

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

CRP(PD).No.3597 of 2018
and CMP.No.20132 of 2018

Selvaraj

... Petitioner

Versus

A.Jeganathan

... Respondent

Civil Revision Petition is filed under Section 227 of the Code of Constitution of India, to set aside the fair and decreetal order dated 27.06.2018, made in I.A.No.216 of 2015 in R.C.O.P.No.271 of 2014 on the file of the Rent Controller Cum Principal District Munsif, Coimbatore.

For Petitioner : Mr.S.Mukunth

For Respondent : Mr.E.Karthick Raja

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal orderdated 27.06.2018, made in I.A.No.216 of 2015 in R.C.O.P.No.271 of 2014 on the file of the Rent Controller Cum Principal District Munsif, Coimbatore.

2. When the matter is taken up for hearing on today, Mr.S.Mukunth, the learned counsel appearing for the petitioner fairly submitted that the CMA has to be filed under 23 of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960. But the Civil Revision Petition has been filed wrongly to set aside the fair and decreetal order dated 27.06.2018, made in I.A.No.216 of 2015 in R.C.O.P.No.271 of 2014 on the file of the Rent Controller Cum Principal District Munsif, Coimbatore.

3. The learned counsel appearing for the respondent submitted that a petition in I.A.No.216 of 2015 in R.C.O.P.No.271 of 2014 was filed by the respondent herein before the Rent Controller cum Principal District Munsif of Coimbatore, under Section 8(A) of the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 to appoint an Advocate Commissioner along with the surveyor to assist the qualified Engineer for fixation of fair rent and the said petition was allowed as prayed for.

4. He further submitted that against the above said order the revision

petitioner is supposed to have filed CMA under Section 23 of the Tamil Nadu Buildings (Lease and Rent) Control Act. However, he has wrongly filed this Civil Revision petition under Article 227 of the Constitution of India before this Court.

5. Section 23 (1) (a) of the Tamil Nadu Buildings (Lease and Rent) Control Act is extracted as under:

“The Government may, by general or special order notified in the (Tamil Nadu Government Gazette), confer on such officers and authorities as they think fit, the powers of Appellate Authorities for the purpose of this Act, in such areas and in such classes of cases as may be specified in the order.”

6. Section 23 (1) (b) of the Tamil Nadu Buildings (Lease and Rent) Control Act is extracted as under:

“Any person aggrieved by an order passed by the Controller, may, within fifteen days from the date of such order, prefer an appeal in writing to the Appellate Authority having jurisdiction.”

7.Thus this Court is of the view that the petitioner herein has to approach the appellate authority as provided under Section 23(1) (b) of the Tamil Nadu Buildings (Lease and Rent) Act. Hence, the Civil Revision Petition filed by the petitioner is not maintainable.

8.The learned counsel appearing for the petitioner submitted that in such of the view of the matter, liberty may be granted to the petitioner, to approach the court below to file CMA.

9.In view of the above submission, this court propose to dismiss the Civil Revision Petition as not maintainable, with a liberty to the petitioner to approach the Appellate Authority, if so advised, the petitioner is directed to approach the Appellate Authority, within a period of thirty days from the date of receipt of a copy of this order.

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10.Accordingly, the Civil Revision Petition stands dismissed.

However, there shall be no order as to costs. Consequently, the connected

miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non Speaking Order

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Note: Issue order copy on 02.03.2021

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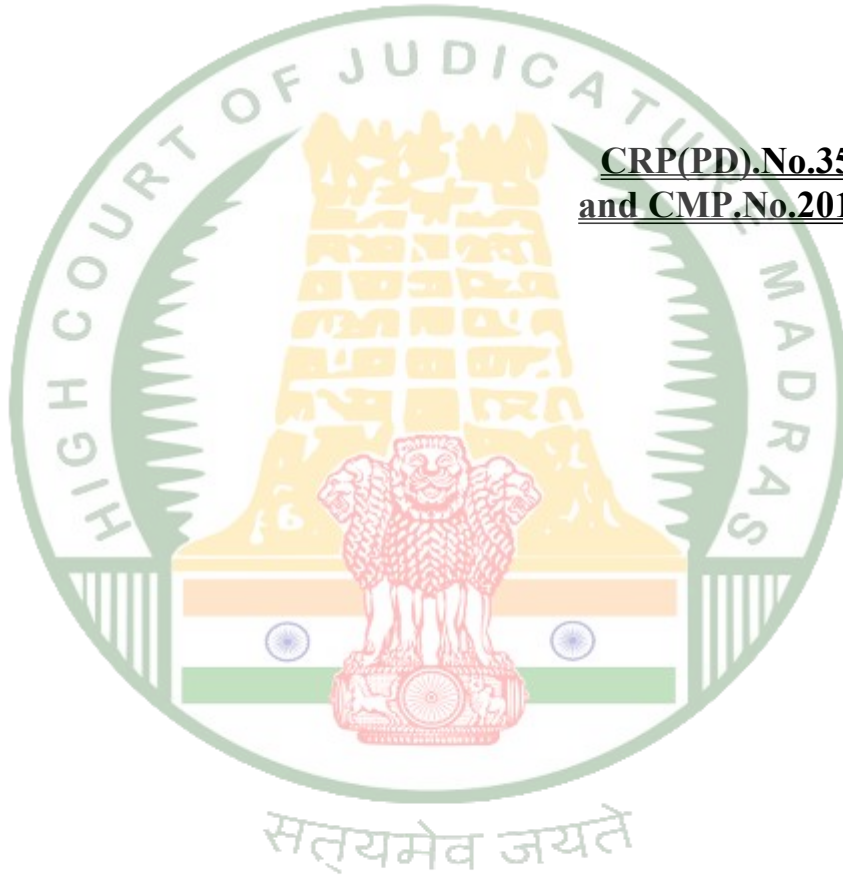
The Rent Controller Cum Principal District Munsif,
Coimbatore.



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KRISHNAN RAMASAMY, J.,

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