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C.R.P. Nos.499 & 501 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.499 & 501 of 2023

and

C.M.P. No. 4093 of 2023

Shaziya Banu

... Petitioner in
both C.R.P.s

Vs

1. C.Mohammed Illyaas

Haridass (deceased)

2. H.Sheela

3. H.Rajiv

... Respondents in
both C.R.P.s

PRAYER in C.R.P. No.499 of 2023 : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair order and decreetal order dated 05.03.2022 passed by the learned Rent Controller, XVI Judge, Court of Small Causes, Chennai rejecting M.P.Sr. Nos. 51813 of

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2022 in R.C.O.P.No.796 of 2016, and direct the Registry of Small Causes Court, Chennai to number M.P. SR. Nos.51813 of 2022 and place the M.P. before the court concerned for adjudication and disposal in the manner known to law.

PRAYER in C.R.P. No.501 of 2023 : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the fair order and decreetal order dated 05.03.2022 passed by the learned Rent Controller, XVI Judge, Court of Small Causes, Chennai rejecting M.P.Sr. Nos. 51814 of 2022 in R.C.O.P.No.796 of 2016, and direct the Registry of Small Causes Court, Chennai to number M.P. SR. Nos.51814 of 2022 and place the M.P. before the court concerned for adjudication and disposal in the manner known to law.

For Petitioner : Mr.B.Hari Krishnan

ORDER

Challenging the impugned common order dated 05.03.2022 passed by the learned XVI Judge, Court of Small Causes, Chennai in



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M.P.SR.Nos.51813 and 51814 of 2022 respectively, the third party/proposed 4th respondent filed the present Civil Revision Petitions.

2. The learned counsel for Revision Petitioner would submit that from the year of 2018 onwards, she is in possession of the premises. He would submit that the petitioner is carrying on the business of Hotel industry under the name and style of “Hotel Zam Zam” now changed as “Star Hotel Virudhunagar” at ground and first floor of the premises at No.8/44, Jennis Road, Saidapet, Chennai-600 015 measuring to an extent of 2000 sq.ft. Originally, the Chief Tenant M.Haridass has entered into the lease agreement dated 10.01.2019 with the Revision Petitioner herein and she has paid a sum of Rs.30,00,000/- as advance and agreed to pay a sum of Rs.20,000/- p.m. towards monthly rent. She has paid the rent without any default as on date. The 2nd respondent has been running a hotel business since 1962. The 1st respondent is a original owner of the premises and he is trying to thrown out him from the petition premises. He apprehend endanger in the hands of 1st respondent may at any time dispossess him from the petition premises. But, in fact, the Revision Petitioner is running a hotel



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business under the name and style of “Star Hotel Virudhunagar”, but the said fact was suppressed by the chief tenant and she is also not known about the eviction proceedings. Subsequently, after the death of chief tenant leaving 3rd and 4th respondents as his legal heirs, they were alone were impleaded in the rent control proceedings. As a partner of the said hotel business, the Revision Petitioner was not impleaded in the rent control proceedings. In fact, she entered into a lease agreement in the year of 2018 with the chief tenant and she is not known about the earlier proceedings. Further, due to Covid-19, she suffered a lot. When the Court Amine came to the premises, she came to know that the execution proceedings in E.P.Nos. 426 and 427 of 2022 were filed by the landlord/decreed holder based upon the order passed in R.C.O.P.Nos. 795 and 796 of 2016. So, she filed an applications to record her objections in E.A.Nos. 3 and 4 of 2022 stating that she is running a hotel business and even she is ready to deposit the rent arrears. Thereafter, she filed an application to implead her under Order 1 Rule 10 of C.P.C. and also filed another application under Sec.151 of C.P.C. for setting aside the exparte decree.



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3. On the head of maintainability of the application, the learned Rent Controller taken the matter and heard the petitioner and rejected the applications, as such is not maintainable in law for the reason that already the order was passed against the chief tenant, which would also bind the sub-tenant, who is coming under the chief tenant. Further, the learned Rent Controller also held that the legal heirs of chief tenant has conducted the proceedings from the year of 2017 onwards. However, during the pendency of proceedings in R.C.O.P.N.796 of 2016, the 1st respondent herein filed a petition under Sec.11(3) and 11(4) of the TNBLR Act seeking a direction directing the 2nd respondent herein to deposit the arrears of rent from October 2016, which was allowed by the trial court and also given a finding that there is arrears of rent from the year of 2016 onwards. As the order passed by the trial court is not complied with, the eviction petition was ordered on 16.11.2021. Furthermore, the main RCOP was contested by the legal heirs of chief tenant, but they were also remained exparte. On seeing the facts, it would reveals that there is arrears of rent from the year of 2016 onwards, thereby the eviction petition was ordered and accordingly, the trial



judge rejected the applications. Challenging the said findings, the Revision

Petitioner/third party preferred these Civil Revision Petitions.

4. Today, when the matters taken up for hearing, the learned counsel for Revision Petitioner would submit that she is inducted as a tenant under the chief tenant from the year of 2019 and running the hotel in the name and style of “Star Hotel Virudhunagar” and she entered into lease agreement with the chief tenant on 10.01.2019, strangely, chief tenant died on 24.03.2019, but till date this petitioner has not paid the rent as a sub-tenant or as a partner before any court of law. So, on the basis of tenancy agreement itself shows that there is no locus standi to her to make any objection in R.C.O.P. proceedings. Admittedly, RCOP is pending from the year of 2016. As per the contention of landlord and as per the records, it would reveal that due to willful default committed by the chief tenant, the 1st respondent filed the applications and moreover, as on date, more than Rs.8 lakhs due as arrears of rent, neither legal heirs of chief tenant nor this petitioner paid the rent to the landlord. Though she contended that she is paying the rent, there is no proof produced by her that she paid the rent as a



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sub-tenant before the court of law or to the landlord in the manner known to

law. As on date, there is no proof that she paid the rent and now she is

ready to deposit the rent. This itself shows that she has not paid the rent.

Therefore, she has no locus standi to contest the RCOP proceedings and the

findings of the trial court is maintainable in law, which needs no

interference. Accordingly, these Civil Revision Petitions are dismissed as no

merits. No costs. Consequently, connected C.M.P. is closed.

08.03.2023

Index : Yes/No

Internet: Yes/No

Speaking/Non Speaking order

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To

XVI Judge,
Court of Small Causes,
Chennai.



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T.V.THAMILSELVI, J.

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