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C.R.P(NPD) No.957 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P(NPD)No.957 of 2022
& C.M.P.No.4929 of 2022

R.Purushotham Mohta
Proprietor
M/s.Mohta Electricals
New No.244, Old No.118
Govindappa Street
Chennai – 600 001.

...Petitioner

Vs.

M/s. Chinni Sriramulu Chetty Charities
Represented by its Trustees

1.Chinni Ramesh Babu
2.Chinni Balaji
3.Chinni Vinay Krishna

...Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, against the Fair and decretal order of the X Assistant City Civil Court, Chennai, dated 04.01.2022 dismissing the petition filed by the petitioner in E.A.(SR)No.39451 of 2021 in E.P.No.3750 of 2019 in O.S.No.4037 of 2001.



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For Petitioner : Mr.K.Hari Shankar
for G.RM.Palaniappan

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ORDER

The tenant who faces a decree of eviction in O.S.No.4037 of 2001 and also defending execution proceedings in E.P.No.3750 of 2019 has taken out an application under Section 47 C.P.C. This application has not yet been taken on record but was rejected even at the pre numbering stage in E.A.SR.No.39451 of 2021. The ground under which this application was filed is that the tenant had deposited a sum of Rs.75,000/- as advance amount, that the arrears of rent payable by the tenant is less than the said advance amount. It is on this contention, the application is laid to hold that the decree is inexecutable. Another ground is that the trustees of the concerned Trust of which a revision petitioner is a tenant have no authority.

2.Heard Mr.K.Hari Shankar, the learned counsel for the revision petitioner and perused the records.

3.There is some merit in the submissions of the learned counsel when he complained that his application should have at least been taken on record by



the Execution Court. But the court is more conscious of the larger issue involved, and tried to assess if taking this application onto its record by the Execution Court could have altered the situation in favour of the revision petitioner/tenant. Here, this Court finds that if at all the contention of the revision petitioner has to be accommodated, then it has to reopen the decree which is impermissible in law. Therefore, directing the Execution Court to number the petition is only a cosmetic exercise which on its course may consume invaluable judicial time. In fine, this Court does not find any need to interfere with the order of the Execution Court.

4.This Civil Revision Petition stands dismissed accordingly at the admission stage itself. Consequently, the connected C.M.P.No.4929 of 2022 is also dismissed. No costs.

11.04.2022

Index : Yes/No

kas/dk

To

The X Assistant City Civil Court, Chennai



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N.SESHASAYEE, J.,

kas/d
k

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