



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.926 of 2022

and

C.M.P.No.4732 of 2022

R.Prakashchand

Meena bai (Deceased)

... Petitioner

Vs.

R.Gurusamy

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the impugned order passed in M.P.No.12 of 2021 in R.C.O.P.No.19 of 2018, dated 11.03.2021, by the District Munsiff Court at Thiruvottiyur, by allowing the above Civil Revision Petition.

For Petitioner : Mr.E.Prabu

For Respondent : Mr.N.R.Anantha Ramakrishnan

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below, dismissing the petition filed by the petitioner seeking to re-open the respondent's side evidence in R.C.O.P.No.19 of 2018.



WEB C

2. The respondent herein had filed a petition for eviction of the petitioner in R.C.O.P.No.19 of 2018 on the file of District Munsif (Rent Controller), Thiruvottiyur. The Court below closed the respondent's side evidence on 11.02.2021. Therefore, the petitioner herein filed M.P.No.12 of 2021 seeking to re-open evidence and there was no objection by the respondent herein for the said Miscellaneous Petition and therefore, the Court below allowed the said M.P. with a condition that the petitioner herein has to appear before the Court on 11.03.2021 and take the evidence. It was also made clear that if he failed to appear on the said date, the M.P. would be dismissed. When the matter was called on 11.03.2021, it appears that the petitioner did not appear before the lower Court and hence the M.P. was dismissed for non-compliance of the conditional order. Aggrieved by the said order, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that owing to the death of his mother Meena Bai, the petitioner herein was unable to appear before the Court on 11.03.2021. He further submitted that dismissal of petition, when one of the petitioner is dead is a nullity.



WEB COPY 4. The learned counsel for the respondent made an endorsement in the Memorandum of grounds that he has no objection for allowing this revision and set aside the impugned order. He submitted that a direction may be issued to the Court below to dispose of the R.C.O.P. within two months.

5. In view of the reason given by the revision petitioner for his inability to appear before the Court on 11.03.2021, and also the endorsement made by the learned counsel for the respondent mentioning his no objection for allowing the revision and in order to give an opportunity to the petitioner to conduct the case on merits, this Court is inclined to set aside the order impugned in this revision.

6. Accordingly, this Civil Revision Petition is allowed. The Court below is directed to dispose of the main R.C.O.P. within a period of two



WEB COPY



S.SOUNTHAR, J.

kmm

months from the date of receipt of a copy of this order. Consequently,
connected miscellaneous petition is closed.

28.10.2022

Index : Yes / No

Internet : Yes / No

kmm

To

The District Munsiff Court at Thiruvottiyur

C.R.P.No.926 of 2022