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Tr.CMP Nos.686, 689 and 690 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-12-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Tr.C.M.P.Nos.686, 689 and 690 of 2022
and
C.M.P.Nos.11766, 11787 and 11816 of 2022

Kailash Kandelwal

.. Petitioner No.1 in Tr.CMPs 686, 689
& 690/2022

Sangeetha

.. Petitioner No.2 in Tr.CMPs686, 689
& 690/2022

VS.

Yashodha Devi
690/2022

.. R-1 in Tr.CMPs686, 689 &

M/s.Mahaveer Finance and
Builders Pvt. Ltd.,
Represented by its Authorised
Signatory, Deepak Kumar D.Jain,
No.14, Ekambareswar
Agraharam Street,
Chennai-600 003.

.. R-2 in Tr.CMPs686,689 & 690/2022

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M/s.Erukkancheri Munusamy Mudaliar

Charities (EMM Charities),

No.67, NSC Bose Road,

Chennai-600 079

[R-3 suo motu impleaded as party respondent

vide order of Court dated 19.12.2022 made in

Tr.CMPs 686, 689 and 690 of 2022 and

CMPs 11766, 11787 and 11816 of 2022].. R-3 in Tr.CMPs 686 &689

And

R-4 in Tr.CMP 690/2022

Ashok Kumar (Sub Tenant)

.. R-3 in Tr.CMP 690/2022

Tr.CMP 686 of 2022 is filed under Section 24 of the Civil Procedure Code, to withdraw the case in RLTOP No.140 of 2020 from the file of the XII Judge, Court of Small Causes (Rent Court), Chennai and to transfer the same to the file of the III Assistant City Civil Court, Chennai to be tried along with OS Nos.9469 of 2021 and 1426 of 2022.

Tr.CMP 689 of 2022 is filed under Section 24 of the Civil Procedure Code, to withdraw the case in OS No.4705 of 2020 from the file of the VII Assistant City Civil Court, Chennai and to transfer the same to



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the file of the III Assistant City Civil Court, Chennai to be tried along with OS Nos.9469 of 2021 and 1426 of 2022.

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Tr.CMP 690 of 2022 is filed under Section 24 of the Civil Procedure Code, to withdraw the case in RLTOP No.141 of 2020 from the file of the XII Judge, Court of Small Causes (Rent Court), Chennai and to transfer the same to the file of the III Assistant City Civil Court, Chennai to be tried along with OS Nos.9469 of 2021 and 1426 of 2022.

For Petitioner in all Tr.CMPs : Mr.S.Ramesh Kumar

For R-1 in all Tr.CMPs : Mr.P.Sidharthan

For R-2 in all Tr.CMPs : No Appearance

For R-3 in Tr.CMP690/2022 : Mr.D.Saikumaran

For R-3 in Tr.CMP 686 &
689/2022 And R-4 in
Tr.CMP 690 : Mr.R.Sivakumar

COMMON ORDER

Tr.CMP 686 of 2022 is filed under Section 24 of the Civil



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Procedure Code, to withdraw the case in RLTOP No.140 of 2020 from the file of the XII Judge, Court of Small Causes (Rent Court), Chennai and transfer the same to the file of the III Assistant City Civil Court, Chennai to be tried along with OS Nos.9469 of 2021 and 1426 of 2022.

2. Tr.CMP 689 of 2022 is filed under Section 24 of the Civil Procedure Code, to withdraw the case in OS No.4705 of 2020 from the file of the VII Assistant City Civil Court, Chennai and transfer the same to the file of the III Assistant City Civil Court, Chennai to be tried along with OS Nos.9469 of 2021 and 1426 of 2022.

3. Tr.CMP 690 of 2022 is filed under Section 24 of the Civil Procedure Code, to withdraw the case in RLTOP No.141 of 2020 from the file of the XII Judge, Court of Small Causes (Rent Court), Chennai and transfer the same to the file of the III Assistant City Civil Court, Chennai to be tried along with OS Nos.9469 of 2021 and 1426 of 2022.



