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CRP.No.3025 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3025 of 2022

K.Bakthavathsalam

... Petitioner

Vs.

1.K.Purushotham
2.C.K.Rammakrishnan
Respondents

...

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order passed by the X Small Causes Judge in M.P.No.1 of 2021 in RCOP.No.43 of 2021 dated 03.08.2022 by allowing this Civil Revision Petition.

For Petitioner : Mr.N.Sreenivasalu

For Respondents : Mr.G.Kalyan Jhabath
for M/s.Surana & Surana for R1



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ORDER

This petition has been filed to set aside the order passed by the X Small Causes Judge in M.P.No.1 of 2021 in RCOP.No.43 of 2021 dated 03.08.2022 by allowing this Civil Revision Petition.

2. This Revision is filed by the tenant, challenging the order passed by the Rent Controller dismissing the application filed by him seeking Rent Controller to decide the issue of maintainability of RCOP as a preliminary issue. The first respondent herein filed a Rent Control eviction petition against the petitioner's partnership Firm viz., M/s.Alankar Fancy & General Stores, the petitioner and the second respondent. In the said eviction petition, the revision petitioner filed a miscellaneous petition wherein, he raised a specific plea that he was not a tenant under the first respondent and the demised premise was a



joint family property and consequently denied jural relationship. In nutshell it was the contention of petitioner that the first respondent was not entitled to maintain eviction petition. The said petition was dismissed by the Rent Controller on the ground that the jural relationship of landlord and tenant can be decided only based on the oral and documentary evidence and hence, it cannot be decided as a preliminary issue. Aggrieved by the said order, the revision petitioner has come up with this revision.

3. The learned counsel for the petitioner submitted that the petitioner and the first respondent are brothers and there is no landlord and tenant relationship between them. He further submitted that he filed a suit in C.S.No.155 of 2022 seeking partition of the family property wherein, the demised premises is one of the suit properties. In the absence of jural relationship of landlord and tenant, the revision petitioner need not be forced to face an ordeal of full pledged enquiry before the Rent Controller. It was his submission that in the absence of



any prima facie case to show that there is a jural relationship, the Rent Controller may be directed to consider the same as a preliminary issue.

4. Mr.G.Kalyan Jhabakh, learned counsel takes notice for the first respondent herein/petitioner in eviction petition.

5. The learned counsel for the first respondent submitted that he has no serious objection for a direction to the Rent Controller to decide the question of jural relationship as a preliminary point.

6. In view of the specific stand taken by the learned counsel for the first respondent regarding direction sought for by the petitioner to the Rent Controller to decide the question of jural relationship of landlord and tenant as a preliminary point in the Rent Control proceedings. I am inclined to issue such a direction, it is made clear



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that both the parties shall be given sufficient opportunity to lead the oral and documentary evidence in support of their stand on preliminary issue. The Rent Controller is directed to decide the preliminary point of jural relationship within a period of four months from the date of receipt of a copy of this order. The petitioner is directed to file his counter to the eviction petition within a period of two weeks from the date of receipt of a copy of this order. The Rent Controller is directed to decide the preliminary issue within a period of four months from the date of receipt of a copy of this order.

7. With the above directions, this Civil Revision Petition is disposed of. No costs.

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Index : Yes / No
Internet : Yes / No
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The X Small Causes Judge, Chennai.



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