out to the respondent for the monthly rent of Rs.100/- per month. Till, December 2005, she regularly paid the monthly rent for the petition premises. Thereafter, failed to pay the monthly rent and she also assured that in the month of November 2010, she will vacate the petition premises and handover the vacant possession. Further, it is averred that the petitioner is not having any other building either in the city or in and around the city and the petition premises is

required for her own occupation. Therefore, she filed a petition for eviction on the ground of willful default and owner's occupation. On the side of the respondent, she examined the witnesses and the petitioner also examined R.W.1. After closing both side evidence, when the matter was posted for arguments, the respondent filed a petition to reopen and to examine her son as R.W.2.

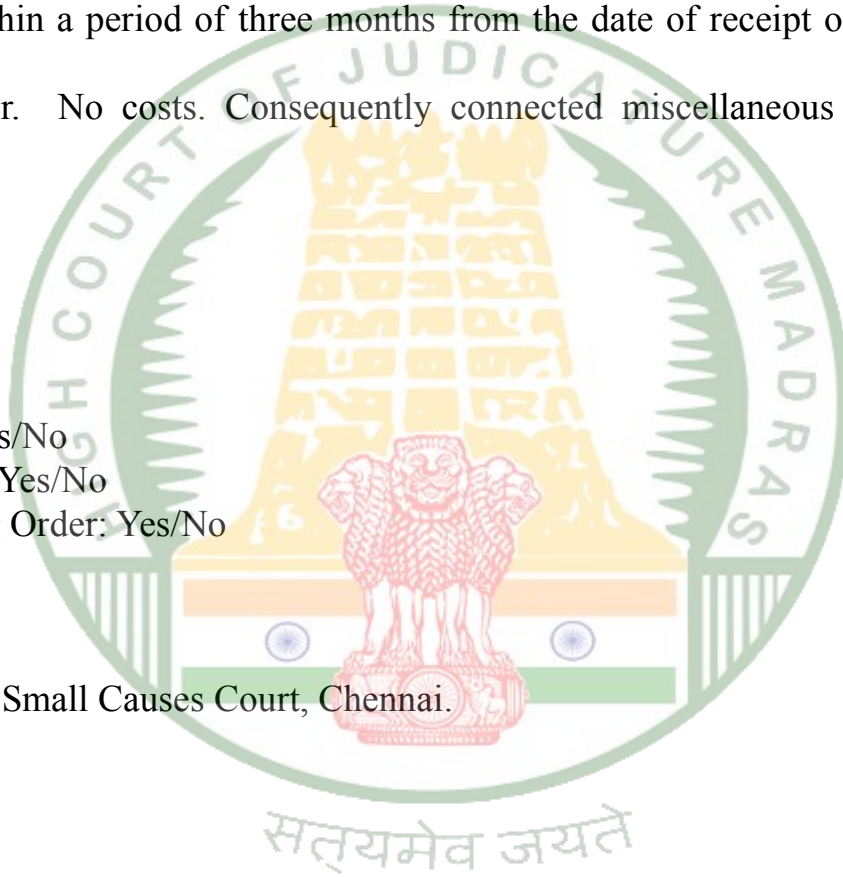
4. On perusal of the records revealed that when the matter was posted for arguments, the respondent filed a petition in M.P.Nos.116 of 2016 and 117 of 2016 for reopen and recall the P.W.1 for marking some documents through the respondent herein. Both the petitions were dismissed by the learned Rent Controller. Thereafter, the respondent filed the present applications in M.P.Nos.405 of 2016 and 406 of 2016 for reopen and to permit her to examine her son as R.W.2. Infact both the petitions were dismissed for default and thereafter she filed a petition to restore the same in M.P.No.467 of 2017 and the same was allowed. Therefore, the respondent is being the tenant, dragged the proceedings, when the matter was posted for arguments. The Court below without considering the above issues, simply allowed the petition.

5. Therefore, the order passed by the Court below is perverse and liable to be set aside. Accordingly, the Civil Revision Petitions are allowed. The Court below is directed to dispose of the main R.C.O.P.No.1493 of 2012 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

26.02.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
The XIII Small Causes Court, Chennai.



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G.K.ILANTHIRAIYAN.J,

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