



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.2369 of 2022

and

C.M.P.Nos.12172, 12173, 12175 & 12176 of 2022

S.Prabakaran

... Petitioner

Vs.

1.Minor G.Raghavendran

2.Mr.Sanavulla Sheriff

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the exparte order dated 13.08.2019 passed in R.C.O.P.No.26 of 2017 and consequentially strike off the Rent Control proceedings in R.C.O.P.No.26 of 2017 on the file of Rent Controller / Principal District Munsif at Vellore.

For Petitioner	: Mr.P.E.Elaya Rajkumar For M/s.Ramalingam and Associates
For R1	: Mr.Avinash Wadhwani For Ms.B.S.Mitranshaa
For R2	: No Appearance



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C.R.P.No.2369 of 2



ORDER

The Civil Revision Petition has been filed to set aside the order dated 13.08.2019 passed in R.C.O.P.No.26 of 2017 on the file of Rent Controller / Principal District Munsif at Vellore.

2. The revision petitioner states that he is the tenant and the 1st respondent is the landlord in respect of the shop measuring of 225 Sq.ft. situated at Door No.185, Gandhi Road, Vellore Town and Vellore District. The revision petitioner states that he is running a business in the name and style of 'Nathan Stores'. The revision petitioner claims that he pays the monthly rent of Rs.3,000/- regularly to the 1st respondent / landlord. He is continuing as a tenant from the year 1968 onwards. While so, the 1st respondent / landlord filed R.C.O.P.No.26 of 2017, falsely impleading the 2nd respondent as tenant in the subject premises. Behind the back of the revision petitioner, the 1st respondent secured an order of eviction from the Rent Controller in R.C.O.P.No.26 of 2017. Thus, the revision petitioner has chosen to file the present Civil Revision Petition under Article 227 of the Constitution of India.



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3. The learned counsel for the petitioner mainly contended that the revision petitioner is not a party to the Rent Control proceedings and therefore, the order is not binding on the revision petitioner. When the revision petitioner is the original tenant in respect of the subject premises, the institution of rent control proceedings by the 1st respondent against the 2nd respondent is untenable and therefore, the Rent Control Proceedings itself is to be struck off.

4. The learned counsel for the revision petitioner states that the monthly rent has been paid punctually and the petitioner is possessing the premises. When he is in possession of the subject premises, the 1st respondent is attempting to evict the petitioner in an illegal manner and thus, the revision petition is to be considered.

5. The learned counsel for the respondent objected the said contention by stating that, presuming that the 1st respondent has filed RCOP against the wrong person, the revision petitioner has already filed a petition under Order XXI Rule 97 of CPC and the said petition was rejected by the Trial Court. The objections raised by the revision petitioner was considered by the trial



Court and it was rejected and therefore, the present Civil Revision Petition under Article 227 of the Constitution of India is not maintainable.

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6. The learned counsel for the respondent drew the attention of this Court that Execution Petition filed by the 2nd respondent/landlord was allowed and delivery of possession was recorded and memo to that effect was filed and consequently EP was terminated. Thus, the Civil Revision Petition is not maintainable.

7. This Court is of the considered opinion that when the trial court allowed the Execution Proceedings and further, rejected the petition filed by the revision petitioner under Order 21 Rule 97 CPC, there is no reason to interfere with the present Civil Revision Petition. That apart, the delivery of possession was recorded and a memo was also filed, consequently EP was terminated and thus, there is no reason to believe that the revision petitioner is in the possession of the subject property. When the Court, by following the procedures, recorded the delivery of possession and terminated the EP, the revision petitioner cannot maintain a revision petition under Article 227 of the Constitution of India. The procedures as contemplated were followed



as against the respondent in the Rent control proceedings. If at all the revision petitioner is of an opinion that his rights are infringed, then he is at liberty to institute appropriate proceedings against the landlord for remedy.

8. With these liberty the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

20.12.2022

Jeni

Index : Yes

Speaking order

To

The Rent Controller/Principal District Munsif,
Vellore.



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C.R.P.No.2369 of 2



S.M.SUBRAMANIAM, J.

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C.R.P.No.2369 of 2022

20.12.2022