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4. The rent control proceedings instituted under the provisions of the Tamil Nadu Regulation of Rights and Responsibilities of Landlords and Tenants Act, 2017 [hereinafter referred to as the 'Act', in short] cannot be transferred to the Regular Civil Court for the purpose of joint trial with the civil suit filed under the Code of Civil Procedure.

5. The procedures contemplated under the Tamil Nadu Act 42 of 2017 is summary proceedings and in the event of such transfer, the same would affect the rights of the parties, since the Code of Civil Procedure is not applicable to the rent control proceedings under the Tamil Nadu Act 42 of 2017.

6. When the distinct and different procedures are contemplated under the Tamil Nadu Act 42 of 2017, the Rent Control Original Petitions (RLTOPs) filed under the New Act, cannot be transferred to the Civil Court for the purpose of joint trial along with the suits filed under the Code of Civil



Procedure. In such circumstances, the purpose and object of the Tamil Nadu Act 42 of 2017 would be defeated and the parties would suffer on account of the lengthy procedures contemplated under the Code of Civil Procedure. Thus the applications filed under the Tamil Nadu Act 42 of 2017 before the Rent Court or Tribunal, cannot be transferred to the Regular Civil Court in view of the summary proceedings contemplated under the Special Act.

7. During the course of arguments, it is found that the landlord, which is a Trust, has not been impleaded as a party in the rent control proceedings before the Rent Court. The landlord/owner of the subject property is M/s.Errukkancheri Munusamy Mudaliar Charities (EMM Charities). However, the said Charity has not been impleaded as a party in the rent control proceedings. Therefore, the institution of the rent control proceedings against a person, who is not a landlord, is not maintainable. Thus per se, the rent control proceedings is untenable in view of the provisions of the Tamil Nadu Act 42 of 2017.



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8. This Court suo motu impleaded M/s.Errukkancheri Munusamy Mudaliar Charities (EMM Charities) for the purpose of providing an opportunity to the Charities.

9. The learned counsel, appearing on behalf of the suo motu impleaded Errukkancheri Charities, made a submission that they being the owners/landlords are not aware of any of these proceedings and without their knowledge such civil suits and proceedings are instituted by the tenants.

10. This being the factum, the RLTOP Nos.140 and 141 of 2020 filed by the first respondent is not maintainable, since the landlord/owner of the subject property has not been impleaded as a party and based on the Rental Agreement executed between the tenant and the landlord, the sub-tenant cannot claim any right over and above the right of a tenant and thus the petition itself is untenable.



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11. The learned counsel for the first respondent made a submission that the tenant will file a fresh application in accordance with the provisions of the Act by withdrawing the RLTOP Nos.140 and 141 of 2020 already filed and pending before the Rent Court.

12. In view of the abovesaid undertaking, the Tr.CMP Nos.686 and 690 of 2022 stand dismissed. However, there shall be no order as to costs.

13. As regards Tr.CMP 689 of 2022 is concerned, since the RLTOP Nos.140 and 141 of 2020 are not maintainable on account of not impleading the landlord in the rent control proceedings, the transfer of RLTOP Nos.140 and 141 of 2020 along with the suit would not arise at all. That apart, the rent control proceedings initiated under the Tamil Nadu Act 42 of 2017, cannot be transferred to a Civil Court for joint trial along with the civil suit, which would affect the rights of the parties in view of the distinct and different procedures contemplated under the New Act, which all



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are summary proceedings. In the event of withdrawal of the RLTOP Nos.140 and 141 of 2020, the original documents may be returned by following the procedures.

14. In the result, Tr.CMP Nos.686, 689 and 690 of 2022 stand dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

22-12-2022

Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

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To

- 1.The III Assistant Judge,
City Civil Court,
Chennai.
- 2.The VII Judge,
City Civil Court,
Chennai.
- 3.The XII Judge,
Small Causes Court (Rent Court),
Chennai.

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S.M.SUBRAMANIAM, J.

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