



C.R.P.(PD) No.1709 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(PD) No.1709 of 2019
and CMP.No.10968 of 2019

Shreekumar Varma

... Petitioner / Petitioner / Plaintiff

Vs.

P.Peter Arivrasan

... Respondent / Respondent /Defendant

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 19.02.2019 passed by the learned Subordinate Judge, Tambaram, in I.A.No.567 of 2017 in O.S.No.271 of 2015 and allow the said I.A. Filed by the petitioner.

For Petitioner : Mr.Arun Anbumani

For Respondent : Mr.N.Jayakumar



C.R.P.(PD) No.1709 of 2019

ORDER

WEB COPY

The revision petitioner herein is the plaintiff, and he has laid a suit in O.S.No.271 of 2015 for evicting his tenant, the respondent herein.

2. The property involved in the suit is a residential building, which at the relevant time when the suit was laid, was outside the limits of Chennai Corporation. It is the further allegation of the plaintiff / revision petitioner that the respondent is in arrears of rent from September ' 2014, the time when tenancy commenced, till the institution of the suit and even thereafter. He therefore took out an application in I.A.No.567 of 2017 before the trial Court for a direction that unless the defendant / respondent pay the entire arrears of rent, he should not be allowed to defend the suit. This came to be dismissed by the learned Sub Judge, Tambaram vide order dated 19.02.2019. This is now in challenge.

3. During the pendency of this revision, the respondent herein has filed an affidavit dated 26.02.2022 stating that he would vacate the premises and hand over possession to the petitioner on or before 30.06.2022. The said affidavit is recorded.



C.R.P.(PD) No.1709 of 2019

WEB COPY

4. Accordingly, the prayer for defending eviction has become infructuous.

Therefore, the relief (a) in the suit has to be granted in terms of the admission made herein. Since payment of arrears of rent is made as a pre-condition for defending the suit, the prayer for deposit of arrears of rent as a pre-condition for defending the suit may not arise and the decree has to be passed as regards relief (a).

5. This Court is informed that during the pendency of this revision, the suit in O.S.No.271 of 2015 was transferred from Sub Court, Tambaram to Sub Court, Alandur, and re-numbered as O.S.No.818 of 2021.

6. Given the change of circumstances, the relief now sought is modified and the trial Court is directed to pass a decree vis-a-vis relief (a). So far as the other reliefs sought in the plaint in O.S.No.271 of 2015 (now pending before Sub Court, Alandur in O.S.No.818 of 2021), the plaintiff is at liberty to pursue there. The affidavit of the respondent dated 26.02.2022, shall form part of this order.



C.R.P.(PD) No.1709 of 2019

WEB COPY

7. The revision is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

01.03.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking orders

To:

1. The Subordinate Judge
Tambaram.
2. The Subordinate Judge
Alandur.



WEB COPY



C.R.P.(PD) No.1709 of 2019

N.SESHASAYEE.J.,

ds

C.R.P.(PD) No.1709 of 2019
and CMP.No.10968 of 2019

01.03.2022