



WEB COPY



CRP.No.4680 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.4680 of 2013 and
MP.No.1 of 2013

1.L.Suthanthirakodi(died)

2.S.Kalaivani

3.S.Chitra

4.S.Lakshmanan

(petitioners 2 to 4 brought on record as LR's of the deceased sole petitioner viz. L.Suthanthirakodi vide court order dated 23.09.2019 made in CMP.No.5534 of 2018 in CRP.No.4680 of 2013)

... Petitioners

Vs.

1.M.L.Aravind

2.A.Sukhibai

... Respondents

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the order dated 30.10.2013 in MP.No.467 of 2013 in RCOP.No.1646 of 2004 by the XI Judge, Small Causes Court, Chennai.

For Petitioners : Mr.R.Ramanlal

For Respondents

For R1 : Ms.S.Pavithrashini
for Mr.V.Manohar

For R2 : No appearance



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ORDER

This civil revision petition has been filed to set aside the order dated 30.10.2013 in MP.No.467 of 2013 in RCOP.No.1646 of 2004 by the XI Judge, Small Causes Court, Chennai, thereby dismissed the petition filed by the petitioner herein.

2. Heard, the learned counsel appearing on either side.

3. The petitioner and the first respondents are brothers. The first respondent filed petition for eviction on the ground of wilful default as against the second respondent herein in RCOP.No.1646 of 2004. According to the first respondent, he is the landlord and the second respondent is the tenant under him in respect of the petition premises admeasuring 180 sq.ft. situated at No.65-A, Muthumariamman Colony, 3rd Main Road, Aminjikarai, Chennai-29. The second respondent is in arrears of rent and as such, he filed petition for eviction on the ground of wilful default. While pending the eviction petition, the petitioner herein filed petition to implead himself as party to the said proceedings for the reason that he is the owner of the petition premises and the first respondent is no way connected with the petition premises. However, the



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WEB COPY said application was dismissed and aggrieved by the same, he filed revision before this Court in CRP.No.148 of 2007 and this Court by order dated 11.07.2007 concluded that the petitioner has become necessary party to rent control proceedings since there is a relationship of landlord and tenant only between the petitioner herein and the second respondent and not with the first respondent herein. Therefore, he is necessary party to the proceedings and allowed the civil revision petition. While pending rent control proceedings, the petitioner herein filed application under Rules 11 and 12 of Tamilnadu Buildings (Lease and Rent Control) Act for direction to issue subpoena to the Zonal Officer, Zone 8, Corporation of Chennai to produce the original property tax assessment in respect of the petition premises and to give evidence for the same.

4. The main contention of the petitioner is that he owns the petition premises and in order to prove the same, he filed petition to issue subpoena to the Corporation of Chennai. It is also seen that the first respondent filed suit for partition in CS.No.688 of 2008 before this Court and it is pending. In the said suit, the petition premises is also subjected for partition as 'A' schedule property. Therefore, till the disposal of the partition suit, the learned Rent



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Controller cannot decide the eviction petition. According to the petitioner, he is the landlord of the petition premises and the second respondent has been inducted as tenant under him. The second respondent is also regularly paying the monthly rent for the petition premises to him. Therefore, he has no grievance over the second respondent and he never intended to vacate the second respondent from the petition premises. Therefore, eviction petition itself cannot be sustained till the disposal of the partition suit filed by the first respondent in CS.No.688 of 2008 pending on the file of this Court.

5. Therefore, this Court has no hesitation to exercise the inherent power under Article 227 of the Constitution of India to dismiss the eviction petition filed on the ground of wilful default since the petitioner and the first respondent is having issue of ownership of the petition premises. The learned Rent Controller cannot decide the issue of title in respect of the petition premises. Mere pendency of the eviction petition would not serve any purpose when the title dispute is pending between the petitioner and the first respondent herein.

6. In view of the above, the petition in RCOP.No.1646 of 2004 on



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the file of the XI Judge, Small Causes Court, Chennai is dismissed. The first respondent is at liberty to proceed as against the second respondent subject to the result of the partition suit filed by him in CS.No.688 of 2008 on the file of this Court.

7. With the above observations, this civil revision petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

21.02.2023

Index : Yes/No
Internet : Yes/No
Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.



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To
The XI Judge, Small Causes Court,
Chennai.

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