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C.R.P(NPD)No.1010 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P(NPD)No.1010 of 2022
and C.M.P.No.5223 of 2022

Mansoor Ahmed

... Petitioner

Vs.

Senthil Kumar
S/o.Nataraj

...Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the judgment and decree dated 25.02.2022 in C.M.A.No.4 of 2021 passed by the learned Subordinate Judge, Palladam, Tiruppur District confirming the order dated 01.11.2021 passed in I.A.No.2 of 2020 in R.C.O.P. No.1 of 2018 on the file of Rent Controller cum District Munsiff Court, Palladam, Tiruppur District and allow the Civil Revision Petition.

For Petitioner : Mr.S.Gunaseelan

For Respondent : Mr.M.Sathish Kumar



ORDER

Challenging an order dismissing the application of the tenant in an application to set aside the exparte order of eviction, the tenant has preferred C.M.A. before the first appellate Court instead of R.C.A. before the Rent Control Appellate Authority. However, the Appellate Court itself is a Tribunal, but it entertained the C.M.A.No.4 of 2021 and dismissed the same, and one of the grounds which it says is that it should have preferred an appeal under the Rent Control Act, and not an appeal under Order 41 C.P.C. This is a matter which even the learned Sub Judge could have corrected and required his Registry to correct it, but he took all the time to hear the matter to pronounce an order which at the end of the day appears to be a waste of his judicial time.

2.This Court therefore sets aside the order passed in C.M.A.No.4 of 2021, remands the matter back to the Appellate Court which is now directed to take the appeal as an appeal under the Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 and post it before the Appellate Tribunal for adjudication as per law, and till that exercise is complete and R.C.A. is moved before the Appellate Authority there will be an order of stay of execution.



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3.The entire exercise must be completed within a period of fifteen (15) days and the Rent Control Appeal must be posted before a Court on or before 28.04.2022.

4.Revision is disposed of accordingly in the manner indicated above at the admission stage itself. Consequently, the connected miscellaneous petition is closed. No costs.

06.04.2022

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Note: Office to Issue order copy on 07.04.2022.

To.

1. The Subordinate Court
Palladam,
Tiruppur District

2.The Rent Controller cum District Munsiff Court
Palladam
Tiruppur District



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N.SESHASAYEE, J.,

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